

CALIF. ENERGY COMMISSION

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STATE OF CALIFORNIA  
ENERGY RESOURCES CONSERVATION  
AND DEVELOPMENT COMMISSION

BUSINESS MEETING

First Floor Hearing Room  
1516 Ninth Street  
Sacramento, California

Tuesday, August 13, 1985  
10:15 O'Clock A.M.

Reported by:

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COMMISSIONERS PRESENT

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

HEARING ADVISER

Stan W. Valkosky

PUBLIC ADVISER

Ernesto Perez

STAFF PRESENT

William Chamberlain, Attorney  
John Chandley, Attorney  
Ross Deter  
Richard Ratliff  
Chris Tooker  
Scott Matthews  
Randy Ward  
Lorri Gervais, Secretary

APPLICANT PRESENT

Jan Schori, SMUD  
James Bemis, SMUD

ALSO PRESENT

Kim Seidler, Lake County Planning Department  
David Forster, Colusa Valley Farm Bureau

ALSO PRESENT (CONTINUED)

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Marci Coglianesi, Deputy County Counsel, Solano County  
Katherine M. Hammer, Planning Department, Solano County  
Chifong Thomas, Pacific Gas and Electric  
Steve Geringer, California Farm Bureau Federation and  
Colusa County

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P R O C E E D I N G S

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3 CHAIRMAN IMBRECHT: Okay. Call the meeting to  
4 order. I ask you all to stand for the flag salute, and  
5 I will ask Mr. Foley to lead us in the flag salute today.

6 (Whereupon, the flag salute was conducted, led  
7 by Mr. Foley.)

8 CHAIRMAN IMBRECHT: All right. Today, the prin-  
9 cipal item before us is the consideration of the final  
10 report and proposed decision of the Committee for the  
11 Geothermal Public Power Line, NOI, a continuation from  
12 our meeting of last Wednesday.

13 I should also mention for informational purposes,  
14 those of you who might have some interest in the escrow  
15 account issue that I'm informed we will not be taking  
16 final action on today, however, the staff, after we con-  
17 clude consideration of GPPL, will be making an informa-  
18 tional presentation to the Commission to in essence further  
19 air their proposal, and what I understand to be minor  
20 modifications in light of last week's testimony.

21 That will then be before us, and has already  
22 been noticed for final action for our regularly scheduled  
23 business meeting this coming Wednesday, or actually a week  
24 from tomorrow.

25 With that, I think I will turn to Mr. Valkosky

1 to give us an overview of what has transpired relative  
2 to the few remaining open issues in the GPPL, NOI case.

3 HEARING ADVISER VALKOSKY: Thank you,  
4 Mr. Chairman. At your direction, I met with the staff  
5 and Applicant last Wednesday, or last -- excuse me, last  
6 Friday, to discuss principally Condition 1 on page 151  
7 of the Committee document dealing with the filing of cer-  
8 tain transmission system engineering data.

9 As a result of that discussion, I have prepared  
10 a document called Proposals for Condition 1 Transmission  
11 System Evaluation, copies of which I believe you all have  
12 and copies of which are at the table at the rear of the  
13 room.

14 What this document contains are the four versions  
15 of Condition 1, which are presently under consideration  
16 and which have been tabled for discussion. I will just  
17 briefly go over the timing effects of these versions.

18 All of the conditions are similar in that they  
19 deal with the filing of the cooperative transmission system  
20 evaluation reinforcement and upgrade study. As I under-  
21 stand the Joint Owners' plans, they will be attempting  
22 to undertake this study in concert with PGandE, and the  
23 Western Area Power Adminsitration.

24 The first version of the condition is that con-  
25 tained presently at page 151 of the Final Report.

1 Essentially, it would not require either preliminary or  
2 final study results with the AFC filing. However, it does  
3 contain in my opinion fairly assertive language indicating  
4 that if such results are not forthcoming in a timely man-  
5 ner the Joint Owners may expect substantial delays during  
6 any AFC filed on a proposed project.

7 At last Wednesday's hearing the Joint Owners  
8 indicated that they would file preliminary study results  
9 within 90 days after the date that they file the AFC.

10 The second version of Condition 1 is that con-  
11 tained on the August 6th errata. This condition would  
12 require that the Joint Owners file the final results of  
13 the transmission system reinforcement and mitigation study  
14 with any AFC.

15 In terms of timing, my current understanding  
16 is that such results would not be available for approxi-  
17 mately eight to ten months. Therefore, the net effect  
18 of this condition would be to delay the AFC filing for  
19 a similar period.

20 The third version of the condition is that raised  
21 by the California Farm Bureau Federation in last Wednesday's  
22 meeting. This would require the preliminary results of  
23 the cooperative reinforcement study as part of the AFC  
24 filing. In terms of timing, the net result would be  
25 approximately a 90-day delay in the AFC filing.

1           On the reverse of the handout is Version 4 of  
2 the condition. This is that essentially supported by  
3 staff and brought forward last Friday. This would require  
4 the preliminary results of the cooperative study at the  
5 time of the AFC filing, similar to the Farm Bureau's ver-  
6 sion, and in addition it would require the final study  
7 results 90 days after the AFC is accepted.

8           Failing this, a day-for-day extension in the AFC  
9 proceeding would result.

10           I think that simply characterizes the conditions  
11 and the timing ramifications contained therein.

12           I would note at this time that, based on the  
13 meeting, there does not appear to be a significant degree  
14 of dispute over either the content -- excuse me, over the  
15 contents of the preliminary results, but the dispute is  
16 centered primarily over the timing of such results. The  
17 Joint Owners -- and they can address this question on their  
18 own behalf, but my understanding is that they would prefer  
19 to file the AFC in as quick a manner as possible.

20           The staff, on the other hand, believes that it  
21 requires adequate data at an early date in order to per-  
22 form its statutorily-required analysis of the project.

23           I think that is the chief issue. As I understand  
24 it, there are also some other points which Solano County  
25 and others may wish to raise today. I think that will

1 be one of the chief matters for your consideration.

2 If there are any questions, I'll be happy to  
3 explain it.

4 CHAIRMAN IMBRECHT: Thank you. Questions from  
5 -- Commissioner Gandara.

6 COMMISSIONER GANDARA: I have a question, yes.

7 On Item 4, Mr. Valkosky, I guess I'm confused  
8 by the last sentence.

9 "If such results are not forthcoming, a  
10 day-for-day extension of the schedule shall  
11 result."

12 I'm not quite sure what that language means.  
13 Are you suggesting that the Commission at this point in  
14 time make a unilateral determination that there shall be  
15 a day-for-day delay?

16 HEARING ADVISER VALKOSKY: All --

17 COMMISSIONER GANDARA: Is that consistent with the  
18 statute which requires an agreement by the Applicant for  
19 a --

20 HEARING ADVISER VALKOSKY: All I am representing  
21 this condition to be, Commissioner Gandara, is the posi-  
22 tion of the staff.

23 COMMISSIONER GANDARA: I see.

24 HEARING ADVISER VALKOSKY: Okay. And I think  
25 you are correct in pointing out that there are certain

1 problems in unilaterally requiring an extension. However,  
2 I think you can interpret this condition as basically a  
3 -- as basically an advance warning of a future staff posi-  
4 tion during the AFC should the data not be forthcoming.

5 COMMISSIONER GANDARA: Well, I guess when it's  
6 appropriate perhaps -- I don't know if now is appropriate,  
7 or whether we have -- we are going to get to it sooner  
8 or later, but at some point I would like to at least get  
9 staff's view on this, because it does seem to me that,  
10 as you say, this is meaningless, except that it is a state-  
11 ment of what might be a probable occurrence. It doesn't  
12 get away from -- it's just prefatory language. It has  
13 no force in law.

14 HEARING ADVISER VALKOSKY: I think that's a cor-  
15 rect interpretation.

16 CHAIRMAN IMBRECHT: Actually, my intention,  
17 Commissioner Gandara, was after further questions of  
18 Mr. Valkosky, then to call upon Applicant, and then  
19 finally staff, and then other parties' comment on any of  
20 the matters that are before the Commission.

21 Are there further questions for Mr. Valkosky?

22 Mr. Valkosky, do you address the question of  
23 site banking which Solano County raised? I have reviewed  
24 your memorandum, but I thought it would be useful for you  
25 to put that into the record as well.

1 HEARING ADVISER VALKOSKY: All right. At last  
2 Wednesday's hearing, Solano County raised a concern in  
3 that the Vaca-Dixon corridor, if approved, would remain  
4 banked and eligible for future NOI consideration. I am  
5 not sure whether that remains a concern today. My under-  
6 standing is that Solano County has certain suggested  
7 language which may alleviate their concerns, and if that  
8 is so I think further discussion may prove moot on this  
9 point.

10 If you would like me to continue I would, or  
11 we could wait to hear what Solano County says.

12 CHAIRMAN IMBRECHT: Well, we'll wait and hear  
13 what they have to present to the Commission.

14 All right. Fine. Ms. Schori, on behalf of the  
15 Applicant.

16 MS. SCHORI: Good morning. My name is Jan Schori.  
17 I'm the attorney for the Joint Owners, and with me today  
18 is Jim Bemis, who is the Project Manager for the Joint  
19 Owners.

20 We have two final comments today. One is a very  
21 minor clarification, and it was brought to our attention  
22 yesterday that the findings on page 157, which are the  
23 final findings in the proposed decision that actually  
24 indicate which corridors are acceptable for purposes of  
25 filing an AFC, in those corridor descriptions the links

1 that are identified do not include the collector link,  
2 and so we would ask that you include the collector link  
3 as a very minor clarification item to the findings that  
4 are made on page 157 to make it clear that the collector  
5 link is part of those corridors.

6 In going through the decision, we -- there are  
7 many, many findings on the collector link. It's just the  
8 final statement that the collector link was acceptable  
9 was not made.

10 CHAIRMAN IMBRECHT: Mr. Valkosky, do you --

11 HEARING ADVISER VALKOSKY: I have no objection  
12 to that. I think it does make specific that which is  
13 implied in the decision. I don't think it substantively  
14 alters it.

15 CHAIRMAN IMBRECHT: All right. Fine.

16 HEARING ADVISER VALKOSKY: I would suggest add-  
17 ing a --

18 CHAIRMAN IMBRECHT: When I offer my motion I  
19 will assume the inclusion of that correction.

20 COMMISSIONER CROWLEY: Thank you.

21 You have before you four alternative proposals  
22 for the timing of the information on the system studies.  
23 Version 1 is the one that is favored by the Joint Owners.  
24 We would submit that, in addition to the language that  
25 is currently contained in Version 1, that Version 3 could

1 be moved up and made the last sentence of Version 1, if  
2 the language is changed to read, rather than saying as  
3 part of the AFC filing, specify within 90 days of the AFC  
4 filing the Joint Owners shall provide the preliminary  
5 results, simply to pin it down more precisely.

6 Our proposal is that the results of the system  
7 impact studies and the preliminary mitigation measures  
8 which we would propose to study as a result of the identi-  
9 fication of the impacts be supplied 90 days after the AFC  
10 filing.

11 We would propose at that time, also, to identify  
12 a schedule for purposes of finding the optimum solution  
13 from the list of preliminary mitigation alternatives that  
14 we have identified. At this point in time there is no  
15 way for us to identify how long it would take for us to  
16 pin down precisely what the optimum mitigation solution  
17 will be.

18 The Joint Owners have no bargaining room left  
19 on this issue. The schedule that we have proposed is the  
20 minimum schedule that we are able to come up with. It's  
21 significantly compressed as is. It's going to be very  
22 difficult to get the work done, even within this 90-day  
23 time frame, so we simply have not been able to come up  
24 with any other compromise position. We have compromised  
25 as far as we are able to.

1           I think it's important to keep in mind that the  
2 purpose of these studies is much broader than simply pro-  
3 viding support for the AFC licensing process. The funda-  
4 mental purpose of the studies is to develop solutions that  
5 six utilities can live with for the life of this project.  
6 We don't want to rush into this. We want to do a thorough,  
7 complete job. The studies are going to form the basis  
8 for the negotiations that will have to take place between  
9 the affected utilities, and we think that it's critical  
10 that they be done in a thorough and complete fasion, and  
11 not a rush job.

12           Moreover, one of the critical items that is  
13 contained in the studies is an analysis of projects that  
14 are affecting the Region, such as the Third Intertie. We  
15 think that it's very important, in light of that, to main-  
16 tain our efforts to continue with joint studies, rather  
17 than having the Joint Owners do them on their own.

18           The staff's fundamental argument for insisting  
19 that the preliminary study results be provided as part  
20 of the AFC filing is that they think that six months  
21 basically is required for them to analyze the results of  
22 those studies, the six months being from the date that  
23 we file the results until their PSA approximately is due  
24 to be issued.

25           We think that for them to have come up with this

1 time estimate presupposes that the reviewer will have  
2 no prior knowledge of what is going on with the studies,  
3 and that is simply not the case in this situation. We  
4 have been keeping the staff apprised of the studies, we  
5 have been giving the staff the proposed outlines, the  
6 assumptions that are going into the studies, we are solici-  
7 ting their comments and input now, so that we can make  
8 sure that all of the concerns of all the parties, includ-  
9 ing the staff, are addressed as we perform the studies.  
10 We intend to continue doing that as we continue with further  
11 work on the studies.

12 We think that it is unreasonable to assume that  
13 the staff is going to require six months to analyze the  
14 results of studies that will take the Joint Owners'  
15 engineers or the Joint Study engineers three to four months  
16 to perform. The review period simply should not take that  
17 kind of time, particularly when the staff is going to have  
18 the opportunity to participate as the studies are going  
19 along, so we simply cannot accept the staff's fundamental  
20 reason for asking that the study results be provided in  
21 the AFC filing.

22 To accept any proposal other than the one that  
23 we are offering to you today puts the Joint Owners in a  
24 real Catch 22. They are going to be forced to choose  
25 between doing joint studies, which we think are the most

1 effective and beneficial for the process way of accomplish-  
2 ing the work, or maintaining their contractual commitments  
3 and the schedule that this project is on.

4           The contracts that the Joint Owners have that  
5 have the time frames, timetables that everyone here is  
6 fairly well familiar with, have significant economic con-  
7 sequences for the Joint Owners' ratepayers. The Joint  
8 Owners have put a good amount of time, money and effort  
9 into the studies. We intend to continue doing that, but  
10 we cannot run the risk of jeopardizing our schedule and  
11 jeopardizing our ability to perform under contracts to  
12 which our various utility members are committed.

13           We think that it is unfair to penalize the Joint  
14 Owners by forcing them into this Hobson's Choice, if I'm  
15 going to call it that. We are 20 months into a 12-month  
16 NOI process, and we are now being told in essence that  
17 we have to live with another three-month or longer delay.  
18 This is simply not an acceptable resolution for the Joint  
19 Owners' problems.

20           I said last week that I think that what you are  
21 picking between is the choice between an absolute delay  
22 now in the filing of the AFC, and the possibility of a  
23 delay later in the AFC.

24           If the Joint Owners were to proceed with doing  
25 studies unilaterally and not attempting to further the

1 joint efforts which admittedly, the more parties you  
2 involve, the longer it takes to get the results that you  
3 are after. We think that that risk may result in signifi-  
4 cantly more delays in the AFC, whereas; if all parties  
5 cooperate in the development of the studies as we go along,  
6 we are minimizing the risk of having arguments over this  
7 issue in the AFC, because hopefully all the parties  
8 involved will have participated and will understand the  
9 results and feel like they have had their input into these  
10 studies.

11 This is not an issue, this is not an area that  
12 is meant for litigation, shall we say, or adjudicated hear-  
13 ings, so it's really our preference to proceed with the  
14 joint studies. In order for our Joint Owners to be able  
15 to do that and continue to maintain their contractual com-  
16 mitments, we need to have the full Commission accept  
17 Version 1.

18 That concludes my comments.

19 CHAIRMAN IMBRECHT: All right. Thank you.

20 Questions?

21 COMMISSIONER GANDARA: I have some questions.

22 CHAIRMAN IMBRECHT: Commissioner Gandara.

23 COMMISSIONER GANDARA: Ms. Schori, you have  
24 before you Version 3?

25 MS. SCHORI: Yes.

1           COMMISSIONER GANDARA: In the opening comments  
2 by the Hearing Adviser, he indicated that the consequence  
3 of Version 3 is a 90-day delay in your AFC filing; is that  
4 correct?

5           MS. SCHORI: That's approximately correct.

6           COMMISSIONER GANDARA: Okay. Then --

7           MS. SCHORI: Assuming the current -- the current  
8 schedule that we have for filing the AFC.

9           COMMISSIONER GANDARA: And in your comments you  
10 indicated that that schedule was tight, so that 90 days  
11 would be as soon as possible time?

12          MS. SCHORI: In terms of our filing the AFC?

13          COMMISSIONER GANDARA: Um-hum.

14          MS. SCHORI: Yes. We're looking -- we are trying  
15 to shoot for a filing the second week in September, right  
16 now.

17          COMMISSIONER GANDARA: So --

18          MS. SCHORI: So in essence what we are looking  
19 at is hopefully four months to try to get the preliminary  
20 results of the studies, assuming we get going right away.

21          COMMISSIONER GANDARA: Okay. Now, with respect  
22 to Version 4, since you didn't mention it, I take it you  
23 don't stipulate to that.

24          MS. SCHORI: No, we don't stipulate to that.

25          COMMISSIONER GANDARA: Okay. And without such

1 a stipulation, do you see any force and meaning to the  
2 last sentence? Anything that you feel that you are bound  
3 to?

4 MS. SCHORI: If the Commission were to adopt  
5 that language, I have a feeling we would be in for some  
6 lengthy legal discussions in the AFC as to whether or not  
7 that language is binding on the AFC committee. I haven't  
8 discussed it with my clients. I know what my advice would  
9 be.

10 COMMISSIONER GANDARA: Okay.

11 MS. SCHORI: I don't think that it is binding.

12 COMMISSIONER GANDARA: And in your earlier testi-  
13 mony, I believe that it was the last time we met regarding  
14 this subject, you indicated that Version 2 would at best  
15 cause you an eight-month delay; is that correct?

16 MS. SCHORI: Yes. That would be minimum.

17 COMMISSIONER GANDARA: Okay. Then going back  
18 to Version 4, we take the second to the last sentence,  
19 it says, "The Joint Owners shall provide the final study  
20 results within 90 days after AFC acceptance. Okay. I  
21 take it that the first sentence would cause a -- a three-  
22 month delay.

23 Then the second sentence that says that you have  
24 to have the rest within three months at six months, okay,  
25 I take it that you are saying that that second sentence

1 is an impossibility.

2 MS. SCHORI: That second sentence is an impos-  
3 sibility for us at the moment, especially if we continue,  
4 as I indicated, to try and work towards joint studies on  
5 this issue.

6 The absolute minimum schedule that we have seen  
7 for completing the studies was eight months.

8 COMMISSIONER GANDARA: So, then, if I hear you  
9 correctly, what that leaves is the first sentence, which  
10 is the same as Version 3, and if I can summarize your posi-  
11 tion, it is that Version 3 and the first sentence of Version  
12 4 is unacceptable to you because it has a three-month delay  
13 with it. The second sentence of Version 4, then, is impos-  
14 sible to meet, and then the last sentence of Version 4  
15 says that it legally is unsupportable.

16 MS. SCHORI: That's a good summary?

17 COMMISSIONER GANDARA: Okay. Well, thank you  
18 very much.

19 CHAIRMAN IMBRECHT: All right. Further questions?

20 I am going to hold the right to recall you for  
21 some further questions after we hear from the other parties.

22 Mr. Ratliff? Mr. Deter? I'm not sure who is  
23 speaking today.

24 MR. RATLIFF: Yes. Good morning, Commissioners.  
25 My name is Dick Ratliff. I represent the staff in this

1 proceeding.

2           The Committee-sponsored conference on Friday  
3 with the Joint Owners and the staff did prove to be a  
4 constructive affair. I think there was a full airing of  
5 our various feelings on the matter of when this information  
6 should be provided, and we were able to agree on what the  
7 information should be.

8           Unfortunately, we were not able to agree on what  
9 the schedule for providing that information would be.

10           The staff made an offer at that meeting, an  
11 offer of compromise, one that we thought was prejudicial  
12 to the staff, but which we hoped would break the impasse  
13 over when that information will be provided, and that was  
14 that the preliminary studies would be provided in the AFC  
15 filing, and that more project-specific studies would be  
16 provided 90 days later.

17           Absent the filing of those more project-specific  
18 studies, the staff would then be in a position to request  
19 that the AFC Committee extend the proceeding on a day-for-  
20 day basis until it did receive the information that it  
21 needed.

22           Now, we realize that that would not be legally  
23 bending on the AFC Committee, but we feel that it is  
24 absolutely essential for the staff to be able to come back  
25 and say we don't have the information and we can't analyze

1 the project until we do have it.

2 CHAIRMAN IMBRECHT: Before you go forward, let  
3 me just inquire, do you agree that eight months is the  
4 minimum time for you to complete the studies?

5 MR. RATLIFF: Well, that's our understanding.  
6 PGandE is the contractor in this case. That's our under-  
7 standing, and PGandE has indicated that it will take at  
8 least 12 months to have final results in the studies.

9 CHAIRMAN IMBRECHT: And do you agree that pre-  
10 liminary results are 90 days out? I just wanted to see  
11 if we have agreement on --

12 MR. RATLIFF: Yes, that's correct.

13 CHAIRMAN IMBRECHT: All right. So the practical  
14 effect, then, of the offer that you made on Friday would  
15 be a five-month delay to the proceeding rather than an  
16 eight-month delay to the proceeding.

17 MR. RATLIFF: The practical effect --

18 CHAIRMAN IMBRECHT: In other words, three months  
19 later in the filing of the AFC, and if you agree that  
20 it is going to take eight months to complete, then there  
21 is no way that the 90-day condition, binding or not, could  
22 be met, which would mean in essence a two-month extension  
23 of the deadline for the conclusion of the proceeding. Add  
24 that up, and I get five months.

25 MR. RATLIFF: Yes, that's correct.

1           CHAIRMAN IMBRECHT: Okay.

2           MR. RATLIFF: So, anyway, what we are left with,  
3 I think, is -- I might add, by the way, that although there  
4 was an appreciation of ideas, the staff left the meeting  
5 feeling that there was no real reciprocal offer by the  
6 Joint Owners to meet us halfway on this, and essentially  
7 we were not able to agree on a schedule for the informa-  
8 tion, which I think confronts the Commission with two  
9 issues here.

10           The first issue is whether you want an AFC deci-  
11 sion, which will be based on no information, on a little  
12 information, or on a thorough-going analysis and, secondly,  
13 if we assume that it is a thorough-going analysis that  
14 you would like, I think you have to decide whether you  
15 want to have that analysis provided -- or the basis, the  
16 information that provides the basis for that analysis early  
17 in the proceeding, or whether you would like to commence  
18 the proceeding without the information and then delay the  
19 proceeding until the information does become available.

20           I think if the Commission will examine the argu-  
21 ments forwarded by the Joint Owners for allowing them to  
22 proceed without an adequate AFC filing, I think you will  
23 find that they were based on four important misconceptions.

24           The first misconception is that it is unfair to  
25 require the Joint Owners to do these studies during the

1 AFC and to provide them in a timely manner because of some  
2 representation by staff in the past that they would not  
3 be -- there would be no AFC data requirements for trans-  
4 mission system evaluation.

5 I think that if you are familiar with the NOI  
6 record, you will understand that the NOI proceeding was  
7 characterized by staff constantly trying to get the Joint  
8 Owners to provide more sufficient NOI-level studies for  
9 this proceeding, and that it is simply inconceivable that  
10 the Joint Owners could have inferred that we were not going  
11 to require any data requirements, any significant data  
12 requirements in the AFC on this project. We have never  
13 taken that position.

14 The second misconception is that preliminary  
15 data is enough for the staff to work with, and that you  
16 don't really need more project-specific data. Basically  
17 the preliminary -- what have been called preliminary studies  
18 is going to be scoping-level information. It will identify  
19 a number of reliability issues that could be -- that could  
20 result from the third outlet, and it will provide a broad  
21 range of alternatives that could be used to address those  
22 -- those reliability issues that have been identified.

23 It will not be project-specific information.  
24 It will not be information of the type that the staff can  
25 use to provide any meaningful analysis. Again, the staff

1 believes that it must have project-specific information,  
2 and it's not enough, as the Joint Owners have offered to  
3 say, to let the staff know when they have, you know,  
4 included them in the process. We have assumed that all  
5 along, that the staff would be included in the process  
6 and would be up to date on what PGandE and the Joint  
7 Owners have decided in terms of mitigation.

8 A third important misconception is that the AFC  
9 process can somehow be compressed into three months on  
10 this particular issue. I think the Commission is fully  
11 aware that an AFC process on a complex proceeding is an  
12 action-packed, 12-month event.

13 There is a data-adequacy phase, there is a dis-  
14 covery phase, there is an analysis phase, a hearing phase,  
15 and decision-making phase, and there is -- this structure  
16 to the proceedings is provided by the statute, it's pro-  
17 vided by our regulations, and it's absolutely essential  
18 for the staff to follow through that procedure if we are  
19 going to have a staff participation on this issue.

20 The transmission system evaluation studies are  
21 exceedingly complex, and if we had 12 transmission system  
22 analysts, and in fact we don't, we have two, we couldn't  
23 in three months or even in six months, evaluate what we  
24 are going to see proposed. We need the time, we need the  
25 structure of the normal AFC process, and that is what we

1 request.

2           Finally, the fourth misconception, and I think  
3 this is the most fundamental misconception of all, is that  
4 there is some kind of a rush going on here, and that you  
5 have to have a decision, and you have to rush this project  
6 constantly.

7           Originally in the NOI proceeding this rush was  
8 ostensibly because there was not adequate transmission  
9 capacity from the Geysers, that in 1988 you would have to  
10 start curtailing geothermal plant transmission because  
11 of inadequate transmissison system capacity.

12           If we learned anything from the NOI proceeding,  
13 we know that that is not the case, and the proposed deci-  
14 sion states that there is adequate capacity through 1991  
15 for all of the existing power plants in the Geysers, and  
16 all plants that are currently under construction and  
17 licensed, even -- and that would be the case even under  
18 a single-line contingency outage.

19           So there is no rush in terms of curtailment in  
20 the Geysers.

21           Secondarily, we heard I think last week, and  
22 there was an inference to it today, or a reference to it  
23 today, I think, indirectly in the Joint Owners' presenta-  
24 tion, that there are contractual matters, and I think here  
25 we are talking about the wheeling contracts between PGandE

1 and the Joint Owners which necessitate a rush decision  
2 on this, the implication being that when the Joint Owners'  
3 wheeling contracts expire in 1988 that they will somehow  
4 be prejudiced, and they cannot assure that their power  
5 will be wheeled from the Geysers.

6 Now, the reality of this is that it's just  
7 absolutely not true. PGandE is required by federal law  
8 to wheel in the form of the Stanislaus commitments, to  
9 wheel as long as it has available capacity on its lines  
10 for the Joint Owners, so that is simply not an issue in  
11 this proceeding.

12 So, finally, I think what you have here, if this  
13 was an environmental issue or an environmental topic I  
14 think you would have -- you could analogize this to an  
15 applicant coming in and saying, look, license our project  
16 first, we'll do the EIR afterwards, and we'll assume in  
17 the meantime that all the impacts were mitigable. I don't  
18 think the Commission wants to proceed on this issue in  
19 that manner, and I urge you not to. I think it's in the  
20 best interests of both the Commission, the parties, and  
21 the Applicants themselves, to make this a normal AFC.

22 I have with me Ross Deter, the head of the Siting  
23 Division, to answer any further questions you may have.

24 CHAIRMAN IMBRECHT: There was a representation  
25 by Ms. Schori that the actual studies involved would take

1 three to four months, and I presume the rest of that time  
2 would be to aggregate and summarize, or whatever, and that  
3 we were planning six months for our staff to review what  
4 took three to four months to actually prepare.

5 Do you want to comment on that?

6 MR. RATLIFF: Well, Mr. Chairman, it's our under-  
7 standing that the study is actually a 12-month study. Now,  
8 what time there would be project-specific results that  
9 would be useful for the staff's analysis I -- it's very  
10 difficult for me to say.

11 We know that that contract has not been signed  
12 yet. There has been difficulty in getting an agreement.  
13 We think that it is beneficial, that there are certain  
14 obvious benefits to PGandE being included as the contractor  
15 in this study, but we don't think that that's an excuse  
16 for not providing results until after the AFC terminates.

17 In terms of how long it would take the Joint  
18 Owners and their contractor to provide useful results,  
19 it is very difficult for us to say, but we think that those  
20 results have to be provided.

21 CHAIRMAN IMBRECHT: Okay. I --

22 MR. RATLIFF: I might also add that the Joint  
23 Owners have contracted for their environmental studies since  
24 last March, and here we are in late summer and there is  
25 still no contract for the transmission system evaluation

1 studies, and we don't understand the discrepancy here.

2 CHAIRMAN IMBRECHT: I want to reconcile those  
3 differences.

4 Ms. Schori, could you return and repeat that  
5 representation you made so I undersatnd it more clearly?  
6 I want to get a direct answer to that.

7 MS. SCHORI: Yes. What we are proposing to  
8 provide within 90 days, as a result of the joint studies,  
9 is the -- are the final results, completed results on the  
10 system impacts, system stability studies, and as a result  
11 of that we will have identified preliminary mitigation  
12 system reinforcement measures, other options, mitigation  
13 options, that would solve the problems that were identi-  
14 fied as a result of the load flow studies, stability  
15 studies, that sort of thing.

16 Once -- that is what we will be able to provide  
17 within 90 days. Once that has been finished, we then have  
18 to turn around and do very detailed studies on the mitiga-  
19 tion alternatives that have been identified to determine  
20 which one is the optimum one for the system, and this is  
21 where you get into some very critical negotiating --  
22 developing information for negotiations, because this is  
23 where the parties will begin to discuss who pays for what.  
24 There may be a solution that's better for PGandE, not as  
25 good for the Joint Owners, better for Western, not so good

1 for PGandE.

2           This is where we feel there are real benefits  
3 in attempting to do this in a joint study fashion, but  
4 basically those are the -- those final sign-the-check type  
5 results we can't identify today when that information would  
6 be available, but we will be able to provide the staff  
7 with the information on solutions that will work, and we  
8 think that that's adequate for the staff to perform its  
9 analysis on this issue.

10           CHAIRMAN IMBRECHT: What I'm referring to is  
11 that you made a representation that it would take three  
12 to four months to actually do a portion of the study, and  
13 yet our staff was proposing to take six months to review  
14 it.

15           MS. SCHORI: Right.

16           CHAIRMAN IMBRECHT: Would you delineate that  
17 for me more clearly?

18           MS. SCHORI: Okay. The study I'm talking about  
19 is the preliminary system studies that I just went through.  
20 We can provide all that, plus -- the system studies, plus  
21 preliminary mitigation. It's going to take us, based on  
22 the -- the schedule -- one of the schedules we were given  
23 by PGandE, that should take us three to four months, prob-  
24 ably four months from today, to complete that.

25           The problem we had with the staff's position

1 is that they are saying that they want the time frame from  
2 the filing of the AFC until the issuance of the PSA, which  
3 we have been advised is roughly a six-month period, to  
4 analyze that information, and I simply was commenting that  
5 I think it's unreasonable to say that it's going to take  
6 somebody nearly as long to -- twice as long to review some-  
7 thing as it took us to put it together.

8 CHAIRMAN IMBRECHT: Okay. Now, I would like  
9 to hear staff's response to that.

10 MR. DETER: I guess my first observation is,  
11 is that we have stated that the Applicant has said that  
12 they are only going to do the preliminary part of their  
13 study in the first three to four months. We would be more  
14 than happy, and in fact when we proposed the -- the com-  
15 promise in Option 4 is to evaluate the preliminary study  
16 in three months, but we feel that we need to have the final  
17 results of their final study to make a recommendation to  
18 the full Commission regarding the types of mitigation  
19 measures that ought to be imposed as a part of the license.

20 So, we would not be taking six months to do an  
21 evaluation of their preliminary analysis, which they now  
22 say would take three to four months to do.

23 CHAIRMAN IMBRECHT: I'm still confused, frankly.

24 MS. SCHORI: Could I just briefly respond to  
25 that statement? I think that one of the things that we

1 did have somewhat of a lengthy discussion about with the  
2 staff on Friday was the staff's interpretation of final  
3 results for purposes of AFC licensing, versus the final  
4 results the Joint Owners need in order to negotiate how  
5 much money, or what kind of upgrades they are going to  
6 have to put in on other utility systems.

7           Mr. Deter's last statement could be interpreted  
8 as saying that this Commission intends to impose on the  
9 Joint Owners some kind of a financial obligation, and I  
10 would have to take strong objection to that. That has  
11 not been the Commission's posture in the past with respect  
12 to any other issue. In socioeconomic issues generally  
13 the Commission has advised an applicant to go out and we  
14 -- the Commisison staff, the parties to the case, identify  
15 impacts. The parties that are involved then go out and  
16 negotiate a solution, which may involve rebuilding a road  
17 physically, or it may involve giving the county some money  
18 to rebuild the road.

19           We certainly would hope that the Commission pre-  
20 serves that kind of flexibility for the Joint Owners on  
21 this issue in the AFC, so I would take strong objection  
22 to the characterization of the staff's need for the final  
23 results.

24           We think that the goal of the staff study should  
25 simply be to indicate that there are acceptable solutions,

1 and we intend to provide them with acceptable solutions  
2 at the end of the 90 days, and then leave it up to the  
3 affected utilities to decide the optimum solution and who  
4 is going to pay for what.

5 Now, we will provide the results of that, but  
6 to try and pin all that down right now and tell us we have  
7 to have an answer in 90 days is not conducive to effective  
8 negotiations on this issue, and moreover it's not necessary  
9 since those measures have to be in place when the line  
10 is energized, not when ground is broken, when the AFC  
11 is approved, so --

12 MR. RATLIFF: Mr. Chairman, if I may, we did  
13 have a lengthy discussion on Friday, and I think the staff  
14 made it quite clear in those discussions that we were not  
15 trying to intervene in the areas of interutility agree-  
16 ments.

17 We were not trying to assess costs, but what  
18 we were trying to do was get data that was based on a  
19 specific project and not on a whole wide range of alterna-  
20 tives, so I think that the objection here is totally mis-  
21 taken.

22 And I think -- you know, the difficulty we have  
23 here is we are talking in terms, very vague terms, which  
24 very few of us have too much of a grasp for. We are talk-  
25 ing about preliminary studies, and we're talking about

1 the term -- we used the term "final results."

2 The staff used the term "final results" to mean  
3 project-specific information, as opposed to a much more  
4 general kind of information that has been promised, and  
5 we don't think that the Joint Owners are -- well, let me  
6 just stop there. I'll just let that -- the clarification  
7 rest.

8 CHAIRMAN IMBRECHT: Okay. One final question  
9 I've got is that -- and this is to return to some of the  
10 discussion of last week -- why it's necessary to have final  
11 or preliminary results at the time of the filing of the  
12 AFC, if in fact, by virtue of stipulation, we are going  
13 to be dealing with need at the outset, and in the event  
14 that no need is shown or within the time frames involved,  
15 in essence there is a reasonable likelihood that the pro-  
16 ceeding would effectively terminate early on, and as a  
17 consequence in essence we would have required of the  
18 Applicant the expenditure of substantial sums -- I presume  
19 these are not cheap studies, and also expended some staff  
20 time as well to evaluate something that might become a  
21 moot issue.

22 And I am trying to understand the sequencing  
23 as well from your perspective, why that is essential. It  
24 just -- it remains to me that the logical course for the  
25 AFC to follow is to consider whether there is need for

1 additional transmission capacity, and that, in turn, if  
2 there is need that is found, which of the alternatives  
3 are appropriate, either upgrade of the existing PGandE  
4 lines, or the construction of a new line, and it would  
5 seem to me that it's at that point in time that the appro-  
6 priate focus of mitigation could be given and provide  
7 results of the greatest usefulness without requiring  
8 redundance and perhaps unnecessary studies.

9           Now, am I missing something in all this, or am  
10 I --

11           MR. RATLIFF: Well, Mr. Chairman, I'm terrified  
12 of going back into this issue again, because we didn't  
13 -- we didn't ever reach any understanding last week, but  
14 I think it's important to understand that there are two  
15 aspects of that need determination.

16           One is whether or not there will be megawatts  
17 in the Geysers requiring transmission capacity, and one  
18 is whether or not that need for additional transmission  
19 capacity is best met by a reconstruction of the existing  
20 system, as opposed to a third outlet.

21           CHAIRMAN IMBRECHT: Right. I agree with that.  
22 Yes.

23           MR. RATLIFF: Now, last week there seemed to  
24 be some confusion over whether the need hearing, which  
25 we have talked about having early in the proceeding, would

1 address either one of those issues or both. In the staff's  
2 view it should address both. We think that a --

3 CHAIRMAN IMBRECHT: Simultaneously, or in a  
4 serial fashion?

5 MR. RATLIFF: Simultaneously.

6 CHAIRMAN IMBRECHT: Why?

7 MR. RATLIFF: We think -- we think that the  
8 issues are absolutely tied together. Let me --

9 CHAIRMAN IMBRECHT: The logic of that is so  
10 impossible for me to grasp, I --

11 MR. DETER: It seems to me that the need issue  
12 breaks into two categories. First of all, do you need  
13 a thousand megawatts of additional capacity in the Geyers?  
14 If you do, then everybody agrees you need to have a third  
15 outlet line.

16 The second thing is what happens if you need  
17 less than a thousand megawatts. Supposing you need 500  
18 megawatts, or something along those lines. Then it becomes  
19 much more unclear as to whether or not you need a third  
20 outlet line.

21 Now, we think that one of the things that may  
22 determine the need for the third outlet line at the lower  
23 generation capacity is the effect -- is the system impact  
24 effect. There may be technical reasons why you need to  
25 have a third outlet line at a lower generation capacity.

1           Therefore, we think the Applicant is going to  
2 have to include that as a part of their feasibility analy-  
3 sis to determine whether or not they need to have a third  
4 outlet line with a less than a thousand megawatts or 800  
5 megawatts of generation. Therefore, they have to do that  
6 study.

7           CHAIRMAN IMBRECHT: Now, I --

8           MR. DETER: Secondly, we -- the Applicant, we  
9 think, when they proposed their AFC or when they were going  
10 to propose their AFC, have come to the conclusion that  
11 they need to have a third outlet line. Therefore, they  
12 have contracted and gone ahead with all the necessary  
13 detailed studies to get the information to do an AFC,  
14 including all the site-specific studies, the AFC studies.

15           We think the burden of proof is on them to pro-  
16 vide the necessary data for the Commission to make its  
17 findings, and we sympathize with their efforts to have  
18 to do a joint study, to work with a number of utilities.  
19 We think it should be thorough, but we think the burden  
20 is upon them to provide that full information to the  
21 Commission at the beginning of the 12-month process so  
22 that the Commission can have full information to analyze  
23 the case, and that transmission study has to be done for  
24 the thousand-megawatt -- for the third outlet line, and  
25 we think they have already concluded that that is what

1 their option is going to be. Therefore, we think that  
2 the information needs to be done at the front end.

3 CHAIRMAN IMBRECHT: Okay. Well, I guess where  
4 -- I agree with most of your analysis. I guess where we  
5 depart is the question of whether all of this has to be  
6 done simultaneously, and whether there are in essence  
7 threshold questions.

8 MR. DETER: Well, we --

9 CHAIRMAN IMBRECHT: And the threshold question  
10 I need, as you correctly defined, is if it's a thousand  
11 megawatts roughly then I think there is general consensus  
12 that there needs to be a third outlet line. In that case,  
13 the upgrade evaluation would be necessary.

14 If it's less than a thousand megawatts, then  
15 either the upgrade or a new line both become reasonably  
16 debatable alternatives, in which case all of the analysis  
17 would be necessary, or the final is whether in fact there  
18 won't be any need for additional capacity within the period  
19 involved, in which case again there would be no need for  
20 any further analysis.

21 MR. DETER: That's correct, if in fact --

22 CHAIRMAN IMBRECHT: And I guess I'm suggesting  
23 that if the Committee can visit the issue of those pre-  
24 liminary threshold questions of need in the first 90 days  
25 while the studies are in progress, then the Committee

1 would be in a position to direct the Applicant as to  
2 whether or not it's necessary to complete those studies  
3 and continue to expend funds for them or not.

4 At the same time, I think that there must be  
5 a seeming recognition on the part of the Applicant that  
6 if in fact the complete study is indeed going to take eight  
7 months or more to complete that there clearly are, and  
8 I thought I heard Ms. Schori acknowledge, that there were  
9 implications that might result in delays of the AFC pro-  
10 ceeding later on.

11 I think that the point she was making, as I  
12 recall her saying, was do we build in a certain delay now  
13 or a possible delay later.

14 MR. DETER: I guess --

15 CHAIRMAN IMBRECHT: It's hard for me to see their  
16 position as being unreasonable on this issue.

17 MR. DETER: I understand your points, and you  
18 have made a whole series of points in your statement.

19 I guess the thing that basically concerns us  
20 as staff is being put in the position of having to come  
21 back to the Commission and ask for a delay in the process  
22 because we haven't had sufficient information. You can  
23 recall the arguments we have had before the Commission  
24 on a number of cases regarding what is a level -- an  
25 adequate level of data, and so forth.

1           We have already agreed that we can do this in  
2 somewhat a serial fashion by agreeing that we will evaluate  
3 the preliminary results as soon as we get them, and we  
4 think we can do that evaluation in a three-month period.  
5 However, we feel that we need to have some results or some  
6 bottom line for what they consider the project to be to  
7 go forward and present that information to the Commission  
8 so they can incorporate it under their licensing decision,  
9 and we think that the absolute minimum, presuming that  
10 we have done a preliminary analysis, is nine months, and  
11 that's why we came up with the compromise we came up with.

12           So I guess we are very concerned about being  
13 the persons who are being accused of regulatory delay of  
14 the project. I don't want to get into this project, and  
15 in three months into it get into an argument with the  
16 Applicant regarding what's the level of data that needs  
17 to be done, et cetera, and then we have to commission --  
18 or we have to petition the Commission to delay the project.  
19 You know, I feel that that's a very untenable position  
20 for us and the Commission both.

21           CHAIRMAN IMBRECHT: Well, I certainly understand  
22 that. Just one only other thing I would just note is that  
23 the language is in the first option that says the  
24 Commission will not require such study results on the  
25 assumption that the Joint Owners recognize and accept the

1 potential consequences for future delays resulting from  
2 untimely filing of this information. By virtue of the fact  
3 that the Joint Owners have indicated they accept that first  
4 option, it seems to me that they are in essence stipula-  
5 ting to the potential, which seems highly likely, assuming  
6 that need is found and the other conditions that I outlined  
7 earlier are met in the early proceedings or early portion  
8 of the proceedings, that in fact there will be a delay,  
9 and I would even suggest that in essence there is a stipu-  
10 lation of that possibility by the Joint Owners' acceptance  
11 of this language.

12           While I fully appreciate ordinarily the reluc-  
13 tance of staff to be in a position to be asking for delays,  
14 I think under these circumstances there is a fair recogni-  
15 tion of that very high likelihood, and I would have very  
16 little hesitancy under those circumstances to impose such  
17 a delay, based on those circumstances actually occurring.

18           The other consideration I would say is that,  
19 at least as a result of this protracted debate over this  
20 issue, it would seem to me that there should be little  
21 remaining doubt on the part of the Applicant as to the  
22 level of detail that ultimately would be required, assum-  
23 ing the other threshold questions are in fact met as I  
24 outlined, and that before this proceeding could conclude  
25 that level of detail would have to be furnished, and an

1 adequate amount of time be afforded to the staff of the  
2 Commission to evaluate that information.

3 In any case, I still remain open on the issue,  
4 and I look forward to hearing testimony from other parties.

5 Now, I believe, Mr. Ratliff, you had some other  
6 points you wanted to make.

7 MR. RATLIFF: Mr. Chairman, no, I don't want  
8 to beat a dead horse here, but the only -- the only final  
9 thing that I might say is that we just don't think there  
10 is any justification for rushing the project in this way,  
11 and we haven't heard the Joint Owners give us a justifica-  
12 tion that is at all meaningful or believable.

13 We think that if there is a justification for  
14 rushing the proceeding, it has still yet to be announced  
15 what it is. We think that we can, there is no reason not  
16 to file a full and complete AFC, and to go through a regu-  
17 lar process and not have the staff coming in at the data  
18 adequacy level and saying this is not useful to us, we  
19 need more, or coming in during the hearings and saying we  
20 still don't have the information, we can't provide you  
21 any transmission system evaluation analysis.

22 HEARING ADVISER VALKOSKY: Mr. Chairman, if I  
23 could add just one point of procedural clarification, and  
24 it relates to the discussion about the early need hearing,  
25 I just want to make clear that under Section 25521 of the

1 Warren-Alquist Act, that the Committee conducting the AFC  
2 proceedings could not commence evidentiary hearings earlier  
3 than 90 days into the AFC process. So, in other words,  
4 there could not be an evidentiary hearing by the Committee  
5 within the first 90 days, and that is by operation of the  
6 statute.

7 CHAIRMAN IMBRECHT: All right. Anything further  
8 on other points, Mr. Ratliff, or is that the only thing  
9 you want to address?

10 MR. RATLIFF: No, thank you.

11 CHAIRMAN IMBRECHT: Okay. Thank you.

12 Other parties that wish to --

13 COMMISSIONER GANDARA: Excuse me. I have some  
14 questions.

15 CHAIRMAN IMBRECHT: Oh, excuse me. I'm sorry,  
16 Commissioner Gandara. Fine. Omission.

17 COMMISSIONER GANDARA: Mr. Ratliff, you know,  
18 the Versions 1 and 2 that are being discussed today are  
19 versions that the Committee proposed for consideration.  
20 Notwithstanding the statements that have been filed regard-  
21 ing their concern over the need for this data that is being  
22 discussed, I do not recall seeing staff propose a condi-  
23 tion. Am I incorrect?

24 MR. RATLIFF: I think if you will look at the  
25 testimony of Shibu Dhar, you will see that the staff did

1 propose conditions for the AFC filing. I don't have that  
2 testimony with me, unfortunately.

3 COMMISSIONER GANDARA: Okay. Did it propose  
4 a condition on this particular matter? Because I do  
5 recall reading -- I don't have it before me, but I do  
6 recall reading, you know, the staff position before the  
7 last hearing, and it did not include any specific language.  
8 It did not say staff prefers this condition to that con-  
9 dition.

10 MR. RATLIFF: My recollection is that we proposed  
11 extensive AFC filing conditions. If you would like, I  
12 think we have Mr. Dhar present, if you would like to ask  
13 him what his conditions were.

14 COMMISSIONER GANDARA: Well, I guess I would  
15 like to know exactly what condition you did propose. Okay.

16 MR. RATLIFF: Mr. Commissioner, the conditions  
17 are on page 39 of Mr. Dhar's testimony. If you wish I  
18 can read them, but they are rather lengthy.

19 CHAIRMAN IMBRECHT: Okay. Can you identify  
20 the document for us? Because I don't have that before  
21 me.

22 MR. RATLIFF: It's the staff testimony on trans-  
23 mission system evaluation.

24 MR. DETER: It was filed on March 28th.

25 COMMISSIONER GANDARA: So it was the staff

1 testimony, but it was not reiterated in your position.

2 MR. RATLIFF: I believe it was reiterated in  
3 our briefs, yes.

4 COMMISSIONER GANDARA: Okay. I guess what I have  
5 before me is that on page 6 of your statement filed August  
6 6th, it says that the staff urges Condition D.1. be amended  
7 to require the Joint Owners to provide the transmission  
8 system evaluation study in the AFC filing, not at some  
9 unspecified future date, but again you don't propose lan-  
10 guage.

11 Okay. If you have some language that you say  
12 is your proposal, I would like to have that before me.  
13 Maybe you can read it -- or if you have an extra copy I  
14 would like -- I would like to see where it falls among  
15 these four versions that have been discussed, because I'm  
16 surprised that if you have a version that it is not one  
17 of the ones before us.

18 MR. RATLIFF: Commissioner Gandara, we have four  
19 pages of proposed conditions on that final one. We would  
20 be glad --

21 COMMISSIONER GANDARA: On D.1.?

22 MR. RATLIFF: Sorry?

23 COMMISSIONER GANDARA: On D.1.?

24 MR. RATLIFF: Yes, on what kinds of information  
25 we want in the AFC filing. We can copy that for you.

1 Perhaps it would be easier to do that than to read it into  
2 the record.

3 COMMISSIONER GANDARA: So you are saying that  
4 actually none of the three conditions ever met your needs.

5 MR. RATLIFF: Well, the conditions I think are  
6 stated in much more general terms. We've been more speci-  
7 fic in our testimony as to what we needed for information.

8 COMMISSIONER GANDARA: Okay. Well, let me then  
9 just ask it another way. I mean Version 4 is proposed  
10 to us as your compromise of your position. Okay. I guess  
11 I'm not quite certain how it relates to Versions 1, 2 and  
12 3, then. I mean it's -- I'm trying to get an idea of what  
13 the staff position is on this matter.

14 MR. RATLIFF: Well, the staff position --

15 COMMISSIONER GANDARA: Is your position closest  
16 to 3, 2? It doesn't seem to be 1, but --

17 MR. RATLIFF: The staff position, in Mr. Dhar's  
18 testimony, was that in the AFC filing we would like to  
19 have detailed information on what the Joint Owners were  
20 proposing, in terms of reliability issues and the mitiga-  
21 tion that would be necessary.

22 Now, when we -- when we reached this impasse  
23 over the filing dates, staff basically was willing to give  
24 up three months on that and accept only preliminary studies,  
25 which are not project-specific, and begin their analysis

1 using only those studies, and then accept the more project-  
2 specific studies 90 days into the AFC proceeding.

3 At that point we were unable to receive any --  
4 any meaningful results at that point, and we would come  
5 back to the AFC Committee and ask for a delay in the pro-  
6 ceeding.

7 COMMISSIONER GANDARA: Well, let me then suggest  
8 to you that I think there was a deficiency in your summary  
9 comments, if you wanted this as a condition and you  
10 didn't specifically identify what you wanted in your con-  
11 ditions, okay, because we spent a lot of time trying to  
12 figure out what that might be.

13 You know, I can appreciate that it's in the  
14 testimony itself back in March, but for something -- in  
15 fact, the only issue that you are making, it would have  
16 been helpful to have had that, because I don't know where  
17 we are in this spectrum. I don't know how far your com-  
18 promise goes, and I'm trying to establish that first.

19 MR. RATLIFF: Well, Commissioner, I think there  
20 has never been much question about what information we  
21 were requesting. I think the real issue is the timing  
22 of it, and we have laid out in your testimony the details  
23 of what we wanted in the AFC filing, and we have laid  
24 out in our brief, on page 56 of our brief, the information  
25 that we wanted in the AFC filing.

1           The real issue comes down to when that AFC filing  
2 is going to occur with regard to this issue.

3           COMMISSIONER GANDARA: Well, regardless of all  
4 that, are you abandoning all previous positions? Is your  
5 position now Version 4?

6           MR. RATLIFF: Yes.

7           COMMISSIONER GANDARA: Okay. Fine. Then I guess  
8 my question to you is similar to the question I asked the  
9 Applicant earlier. What meaning does the last sentence  
10 have for you?

11           MR. RATLIFF: Yes. We believe that that -- the  
12 last sentence obviously is not going to be binding on the  
13 AFC Commiktee, but we believe it puts the -- the project  
14 proponent on notice that if we do not receive the studies  
15 that are necessary for us to perform our preliminary staff  
16 assessment within 90 days, that there is going to be a  
17 delay in the proceeding and it's going to continue until  
18 we do receive it. That to us is the meaning of that state-  
19 ment.

20           COMMISSIONER GANDARA: Well, then -- I guess,  
21 then, what meaning does sentence 2 have, if the Applicant  
22 has already testified and you have agreed essentially that  
23 you don't have a dispute over how long these are going  
24 to take, and the Applicant has already said that it is  
25 going to take a minimum of eight months, and you say you

1 want it all in 90 days, so there's a five-month period  
2 there.

3 I mean you are already saying that there will  
4 be a delay, so how can you then request the Commission  
5 to require it within 90 days?

6 CHAIRMAN IMBRECHT: Why don't you just say 150  
7 days and --

8 MR. RATLIFF: Ninety days is all the staff feels  
9 that it can give away.

10 COMMISSIONER GANDARA: I'm trying to figure out  
11 why we are engaged in considering a proposal that, by  
12 everybody's agreement, is not going to be possible to meet.

13 MR. DETER: I guess -- I guess what we were  
14 trying to do was look for a compromise. I would think  
15 that, since the Joint Owners say that they can't do the  
16 study in 90 days, then I guess our other position would  
17 be go back to Version 2 which says that we need to have  
18 the full information filed at the time of the AFC filing.  
19 Now --

20 COMMISSIONER GANDARA: Okay. Well, then, that's  
21 what I'm trying to establish. The Applicant has said it  
22 can't meet, you know, that sentence in Version 4, so is  
23 your position now abandoning Version 4 and back to Version  
24 2?

25 MR. DETER: Yes.

1           COMMISSIONER GANDARA: Okay. So then what we  
2 have before us are Versions 1, 2 and 3, I guess, or I guess  
3 4 if any -- but I'm not sure 4 is meaningful.

4           CHAIRMAN IMBRECHT: Well, actually, let me just  
5 try to further muddy the watters here, I mean before you  
6 cross out 4. I mean, in essence, even with that statement  
7 they can't meet that, the practical effect, as I indicated  
8 earlier in my question to Mr. Ratliff of Option 4, is a  
9 five-month rather than an eight-month delay in the proceed-  
10 ing.

11           MR. DETER: Since they have made the statement  
12 that it would take that length of time --

13           CHAIRMAN IMBRECHT: That's right.

14           MR. DETER: -- that's correct. That's correct.

15           CHAIRMAN IMBRECHT: Okay. So it would -- the  
16 practical impact would be five months, so in essence --

17           MR. DETER: That's correct.

18           CHAIRMAN IMBRECHT: -- you are conceding by  
19 Option 4, three months of what you had originally requested  
20 in Option 2.

21           MR. DETER: That's correct. We would be con-  
22 ceding that they could file the AFC at the time they had  
23 the preliminary results of their study done, that we would  
24 evaluate those preliminary results in the first three  
25 months, and then we would ask for a delay in schedule until

1 such time as they had the completed results done.

2 CHAIRMAN IMBRECHT: So my question doesn't --  
3 it still is not obvious to me then why you are abandoning  
4 4, other than what I would suggest is that 4 simply be  
5 redrafted to reflect the reality of the situation. Rather  
6 than saying 90 days after acceptance, say 150 days after  
7 acceptance.

8 MR. DETER: That would be acceptable to us.

9 CHAIRMAN IMBRECHT: And that would have the same  
10 practical impact, but still --

11 MR. DETER: That's correct.

12 COMMISSIONER GANDARA: So what is your position  
13 now, Mr. Deter? I -- this is an --

14 MR. DETER: Well, I guess what we are arguing  
15 over here is the crafting of the words, and it's very  
16 difficult, as you know, to craft words in a committee  
17 situation like this.

18 Our position is that we need to have the infor-  
19 mation in a timely manner to do the analysis, that we agree  
20 to accept the AFC filing with the preliminary results --  
21 results of the preliminary study, and we can evaluate that  
22 in three months.

23 At the end of the three-month period we need  
24 to have a delay in the schedule of the AFC until such time  
25 as they file their final results so that we can have nine

1 months left in the proceeding to do that final filing and  
2 make a recommendation before the Commission.

3 COMMISSIONER GANDARA: Okay. Now, I'm not trying  
4 to harass you, Mr. Deter, or the staff here, but frankly,  
5 you know, I -- I don't know that this does anybody any  
6 service. I mean let me just reiterate what we have.

7 We're playing kind of mystery words here. The  
8 reason I asked you specifically to translate your positions  
9 to words is because we need to know what your position  
10 is. Okay? That's what is helpful to us. It isn't helpful  
11 to state in general terms what it is that you would want,  
12 and then have us divine that.

13 Now, we have gone through the process where  
14 apparently something you wanted is close to 2, then it  
15 went to 4, and then you abandoned 4, and now we're back  
16 to 4 but with changed words, but all that notwithstanding,  
17 now I'm even more concerned because of what you just said,  
18 which is that you are stipulating to accepting an AFC know-  
19 ing full well that you are going to have a five-month delay,  
20 and that you are stipulating to its acceptance now? I  
21 mean can we do that in the condition? It doesn't seem  
22 to me we can do that.

23 CHAIRMAN IMBRECHT: Without trying to rescue  
24 anyone, stipulating to that in the event that the other  
25 preliminary findings or threshold questions are indeed

1 met, the other issue that remains is whether in fact we  
2 ever get to that point.

3 COMMISSIONER GANDARA: Does anybody hold out  
4 the real possibility that an AFC is going to come to this  
5 Commission without this data, you are not going to object  
6 to that, you are going to accept it and there will be no  
7 delay? Is there a possibility under any kind of scenario?

8 MR. RATLIFF: We don't know. We don't know what  
9 the time line for receiving the analysis will be. I'm  
10 highly skeptical that we will get useful information within  
11 three months of the AFC filing, but I do not know.

12 COMMISSIONER GANDARA: Okay. I guess I would  
13 like to comment on one other area, then, and that is that  
14 the -- in the Applicant's opening statement the concern  
15 -- great concern was evidenced over what any conditions  
16 that would produce a delay would result in, in terms of  
17 their commitments towards construction, and Mr. Ratliff,  
18 in your summary comments you indicated that you hadn't  
19 heard a reasonable ground as to why there is a rush.

20 Well, the Applicant has suggested that they have  
21 a lot of contractual commitments to build this line, to  
22 do all sorts of studies, that if it's delayed they couldn't  
23 possibly do that.

24 What weight should the Commission give contractual  
25 commitments that the Applicant has made with respect to

1 the schedule to an AFC's conclusion that hasn't yet been  
2 filed?

3 MR. RATLIFF: Well, I think you should ask the  
4 Applicant what the contractual commitments are that neces-  
5 sitate the rush in the project. I don't know what they  
6 are speaking to, but --

7 COMMISSIONER GANDARA: Assuming there are some.

8 MR. RATLIFF: Well, I suspect that the contractual  
9 commitments that they are referring to are the wheeling  
10 agreements that they have with PGandE. Those wheeling  
11 agreements, as I understand it, expire in 1988, but PGandE  
12 is obligated by the Stanislaus commitments to continue  
13 to wheel for the Joint Owners to the extent that they have  
14 capacity, so I simply don't buy the argument that there  
15 are contractual commitments here which justify accepting  
16 an inadequate AFC filing.

17 COMMISSIONER GANDARA: Ms. Schori, would you  
18 clarify what contractual commitments you are concerned  
19 about that would be somehow terribly disadvantaged by  
20 requiring this --

21 MS. SCHORI: Yes. We have -- we have four prob-  
22 lems. We have SMUDGE0 with no wheeling after January 1,  
23 1988. That's the current status of the SMUD contract  
24 interconnection -- or integration agreement with PGandE.

25 We have a contract with NCPA and PGandE, a

1 contract with the City of Santa Clara and PGandE, both  
2 of which have certain commitments to process the AFC and  
3 receive a final AFC decision by July 1st, 1986.

4 And finally, we have no agreement from PGandE  
5 to transmit the power for the recently-certified Coldwater  
6 Creek units, both of which are scheduled to come online  
7 in 1988, the first unit in April, and the second unit I  
8 believe in November.

9 So right now those are all driving motivations,  
10 and for Mr. Ratliff to sit here and suggest to the  
11 Commission that the Stanislaus commitments resolve all  
12 of the Joint Owners' problems, at least until 1991, is  
13 perhaps a bit premature, in that those commitments con-  
14 stitute an agreement between PGandE and the Department  
15 of Justice. They are a condition of the Diablo Canyon  
16 operating license. No one has tried to enforce those com-  
17 mitments.

18 PGandE, I have been advised, takes the position  
19 that those are an agreement -- constitute an agreement  
20 between PGandE and the Department of Justice, and do not  
21 extend to granting rights to so-called third-party benefi-  
22 ciaries, such as the Joint Owners. No one has ever pursued  
23 this at FERC. We have no idea how long it would take to  
24 secure that, and we have no idea on what terms and con-  
25 ditions that capacity might be made available to the Joint

1 Owners, and those are all very significant issues.

2 PGandE reserved the right in that agreement,  
3 in those Stanislaus commitments, to protect the interests  
4 of their ratepayers, and at this point I cannot project  
5 for you what are the reasonable terms and conditions that  
6 would have to go into any agreements with the Joint Owners  
7 to protect the rights of the PGandE ratepayers.

8 I am certain that PGandE has some ideas about  
9 it, and possibly FERC does. We are off into uncharted  
10 waters, and to simply sit here in this hearing today and  
11 say that the Stanislaus commitments resolve all of the  
12 Joint Owners' contractual problems, wheeling problems for  
13 their projects in the Geysers, is in my view a bit pre-  
14 mature.

15 We would certainly be happy to have the staff's  
16 support at FERC if we end up in that situation, but funda-  
17 mentally today I cannot sit here and agree with Mr. Ratliff  
18 and say that that solves all of our problems. We have  
19 commitments right now --

20 COMMISSIONER GANDARA: I guess from --

21 MS. SCHORI: -- that we have to meet.

22 COMMISSIONER GANDARA: From the comments that  
23 you made, Ms. Schori, I have difficulty differentiating  
24 whether you feel that in order to obviate those problems  
25 that this line has to be constructed by 1988. Is that

1 one of the things that you're saying here?

2 MS. SCHORI: Right now that is the situation.

3 COMMISSIONER GANDARA: So you are saying that  
4 this line has to be --

5 MS. SCHORI: We have not -- we haven't changed  
6 any of the contractual obligations we have right now.

7 COMMISSIONER GANDARA: So you are saying that  
8 this line has to be built by 1988 in order for you to  
9 obviate those problems.

10 MS. SCHORI: Right now, with the contracts we  
11 have in place, that is the schedule we're on.

12 COMMISSIONER GANDARA: And, therefore -- or  
13 independently you therefore do not then concur, at least  
14 with the preliminary need analysis that has been done in  
15 this NOI --

16 MS. SCHORI: That's correct.

17 COMMISSIONER GANDARA: -- where there is a dif-  
18 ference of about three years; right?

19 MS. SCHORI: That's correct. We made comments  
20 in the initial committee conference to that effect, and  
21 basically I indicated at that time that we think that this  
22 is an issue that will be explored in depth during the AFC.

23 CHAIRMAN IMBRECHT: They in essence accepted  
24 the burden to refute our findings in the NOI or in the  
25 AFC proceeding.

1 MR. RATLIFF: But I believe there are two dif-  
2 ferent issues there, if I may, and one is the issue of  
3 need line, and the other is the issue of -- of the Joint  
4 Owners' contractual commitments, and I think you are dis-  
5 cussing the latter right now.

6 COMMISSIONER GANDARA: Well, I'm trying to estab-  
7 lish why it is that we have to somehow -- given the best  
8 available information this Commission has, that the find-  
9 ings that this Committee has made, that it does not appear  
10 that there will be any need for this line prior to 1991.  
11 Okay.

12 Given all those findings that it's made --

13 CHAIRMAN IMBRECHT: Physical need.

14 COMMISSIONER GANDARA: Physical need, whatever.

15 CHAIRMAN IMBRECHT: Well, that's --

16 COMMISSIONER GANDARA: Why it is that, then,  
17 in another part of this decision, we would have to include  
18 a flexibility for a condition that somehow is inconsistent  
19 with that which therefore, you know, requires us to embark  
20 on a hearing schedule of this Commission, and a commitment  
21 of resources, that presumes that in the possibility you  
22 need something by 1988, because there is nothing that you  
23 have said that indicates that an appropriate resolution  
24 of those contracts would not resolve your problems in 1991.  
25 You're just saying that you can't depend on that.

1 MS. SCHORI: No. If we could get an appropriate  
2 resolution. The question is does anybody have the authority  
3 to order a, quote, appropriate resolution of those con-  
4 tracts that work to the --

5 COMMISSIONER GANDARA: Well, then, what that  
6 leads me to --

7 MS. SCHORI: -- to the benefits of the Joint  
8 Owners.

9 COMMISSIONER GANDARA: What that leads me to,  
10 Ms. Schori, is that the only benefit that I can see of  
11 this particular urgency is that somehow it benefits you  
12 in your bargaining leverage in some way.

13 MS. SCHORI: That's correct.

14 COMMISSIONER GANDARA: Well --

15 MS. SCHORI: We have no other option if you take  
16 this project away.

17 COMMISSIONER GANDARA: Then the question I have  
18 is --

19 MS. SCHORI: It absolutely affects our bargaining  
20 ability.

21 COMMISSIONER GANDARA: -- is what is the appro-  
22 priateness of this Commission to allow its process and to  
23 allow the -- you know, given it's preliminary findings  
24 on need, to basically engage in this protracted process  
25 principally to benefit the negotiating position of a party.

1 MS. SCHORI: It's far more than simply a negoti-  
2 ating position. It -- obviously it has an impact on that,  
3 because if you take away our ability to go forward with  
4 this project, you have left us with no alternative but  
5 to pursue wheeling with PGandE for the projects that we  
6 have already operating, the projects that are in construc-  
7 tion, and is that in the interest of the Joint Owners'  
8 ratepayers, what terms and conditions are going to be  
9 imposed on them.

10 Under the agreements we have right now our proj-  
11 ects are the first ones that get bumped off the system  
12 if anything goes wrong. Is that in the interest of the  
13 SMUD ratepayer to have the SMUD ratepayers' reliability  
14 affected by being the first project to get bumped off  
15 every time there's a problem at the Geysers?

16 Those are the kind of issues that we want to  
17 explore in more detail in the AFC, and so I concur with  
18 your earlier statement that we fundamentally do disagree  
19 with the preliminary need findings, because from our per-  
20 spective Mr. Ratliff's last statement is totally wrong.  
21 Need from our perspective is absolutely tied to contractual  
22 commitments. Absolutely.

23 That is why we are in this room right now.

24 COMMISSIONER GANDARA: Why --

25 MS. SCHORI: If we could go over and just sign

1 up --

2 COMMISSIONER GANDARA: Why -- excuse me --

3 MS. SCHORI: -- and get absolutely equivalent  
4 service --

5 COMMISSIONER GANDARA: Ms. Schori --

6 MS. SCHORI: -- that PGandE has --

7 COMMISSIONER GANDARA: Why then --

8 MS. SCHORI: -- we wouldn't need to.

9 COMMISSIONER GANDARA: Why then in the need  
10 analysis, in there was at least no analysis of the contrac-  
11 tual commitments --

12 MS. SCHORI: We provided such an analysis. Each  
13 Joint Owner presented testimony on the contractual commit-  
14 ments.

15 COMMISSIONER GANDARA: I recall no findings on  
16 -- on the contractual benefits or disadvantages that relate  
17 to need. I mean this is a new twist to need.

18 MS. SCHORI: From our perspective it is not a  
19 new twist to need. We've presented four witnesses on this  
20 very issue --

21 COMMISSIONER GANDARA: I -- I'm --

22 MS. SCHORI: -- and they were cross-examined  
23 on all of these topics.

24 COMMISSIONER GANDARA: Excuse me, Ms. Schori.  
25 This would be a new twist to the need determination in

1 the cases the Commission has heard.

2 MS. SCHORI: Oh, I'm sorry.

3 COMMISSIONER GANDARA: I'm not saying new to  
4 your argument. I do not recall any cases the Commission  
5 has ever heard in which contractual considerations with  
6 respect to their particular situation was an element of  
7 need.

8 MS. SCHORI: You have never had a project like  
9 the GPPL where you have four municipally-owned utilities  
10 joining together to pool their resources to build a trans-  
11 mission line.

12 The transmission system in Northern California  
13 is owned basically by the Pacific Gas and Electric Company.  
14 You have never seen a project like this before.

15 COMMISSIONER GANDARA: Thank you very much. I  
16 have no further questions.

17 CHAIRMAN IMBRECHT: Let me just pursue that.  
18 Would you refresh for me the -- you mentioned the contract  
19 between NCPA and PGandE, and Santa Clara and PGand E having  
20 a July 1, '86 tie to AFC. Would you refresh my memory  
21 on that, please?

22 MS. SCHORI: Yes. Both of those companies cur-  
23 rently were able to obtain wheeling for their share of  
24 the power coming out of the NCPA 2 Project which is cur-  
25 rently online and will be interconnected with respect to

1 the NCPA 3 Project, provided they meet certain milestone  
2 dates, and my current recollection is that Santa Clara  
3 has reasonable progress milestone dates to meet. Specifi-  
4 cally, however, with the July 1, '86 milestone for approval  
5 of the AFC on the project, NCPA's commitments are more  
6 specific. They have to have the project approved -- the  
7 AFC approved by July 1, '86, and I believe the project  
8 has to be online by 1990.

9 CHAIRMAN IMBRECHT: And the theory behind that  
10 is that PGandE would not have granted them wheeling rights  
11 currently if they felt that once they got them into their  
12 system or on that line they would then be in what would  
13 perhaps be a very untenable position in future filings  
14 of their own here --

15 MS. SCHORI: That's correct.

16 CHAIRMAN IMBRECHT: -- for the future development  
17 of the Geysers area, in that in essence, if no new trans-  
18 mission capacity were developed, and then in turn they  
19 were seeking certification for a subsequent PGandE plant  
20 in the Geysers area, that the Commission would be faced  
21 with the prospect of in essence certifying a new PGandE  
22 facility, and removing by virtue of the practical implica-  
23 tions of that existing transmission rights, which an  
24 already-constructed facility have.

25 MS. SCHORI: That's correct.

1           CHAIRMAN IMBRECHT: Is that the premise behind  
2 PGandE's stipulations in those contracts, and I think  
3 that is important for the Commission to understand as well,  
4 that unfortunatly there are some negotiating posture con-  
5 siderations here that are not just ones which have been  
6 raised in this proceeding by the Applicant, but in a very  
7 real sense by virtue of the agreements that PGandE entered  
8 into where in essence they were attempting to prevent them-  
9 selves from being put into an untenable position in the  
10 future.

11           And I guess the argument would be made that they  
12 only reluctantly accepted the responsibility of wheeling,  
13 at this point in time, the power from those units owned  
14 by NCPA and Santa Clara.

15           Okay. Well --

16           COMMISSIONER GANDARA: One last question.

17           CHAIRMAN IMBRECHT: All right.

18           COMMISSIONER GANDARA: Ms. Schori, then, based  
19 on your comment, then, or your concern over your contrac-  
20 tual agreements for 1988, much has been said here with  
21 respect to whether there would be a need for the trans-  
22 mission line, based on whether there would be a generating  
23 capacity of 2700 or 3,000, whatever.

24           Based on the comments you just made, however,  
25 it would appear to me that you in part would justify this

1 line, okay, even if there were no further development of  
2 the Geysers area, simply because of the existing capacity;  
3 is that correct?

4 MS. SCHORI: That's correct.

5 COMMISSIONER GANDARA: So, then, your position,  
6 then, for this power line really is somewhat independent  
7 of any growth in capacity.

8 MS. SCHORI: That's correct.

9 COMMISSIONER GANDARA: So -- well, I guess that  
10 is surprising. Thank you.

11 MS. SCHORI: If I could just offer one clarifica-  
12 tion on that, the reason that we take that position is  
13 that our boards of directors and city councils, when they  
14 look at this issue, have to do a cost benefit analysis,  
15 and in essence what they do is they are analyzing the bene-  
16 fits of ownership versus the benefits of renting, and  
17 just like anywhere else in society, sometimes it's a good  
18 idea to rent and sometimes it's a good idea to own, and  
19 you have to look at the cost benefit ratio to determine  
20 which option is the best.

21 But the fundamental need behind the Joint Owners  
22 going forward with this is that they performed that kind  
23 of an analysis, and so those factors also lead to the  
24 Joint Owners' desire to own this project.

25 CHAIRMAN IMBRECHT: Let me ask one final question

1 in terms of clarification.

2 Mr. Ratliff stated, and I just want to make sure  
3 that we are on the same wave length here, that it wasn't  
4 -- or perhaps it was Mr. Deter -- it was not a question  
5 of disagreement as to what ultimately had to be provided,  
6 but rather a question of timing. Do you accept the staff's  
7 perspective that before the AFC could be fully processed  
8 by the Commission that it would be necessary to have final  
9 results filed in an adequate time for review by the staff  
10 of the mitigation and reinforcement studies?

11 MS. SCHORI: I can accept the position of the  
12 staff as we understood it from the workshop that we had  
13 with them on Friday. It became clear that our perspective  
14 on what constitutes a final result is somewhat greater,  
15 i.e., that's the thing we have to pay for, than what the  
16 staff's perspective on that same issue is.

17 So I think we will be able to provide the staff  
18 the information that they need during the AFC. Nonetheless,  
19 as I indicated earlier, I think that the Commission has  
20 certified -- as a matter of fact, in the CCPA Project,  
21 the Commission certified a socio-economics agreement with  
22 Sonoma County that left open the precise mitigation that  
23 was going to be in place, left it up to negotiation between  
24 the affected parties, with the right then to come back  
25 and reopen that issue if it could not be successfully

1 resolved.

2           So I think with that distinction on what is meant  
3 by, quote, final results, yes, I think we can -- I think  
4 we understand what the staff thinks they need, and I think  
5 we can provide it to them.

6           CHAIRMAN IMBRECHT: Okay. What do you think  
7 is a reasonable period for the staff to evaluate and review  
8 those final results?

9           MS. SCHORI: I can't say because, again, as I  
10 indicated last week --

11          CHAIRMAN IMBRECHT: Well --

12          MS. SCHORI: -- the final results may be something  
13 as simple as changing out a capacitor bank, or -- or a  
14 transformer, or something akin to that, in which case,  
15 at least from my perspective -- not being an engineer I  
16 can say that may not require real extensive efforts. On  
17 the other hand, if you identify a major line that has to  
18 be fully rebuilt, that might require more work, so it's  
19 -- that is why I'm having a hard time pinning down what  
20 is a reasonable time frame right now for that kind of a  
21 review.

22           It could be real short, it might be a big problem.

23          CHAIRMAN IMBRECHT: Well, if we were to accept  
24 your position totally, then I would assume that what that  
25 would mean is that there would be an understanding that

1 the so-called final results would be provided to the  
2 Committee with jurisdiction over the AFC eight months into  
3 the process, and that would mean if we stayed with the  
4 12-month period a maximum in essence of three months, and  
5 probably less than that, for the staff to evaluate and  
6 testify on that conception, which strikes me as probably  
7 inadequate, considering the general depth and complexity.

8 I guess -- you know, I'm -- I guess what I'm  
9 getting at is that in essence I'm trying to ring from you  
10 a preliminary stipulation that is a little more clear than  
11 the language here in this first condition as to the likeli-  
12 hood that the AFC process will consume more than 12 months,  
13 based upon an understanding that those final results would  
14 have to be provided.

15 MS. SCHORI: The Joint Owners understand the  
16 risk involved with providing late results, and that is  
17 why we are pushing hard to move forward quickly and get  
18 the results in. I can't stipulate to a delay today based  
19 on things that may occur in the future. All I can repre-  
20 sent to you is that the Joint Owners have read the NOI,  
21 or the NOI decision, they understand the language, they  
22 understand the risk involved with not providing the results  
23 in a timely manner, and we are going to work real hard  
24 to make sure that the schedule is not jeopardized by not  
25 filing results in a timely manner.

1           The schedule is more important to us than to  
2 anyone else, obviously, so we don't want to run that risk.

3           Also, I should mention that, as I said earlier,  
4 by saying the final results come out eight months later  
5 does not mean that the staff would not be having informa-  
6 tion throughout that period, so that the final signed-off  
7 report might not be handed in until eight months, but the  
8 information that will enable the staff to proceed with  
9 its analysis will be coming in as we go through the AFC.

10           CHAIRMAN IMBRECHT: Okay. We have flushed that  
11 in sufficient depth. Anything further? Anyone have any  
12 questions?

13           All right. Let me just clarify. I have a card  
14 here from a Mr. Mosier representing the Fresno Unified  
15 School District. Do you wish to testify on GPPL? Is  
16 Mr. Mosier present?

17           VOICE IN AUDIENCE: I think that was left over  
18 from last week.

19           CHAIRMAN IMBRECHT: All right. So all we need  
20 right now is Fresno to walk into this case. It's been  
21 broad enough as it is. All right. Fine. We've got that  
22 clarified.

23           Next I will call Mr. -- or let me just make this  
24 sexually neutral -- Kim Seidler of Lake County Planning  
25 Department.

1 MR. SEIDLER: Good morning. The Lake County  
2 Planning Department would respectfully like to request  
3 that, as it is anticipated that most of the intervenors  
4 will be from Lake and Colusa County as part of the AFC,  
5 that the workshops and hearings, at least a part of them,  
6 be held in those counties.

7 Thank you.

8 CHAIRMAN IMBRECHT: Thank you.

9 David Forster, Colusa County Farm Bureau.

10 MR. FORSTER: My name is David Forster from the  
11 Colusa County Farm Bureau. I have talked before the  
12 Commission and had some comments in previous times. I  
13 have a comment or statement I would like to make.

14 The Colusa County Farm Bureau has been involved  
15 in the matter of the GPPL since its inception. We have  
16 stated very candidly all along that a comprehensive study  
17 of system reinforcements and upgrades must be done.

18 The issue of fundamental need for the proposed  
19 GPPL project is essential. A determination whether an  
20 upgrade of the existing 230 kv system must be addressed  
21 by the Joint Owners, and in fact should have been addressed  
22 previous to the problems and conditions leading up to a  
23 proposed decision and final report, or reports of any  
24 cooperative study.

25 The Colusa County Farm Bureau would ask that

1 the Committee demand to require the need and reports of  
2 a cooperative study, the issue be required in the comple-  
3 tion of any AFC ruling.

4 We agree with staff's position that any decision  
5 disregarding the need issue would be totally incomplete  
6 and we believe potentially devastating to agriculture in  
7 our already tough economic times.

8 The Joint Owners should have considered this  
9 cooperative study before any process of the last two years  
10 or further back. In an example like this, if you decided  
11 to build the project without any instructions or determining  
12 if there was a need to be built, maybe you wouldn't need  
13 the project if you didn't start it in the first place.

14 The Colusa County Farm Bureau must also ask the  
15 Committee and the staff to consider that Joint Owners be  
16 required to comply with all rulings relating to need and  
17 upgrades of existing lines as PGandE must do. The dif-  
18 ference between a public and private utility company and  
19 the regulations, whether separate or together, have the  
20 same impact upon agriculture, so we ask that any decision  
21 be based on the question of need and not whether public  
22 and private utility companies respond to one another.

23 Colusa County Farm Bureau would also ask that  
24 the Joint Owners be required to thoroughly discuss reasons  
25 for selecting a Williams termination over a Vaca-Dixon

1 termination. Although not clearly defined, the plain  
2 reason for a Williams termination seems to be a line built  
3 and solely owned by the Joint Owners, whereas the Vaca-  
4 Dixon termination would be shared with the PGandE facility.

5 Colusa County Farm Bureau believes this discus-  
6 sion of a termination point is suspect to some unanswered  
7 questions, and also in fact reflects the need criteria,  
8 this being so because Joint Owners have ignored all or  
9 worked around all questions regarding an upgrade of an  
10 existing line or construction of a new line in any associ-  
11 ation with PGandE.

12 The Committee has a responsibility to the people  
13 of California to require that all alternatives be fully  
14 examined. Again, agriculture is California's number-one  
15 industry. An unneeded burden, as the GPPL Project points  
16 to, economically would not justify sanctioning the line  
17 or realistically even proceeding to the AFC phase which  
18 is inevitable.

19 The burden put upon the agriculture -- put  
20 upon agriculture during the next 12 months of obtaining  
21 the AFC data seems totally out of proportion when consider-  
22 able doubt has been placed on the need for this project,  
23 which has now taken almost two years of my valuable time.

24 One more additional comment I would like to make  
25 is that on the Joint Owners' final report and proposed

1 decision, they had a portion on agriculture, which stated  
2 that fencing work sites and dragging sites with magnets  
3 to prevent access by livestock would be impractical and  
4 quite expensive.

5 We run a large cattle operation, and it had a  
6 federal project such as the Tehema-Calusa Canal go through  
7 us, and that's been four years ago, and we are still pick-  
8 ing up trash and metal and everything else on our property,  
9 and I would ask that every care be taken then to improvise  
10 what was in the proposed decision and final report on that  
11 issue.

12 Thank you.

13 CHAIRMAN IMBRECHT: Thank you. I just want to  
14 clear up a few apparent misconceptions. One, our statute  
15 and regulations require us to address the issue of need.  
16 There can be no decision without a finding of that case,  
17 so I think that's a misplaced concern that in any fashion  
18 we could go forward without such a finding during the AFC  
19 consideration.

20 As to the representations about Applicant's moti-  
21 vation, I would just note to you that either termination  
22 point would ultimately result in an interconnection with  
23 the PGandE system, so it's a little hard for me to see  
24 that as a motivational factor. The bottom line is, as  
25 representatives of the bulk of the transmission system

1 in Northern California is owned by PGandE, and you can't  
2 avoid the simple fact that there would have to be a rela-  
3 tionship in either instance.

4           Finally, the clear delineation between the two  
5 routes, and I would guess that while those of you in  
6 Colusa County are concerned about agriculture impacts there,  
7 obviously as a result of the testimony we heard last week  
8 and throughout the remainder of the proceeding, that in  
9 essence there is even a more substantial impact upon agri-  
10 culture with the Vaca-Dixon termination, and the Solano  
11 County Farm Bureau I am sure will be up here to in essence  
12 to say the same thing.

13           I think we will ask Mr. Geringer to mediate the  
14 problems between the two county farm bureaus, but --

15           MR. FORSTER: I'm not --

16           CHAIRMAN IMBRECHT: In any case, I just -- you  
17 know, I think you need to see the overall --

18           MR. FORSTER: Well, my whole point from the  
19 beginning of the whole thing, and I know there is a process  
20 you must go through, but the need determination should  
21 have been determined before we went through the whole  
22 process we've gone.

23           If we didn't need a line, and we just saw the  
24 Joint Owners tell us that -- they are self-centered, their  
25 idea is that we want a line for ourselves, we don't want

1 to pay any more.

2 Well, why should agriculture and the people of  
3 California pay for -- you know, we don't get any benefit  
4 in Colusa County for their ratepayers. We pay twice as  
5 much up there for agriculture as their people do down  
6 there.

7 Now, their self-centered idea -- you know,  
8 if you can get it done, go ahead and get it done, right,  
9 but why imposition everybody else if there's not a need  
10 for the line? If the capacity is not there in the Geysers,  
11 wheel the power as it is there now. Do not build another  
12 transmission line.

13 If they have to work out agreements with PGandE,  
14 this isn't a rush job, we've already talked about this.  
15 They are rushing because they don't want to go ahead and  
16 sign the contract in '88. Well, let's determine if we  
17 really need the project first. They can go ahead and sign  
18 a series of contracts, so whatever it takes. I mean they  
19 haven't before this day in time ever gone ahead and tried  
20 to sign another contract, because they know that you people  
21 are going to go ahead and sanction the line.

22 CHAIRMAN IMBRECHT: Well, I just think, you know,  
23 we need to notice and make the record clear that the last  
24 two contracts signed by any of the participants amongst  
25 the Joint Owners carried with it a condition that was a

1 demonstration to PGandE that they were pursuing additional  
2 transmission capacity in good faith, i.e., through the  
3 licensing process, and it would be my guess that PGandE  
4 would likely at a minimum attach that condition to any  
5 subsequent contract, as well, out in 1988.

6 I think there seems to be a concensus as between  
7 PGandE and the applicants that eventually there will be  
8 additional transmission capacity necessary. The issue  
9 remains, of course, as to how much that is, when it's  
10 needed, and what is the appropriate way to provide it,  
11 whether it be through an upgrade of the existing lines,  
12 or through the construction of a new line, and those are  
13 the issues that will ultimately have to be resolved in the  
14 course of an AFC proceeding.

15 MR. FORSTER: I just think that all the inter-  
16 venors through this process are wondering is this the --  
17 and now we hear of how many other lines are coming into  
18 California, and we just wonder, where is it going to stop,  
19 is this the can of worms that opens it all? Are we the  
20 dumping ground for all the transmission lines to transport  
21 the power to the cities?

22 It's hard enough for us to make a living now  
23 without the additional burdens upon us.

24 CHAIRMAN IMBRECHT: Okay.

25 COMMISSIONER GANDARA: I have a question of

1 clarification, Mr. Forster. Mr. Forster, you made some  
2 comments that indicated that you felt that the reinforce-  
3 ment mitigation study ought to be undertaken prior to the  
4 AFC filing, and also at the same time you indicated you  
5 supported the staff view. I'm a little bit confused because,  
6 at least with respect to that discussion, we had before  
7 us at least four versions, and I guess a fifth one that  
8 was proposed by the Applicant, which was a combination  
9 of No. 1 and No. 3, and I guess I'm not -- I don't quite  
10 understand what the staff version is now, but the statement  
11 didn't seem quite consistent.

12 I just wanted to know, at least from your point  
13 of view, where you are on these.

14 MR. FORSTER: Well, I believe, without looking,  
15 I -- it's at my desk there, but I would support No. 2,  
16 which would say that preliminary and the final study would  
17 be done before coming out of the AFC.

18 It's like putting the horse before the -- the  
19 cart before the horse to me. I mean, you know, you can't  
20 have a final ruling until you know if there's really a  
21 need for the line.

22 CHAIRMAN IMBRECHT: Well, this is not an issue  
23 of need at all. We're --

24 COMMISSIONER GANDARA: Well, thank you for the  
25 clarification, Mr. Foster.

1           CHAIRMAN IMBRECHT: Marci Coglianese, Deputy  
2 County Counsel, Solano County.

3           MS. COGLIANESE: I am Marci Coglianese, Deputy  
4 County Counsel for Solano County.

5           Good morning, Mr. Chairman and members of the  
6 Commission.

7           Mr. Valkosky did correctly state that Solano  
8 County does intend to offer some additional language to  
9 the decision set forth on page 157. However, I also would  
10 like to state that the County's position does remain that  
11 the record of the NOI proceedings is legally inadequate  
12 to support the Committee's finding that Vaca-Dixon is an  
13 acceptable termination for the GPPL.

14           And I think the reason for that inadequacy is  
15 graphically illustrated by the map hanging on the wall  
16 over here.

17           Vaca-Dixon was literally tacked onto the GPPL  
18 proceeding at the tail end. (Laughter.)

19           Recognizing the deficiency in the record, there  
20 is no opportunity in the AFC to cure it. This is because  
21 the Committee has ruled that there will be no further con-  
22 sideration of alternatives to the one that the Joint Owners  
23 will file upon, the Williams termination, unless, quote,  
24 extremely significant or exclusionary constraints are dis-  
25 covered in the Applicant's chosen corridor.

1           Thus, these deficiencies may have ramifications  
2 beyond the GPPL, because the Warren-Alquist Act provides  
3 that alternatives, once found acceptable in the NOI, may  
4 remain banked for future consideration in subsequent AFCs.

5           Solano County believes this would render the  
6 County vulnerable to a future AFC filing, based upon  
7 admittedly inadequate analysis of the Vaca-Dixon corridor.

8           The County also recognizes the very difficult  
9 task facing the Commission. I think all parties at one  
10 time or another have acknowledged how difficult and complex  
11 this proceeding is, apparently the most difficult faced  
12 by the Commission.

13           However, we do appeal to you not to consider  
14 our concerns only minor or peripheral issues. Our testi-  
15 mony in the NOI did establish we believe that very signifi-  
16 cant effects would occur in our county, to our prime agri-  
17 cultural land in our Williamson Act contract, to views  
18 from our scenic highways, to residences, and to an airport  
19 of local importance, if a transmission line, this or  
20 another, would come through our county along the suggested  
21 route.

22           Therefore, we do reiterate our opposition and  
23 respectfully request that the Commission find the Vaca-Dixon  
24 alternative unacceptable in these proceedings.

25           However, realistically recognizing that you may

1 not choose to do that, we would like to offer to you a  
2 possible option involving the additional language I spoke  
3 of earlier, and Katherine Hammer from the County Planning  
4 Department would like to explain that to you now.

5 MW. HAMMER: I would just reiterate Marci's note  
6 that this language doesn't really thoroughly satisfy our  
7 concerns, but it would go some little way we feel toward  
8 neutralizing perhaps the banking provision that is currently  
9 found in the statute.

10 It would also take into account Ms. Schori's  
11 request to you earlier to include the collector link in  
12 your final decision.

13 What we propose essentially would be to insert  
14 language on page 157 which would include the collector  
15 link as part of the approved corridors and specify that  
16 the collector link does -- well, it would be intended to  
17 serve Joint Owners' power plants.

18 If I could read you the specific language that  
19 we would suggest, we would suggest changing paragraph --  
20 the paragraph numbered 1 on page 157 to read:

21 "Those corridors to Williams using the collec-  
22 tor link connecting present and proposed Joint  
23 Owners' power plants, as well as links 2, 2S, 5/6/7,  
24 et cetera..."

25 and then the rest of that paragraph would remain as it's

1 written.

2 We would propose changing paragraph No. 2 --  
3 or maybe it's not paragraph, it's Finding No. 2, to read:

4 "That corridor to Vaca-Dixon using the collec-  
5 tor link connecting present and proposed Joint  
6 Owners' power plants, as well as links and link  
7 segments 2, 2S..."

8 and so on, as it's currently included.

9 We would request that if you cannot find it feas-  
10 ible to drop the Vaca-Dixon alternative, that you at least  
11 include that language to limit our vulnerability.

12 CHAIRMAN IMBRECHT: Mr. Valkosky.

13 HEARING ADVISER VALKOSKY: With all due respect  
14 to Solano County Counsel, I think for the reasons contained  
15 in the decision and in the memorandum which I had circu-  
16 lated to the Commissioners, I think there is a sustainable  
17 basis for the findings reached, and I won't go into the  
18 point any further unless requested. Regarding the language  
19 which Solano County has proposed, I -- I have no diffi-  
20 culties with it.

21 The Joint Owners indicated the desire for the  
22 clarification, inserting the phrase "the collector link,"  
23 and Solano County would add to that the phrase "connecting  
24 present and proposed Joint Onwers' power plants."

25 I think that accurately reflects what happened

1 during the NOI --

2 CHAIRMAN IMBRECHT: How does that operate to  
3 limit their vulnerability?

4 HEARING ADVISER VALKOSKY: I think perhaps you  
5 had best address that.

6 CHAIRMAN IMBRECHT: All right. I don't see how  
7 that protects you any more, but maybe you can --

8 MS. COGLIANESE: I think effectively it would  
9 limit the use of this corridor to this particular AFC.  
10 In other words, if this particular applicant --

11 CHAIRMAN IMBRECHT: Tying it to the collector  
12 link would suggest to you, then, that any future applica-  
13 tion would also have to be tied to the collector link --

14 MS. COGLIANESE: That's --

15 CHAIRMAN IMBRECHT: -- which would already be  
16 in use presumably if the Williams project went forward,  
17 and -- I understand. Okay.

18 MS. COGLIANESE: That would be our intent.

19 CHAIRMAN IMBRECHT: All right.

20 HEARING ADVISER VALKOSKY: I would also note  
21 for the benefit of the Commission that at this time the  
22 development of a fourth outlet line, and I'm assuming the  
23 Joint Owners will proceed with the Williams termination,  
24 appears highly -- and I emphase "highly" -- speculative,  
25 because that would entail a generation development of the

1 Geysers steam field of approximately 4,000 or 4500 mega-  
2 watts, far in excess of anything we expect at this point,  
3 so that the issue may be more apparent than real, is what  
4 I'm suggesting.

5 CHAIRMAN IMBRECHT: That's really my conclusion  
6 as well, but I have no objection to including that language.  
7 All right. We'll assume that in the motion that I will  
8 eventually put before the Commission.

9 Katherine Hammer, do you have anything to add?

10 MW. HAMMER: I have said what I had to say, thank  
11 you.

12 CHAIRMAN IMBRECHT: That's fine. All right.

13 Mr. Perez, on behalf of the City of Clear Lake  
14 -- Clear Lake.

15 MR. PEREZ: Commissioners, I am presenting a  
16 statement on behalf of the City of Clear Lake. It is an  
17 unusual situation, and I have asked the County of Lake  
18 representative to assist me in explaining it.

19 Essentially, I was in receipt this morning of  
20 a letter dated August 12, 1985, copies of which are being  
21 distributed to you now, and copies of which have been pro-  
22 vided to the Applicant, the Energy Commission staff, and  
23 some of the intervenors in the audience.

24 The letter is written by Lake Couty's consultant  
25 responsible for assessing the feasibility of various airport

1 sites within the County of Lake, and the letter is  
2 addressed to me. It states very simply that the consultant  
3 is down to two potential sites for the construction of  
4 what apparently is the county's only 24-hour, all-weather  
5 airport.

6 My comment is on behalf of Councilperson Betty  
7 Marquardt of the Clear Lake City Council, who informed  
8 me this morning that the Quackenbush Mountain site described  
9 on page 3 of the consultant's August 12th letter to me  
10 is the only site remaining, and they did want that to be  
11 brought to your attention.

12 I believe it directly lies on the easternmost  
13 side of combined link 8/9 as being indicated by Mr. Walker  
14 at this time. That would be a significant potential con-  
15 straint during the AFC process.

16 CHAIRMAN IMBRECHT: Okay. Thank you. I under-  
17 stand the point. I --

18 MR. SEIDLER: I've been requested, also, by our  
19 Public Works Department to read into the record that there  
20 may be a potential conflict with the site of the new  
21 county -- the proposed county landfill, which is to --

22 CHAIRMAN IMBRECHT: We'll build an MSW plant  
23 there.

24 MR. SEIDLER: -- which is to be moved to the  
25 west somewhat from the present landfill. There is a

1 potential that the landfill site would be split by the  
2 -- the power line.

3 CHAIRMAN IMBRECHT: I would think that's some-  
4 thing that could be mitigated, frankly.

5 MR. SEIDLER: Excuse me?

6 CHAIRMAN IMBRECHT: I would think that that is  
7 something which could be mitigated. If you can farm under  
8 a transmission line, I think you can probably dump garbage  
9 there, but that's --

10 MR. SEIDLER: Okay.

11 CHAIRMAN IMBRECHT: -- something that can be  
12 developed in the AFC, I would expect.

13 MR. SEIDLER: Yeah.

14 CHAIRMAN IMBRECHT: I have to say I note with  
15 some irony the one sentence in this letter that is of  
16 significance, that -- let's see.

17 "We would note that the support for  
18 Quackenbush is double-edged; not only is the  
19 Quackenbush site perceived positively, but all  
20 other sites have generated strong opposition."

21 I know the feeling well.

22 MR. SEIDLER: I'm sure you do.

23 CHAIRMAN IMBRECHT: Okay. Thank you. We'll  
24 insert this in our record.

25 All right. Does any other party wish to be

1 heard on this matter?

2 MS. THOMAS: I'm Chifong Thomas from Pacific  
3 Gas and Electric.

4 I would like at this time to present a comment  
5 on the need section from Pacific Gas and Electric. On  
6 page -- on page 48 of the decision, Finding and Conclusion  
7 14 states that the reconstruction of the existing 230 kv  
8 system may be desirable at total generation levels between  
9 2150 megawatts and 2960 megawatts.

10 Whereas based on this the Committee requires  
11 that the Joint Owners perform a comprehensive analysis  
12 on the feasibility of economic implications of rebuilding  
13 existing alternate lines from Geysers, but the Finding  
14 and Conclusion No. 13, which states that a third outlet  
15 line may be desirable at generation and loading levels  
16 below that of those mentioned in Finding 12, which is 2960  
17 megawatts, then -- to be consistent, then, the Finding  
18 and Conclusion 13 would require that the Applicant also  
19 perform a similar comprehensive analysis on the levels  
20 of Geysers generations that would economically justify  
21 a third outlet line, whether it be to Williams or Vaca-  
22 Dixon.

23 And that concludes the comments.

24 CHAIRMAN IMBRECHT: Were you suggesting a change  
25 to those findings?

1 MS. THOMAS: No, I'm not suggesting a change  
2 of those findings. I am suggesting that the order -- the  
3 finding sections, No. 2 on page 50, it says that if the  
4 need were -- if the generation level was established  
5 between 2150 megawatts and 2960 megawatts, then the Joint  
6 Owners should do a study on the reconstruction of the  
7 existing transmission system, and that would only address  
8 Finding and Conclusion 14.

9 But if you look at Finding and Conclusion 13,  
10 which says that a line -- a third outlet line may be desir-  
11 able under the same situations, then Finding and Conclusion  
12 13 also requires that they perform a similar study on the  
13 feasibility of a third outlet line.

14 Just a clarification. I was a little bit con-  
15 fused.

16 CHAIRMAN IMBRECHT: Okay. We'll take that under  
17 consideration. I don't see the confusion.

18 Mr. Valkosky, do you understand that point?

19 HEARING ADVISER VALKOSKY: I'm -- admittedly,  
20 I'm unsure, Mr. Chairman. I think --

21 CHAIRMAN IMBRECHT: I am as well. That's the  
22 reason I asked.

23 HEARING ADVISER VALKOSKY: The condition comports  
24 with the findings, and basically says that a technical  
25 and economic study will be done at that intermediaet level

1 between 2150 and 2960.

2 CHAIRMAN IMBRECHT: If the generation is going  
3 to be in excess of 2960, then obviously it's only the line,  
4 then; is that right?

5 HEARING ADVISER VALKOSKY: Then the study is  
6 moot, yes, because everyone agrees that a third outlet  
7 is needed.

8 MS. SCHORI: If I could clarify what we are doing  
9 in response to this, I think that Mrs. Thomas's comments  
10 are directed to making sure that we understand that we  
11 should be performing a comparison study, and that is what  
12 we are doing. We are actually attempting to locate a cross-  
13 over point, or a range, where you compare the benefits,  
14 or whether or not reconstruction is feasible as against  
15 a third outlet, and I think that was the point of her com-  
16 ment, if I understood it correctly, and I would just like  
17 to clarify that that is the type of study we are proposing  
18 to provide.

19 CHAIRMAN IMBRECHT: Okay. Thank you very much.

20 Mr. Geringer?

21 MR. GERINGER: Steve Geringer, representing the  
22 County of Colusa and the California Farm Bureau Federation.  
23 I would like to start, first of all, as a representative  
24 of the County of Colusa, and I have before me a letter  
25 signed, after a unanimous vote, by the Board of Supervisors

1 for the County of Colusa, which is very short, and I would  
2 like to read it into the record. It is to Chairman Charles  
3 R. Imbrecht and the California Energy Commission.

4 "Dear Chairman Imbrecht:

5 "Colusa County commends the Commission's  
6 diligent work and efforts in attempting to resolve  
7 the questions and issues relating to the Applica-  
8 tion of Notice of Intent for the Geothermal Public  
9 Power Line. However, the County of Colusa remains  
10 opposed to the construction of the Geothermal  
11 Public Power Line in and through Colusa County."

12 And it is signed by the Chairman, Floyd Marsh,  
13 and I would like to present this if I can so it can be  
14 bound into the record.

15 CHAIRMAN IMBRECHT: All right. Fine.

16 /

17 /

18 /

19 /

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21 /

22 /

23 /

24 /

25 (Nothing omitted.)

# COLUSA COUNTY



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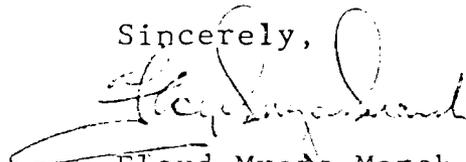
August 13, 1985

Chairman Charles R. Imbrecht  
 California Energy Commission

Dear Chairman Imbrecht:

Colusa County commends the Commission's diligent work and efforts in attempting to resolve the questions and issues relating to the Application of Notice of Intent for the Geothermal Public Power Line. However, the County of Colusa remains opposed to the construction of the Geothermal Public Power Line in and through Colusa County.

Sincerely,



Floyd Myers Marsh  
 Chairman

FMM:br

1 MR. GERINGER: I think it puts clearly the posi-  
2 tion of Colusa County that at this time they are totally  
3 opposed to the construction of the GPPL in Colusa County.

4 Today I just have a very few comments, and first  
5 of all I would like to start off on the aspect of the data  
6 or analysis that needs to be performed between reinforce-  
7 ment studies and upgrade studies. The difference, at least  
8 in my mind, would -- upgrade being the upgrade of the pre-  
9 sent system, thereby negating the need for a third outlet  
10 out of the Geysers area.

11 That issue I think has been well discussed and  
12 well settled, and should be put to the side, and the only  
13 issue that I really believe that is of importance today  
14 is the question of the reinforcement studies or the studies  
15 that are in relationship to what reinforcement or mitigation  
16 will need to be taken on the system as a whole, whether  
17 it be the PGandE system, WAPA system, or whatever system.  
18 That is the main issue we have before us in the different  
19 versions.

20 At our last time we met I supported a position  
21 which was discussed, and I think is contained here as  
22 Version 3, simply asking that the Joint Owners provide  
23 at least the preliminary results of the cooperative trans-  
24 mission reinforcement mitigation study. That, of course,  
25 was my position at that day, and I first believe that I

1 had stated that it was my true belief that the most impor-  
2 tant aspect would be to have all information that is pos-  
3 sible filed prior and with the AFC.

4           After the discussion that I have heard today  
5 and the different problems that seemed to be arising, I  
6 would have to retract my belief that the required informa-  
7 tion, or at least the minimum information that is required  
8 for AFC filing, would be the preliminary result, and go  
9 back to my original position and I believe the staff's  
10 original position, and from what I am hearing today I  
11 believe the appropriate position, and that would be that  
12 all studies be completed and filed with the AFC, and that  
13 be made a condition of filing.

14           The reason I would go into that is that, first  
15 of all, this is not a new issue whatsoever. We have spent  
16 time and time again in the NOI complaining about the lack  
17 of data in relationship to reinforcement and mitigation,  
18 to actually be able to analyze the cost and the relationship  
19 of the project, so this is not a new issue that is con-  
20 fronting us today or is a condition of the AFC. We have  
21 heard it and seen it time and time again. The record is  
22 full throughout the proceedings by not only the Farm Bureau  
23 but other intervenors who complained about the inadequacy  
24 of the reinforcement studies done by the Applicant.

25           Now, to continue it again to some future date

1 is just unthinkable.

2           The question as to whether the preliminary  
3 study can be filed with the AFC and then the additional  
4 data filtered in over the next time period following the  
5 AFC filing is unthinkable, also, from the aspect that,  
6 first of all, this is key, important, necessary data.  
7 Assuming that we are going to finish this process in a  
8 12-month process, if the time frame in which the Applicant  
9 has put forth, an eight-month time frame, is included,  
10 then all we're talking about is having approximately four  
11 months to analyze the data which is supplied by the  
12 Applicant.

13           Now, I understand Ms. Schori's position that infor-  
14 mation will be filtered in through the time period. The  
15 question is whether that is appropriate or whether we need  
16 the entire data at the onset. It's my belief that we need  
17 it in the beginning so that we can use the full statutory  
18 time to understand and look at the information.

19           There has been talk time and time again about  
20 the necessity of going forward as quickly as possible with  
21 this project. There I strongly disagree with the  
22 Applicant. This issue is not new in this case, as has  
23 been in other proceedings, specifically in CCPA 1 and 2.  
24 The Applicant has cited contractual obligations and the  
25 lack of continued contract for wheeling with PGandE beyond

1 a certain time period.

2 I would like to point out that is not the  
3 Commission's problem, it is not the public's problem. That  
4 is contractual arrangement, based upon a business judgment  
5 by the Applicant and its members entering into contracts  
6 freely, on their own volition, with PGandE.

7 Secondly, that was their position on the filing  
8 and through the process of CCPA 1 and 2. The Farm Bureau  
9 made a strong argument, and it is still our belief, and  
10 it was in that proceeding, that you should not certify  
11 a facility without firm transmission. The Applicant under-  
12 stood that, all other parties understood that. To have  
13 the Applicant come back in at this time in another pro-  
14 ceeding, after taking the contrary position in CCPA 1 and  
15 2, is unthinkable in my mind.

16 This is -- I have no problem with the Applicant  
17 putting forth these contractual problems, the lack of  
18 transmission, the SMUDGE0 which will not have firm trans-  
19 mission, the CCPA 1 and 2 units which have now been certi-  
20 fied. However, they went forward with those projects on  
21 their own after making a business decision, and if anybody  
22 is to suffer it should be their ratepayers, and at this  
23 point there is no assurance that anybody will suffer because  
24 there could be a continuation of the agreements.

25 Now, they may not be on the same terms, and they

1 may be on the same terms, but that is not the position  
2 of the Commission to become involved in contractual nego-  
3 tiations between two parties.

4 I believe what is happening in this situation  
5 is simply that part of what is going on is that the Joint  
6 Owners are jockeying for a better position or negotiating  
7 position with PGandE for continued transmission capacity.

8 Basically, the only other issue that I would  
9 like to get into is the question of how much data or what  
10 is really needed by this Commission to make an informed  
11 decision when it's appropriate. I believe I have made it  
12 quite clear it is our belief that, as the County of Colusa  
13 and as the California Farm Bureau Federation, that there  
14 is much data that can be put up in the front end of the  
15 process, is what is required and what is necessary. I  
16 would -- as I have stated before, I think the last thing  
17 that this Commission would want to be faced with is  
18 another South Geyers situation where not all the informa-  
19 tion was present at the time decisionmaking took place.  
20 I believe that can be alleviated simply, by a simple process  
21 of putting forth the data that all parties have been  
22 requesting since we started over a year ago, those being  
23 the mitigation, reinforcement studies, and costs thereon,  
24 in the front filing conditions of the AFC.

25 If you have any questions I would be happy to

1 answer them. Thank you.

2 CHAIRMAN IMBRECHT: Okay. Thank you very much.

3 All right. I'm going to suggest that we take  
4 a luncheon recess until 1:30, at which time I will offer  
5 a motion, and we will see what the pleasure or will of  
6 the Commission is.

7 We will stand in recess until 1:30.

8 (Whereupon, at 12:20 p.m., a recess was taken  
9 until 1:30 p.m., the same day.)

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AFTERNOON SESSION

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3 CHAIRMAN IMBRECHT: All right. Call the meeting  
4 back to order.

5 As is typically the case, there obviously is  
6 no concensus that has evolved out of these discussions.  
7 I have a proposal, and will receive any remaining comment  
8 people want to offer, which I intend to frame in the form  
9 of a motion, and --

10 COMMISSIONER COMMONS: Excuse me. A point of  
11 information.

12 CHAIRMAN IMBRECHT: Commissioner Commons.

13 COMMISSIONER COMMONS: When do we -- do we still  
14 have a right to ask questions of staff after you make a  
15 motion?

16 CHAIRMAN IMBRECHT: Sure.

17 COMMISSIONER COMMONS: Okay.

18 CHAIRMAN IMBRECHT: Although I do want to make  
19 it clear to you that all testimony has been completed,  
20 and the rest of the Commission was here and present anti-  
21 cipating that, and so it's a difficult situation. I mean  
22 in essence if you want to reopen all these issues, it's  
23 -- you know, well, it's really a question of courtesy to  
24 everyone else.

25 COMMISSIONER COMMONS: Well, when we adjourned

1 for lunch we didn't close the hearing.

2 CHAIRMAN IMBRECHT: We didn't close the hearing,  
3 but I asked at that time whether anyone else wished to  
4 be heard, and indicated that we would come back with a  
5 -- with proposals, and -- and in essence move to a decision.

6 COMMISSIONER COMMONS: Okay. I didn't at that  
7 time want to request that everyone have to hold off from  
8 lunch, but I still have some questions that may require  
9 additional testimony, and I just want to make sure that  
10 that's not precluded.

11 CHAIRMAN IMBRECHT: Well, we'll try to accommo-  
12 date you, but I just mention the context of needs of other  
13 people as well.

14 In any case, I fully recognize that what I am  
15 about to suggest is unlikely to garner the support probably  
16 of any of the various interests here, but I am going to  
17 suggest that we approve the proposed decision, and with  
18 respect to the issue of the system reinforcement and miti-  
19 gation study, that, one, prior to acceptance of the AFC  
20 by the Commission, we require the preliminary results.  
21 I want to note that that does not preclude the filing of  
22 the AFC, or review of data adequacy by the staff on other  
23 issues, and obviously there are many more that will be  
24 in the case in the AFC proceeding beyond the question of  
25 system reinforcement and mitigation study, but in any case

1 that that be a condition for acceptance of the AFC.

2 Then, secondarily, that in essence putting the  
3 burden on the Applicant, that the concluding date of the  
4 entire proceeding -- and I'm not sure entirely how to phrase  
5 this -- be extended for a period of six months beyond the  
6 date of filing of the final results of the reinforcement  
7 and mitigation study, and so in essence the sooner that  
8 study is filed the sooner there would be a date certain  
9 for the conclusion of the proceeding and, at the same time,  
10 insuring that a reasonable period of time is afforded  
11 to the staff and the Committee considering this matter  
12 to review the final results of that system reinforcement  
13 and mitigation study.

14 I don't know whether I should offer that as a  
15 motion now or solicit any --

16 COMMISSIONER GANDARA: Would you repeat that?  
17 I --

18 CHAIRMAN IMBRECHT: Repeat it? Okay. Fine.

19 The two conditions in essence, one, that prior  
20 to acceptance of the AFC the preliminary results of the  
21 system reinforcement and mitigation study must be filed  
22 with the Commission and, secondarily, that the final con-  
23 cluding date, irrespective of the acceptance date of the  
24 AFC by the Commission, is further conditioned upon receipt  
25 of the final results of that same study, and that the

1 concluding date of the AFC proceeding would be a period  
2 of six months beyond the date of the filing of the final  
3 results.

4 COMMISSIONER CROWLEY: Mr. Chairman --

5 CHAIRMAN IMBRECHT: Yes.

6 COMMISSIONER CROWLEY: Are you including connec-  
7 tor -- collector routes --

8 CHAIRMAN IMBRECHT: Oh, yeah, as I indicated  
9 earlier that when I suggested a motion to approve the  
10 Presiding Member's proposed decision that I would include  
11 the suggestions of Solano County with respect to the col-  
12 lector routes being added to the language on page 157 of  
13 the proposed decision.

14 COMMISSIONER CROWLEY: I have another question.

15 CHAIRMAN IMBRECHT: Yes.

16 COMMISSIONER CROWLEY: Is there any possibility  
17 that that language would mean shortening to less than a  
18 year? We construe it to mean extending, but is there any  
19 possibility that it would -- that that material would come  
20 in before six months and, therefore, open up the possibility  
21 of shorter than a year?

22 CHAIRMAN IMBRECHT: Well, I think the record  
23 is pretty clear that it is highly unlikely to be filed  
24 in six months.

25 COMMISSIONER CROWLEY: Okay.

1           CHAIRMAN IMBRECHT: But in any case, to disabuse  
2 anyone of any concern about that, I'll make it clear that  
3 that is not the intention, that we are talking about a  
4 minimum period of 12 months for consideration of the AFC,  
5 with all likelihood of that period being some period beyond  
6 that, entirely driven by the date on which the final  
7 results of that study were filed with the Commission.

8           It would be my expectation that would be some  
9 period between two and probably six months more than a  
10 year, based on what we have heard in testimony over the  
11 last couple of weeks.

12           Commissioner Commons.

13           COMMISSIONER COMMONS: Mr. Chairman, my under-  
14 standing of the testimony of the Applicant is that they  
15 are not prepared to waive time as of today, and my under-  
16 standing of the law is that we do not have the authority  
17 to extend the time on an AFC without the Applicant's con-  
18 currence, and maybe we should have legal counsel's view-  
19 point on that.

20           CHAIRMAN IMBRECHT: I think that is entirely  
21 correct. Mr. Chamberlain?

22           MR. CHAMBERLAIN: Well, Mr. Valkosky has sug-  
23 gested putting the six-month time in as a narrative state-  
24 ment, rather than as a condition. My own -- my own view,  
25 frankly, is that while the statute does require the

1 Applicant's concurrence for an extension, if the Commission  
2 places this condition in the NOI decision and does so with  
3 a reasonable basis in the record, it could be implied that  
4 the Applicant does concur in it if the Applicant files  
5 an AFC.

6           The NOI approval allows them to file an AFC.  
7 They don't have to, and I would think that we could draft  
8 language in such a way that it's understood that the  
9 Applicant's filing of the AFC includes concurrence in that  
10 condition.

11           CHAIRMAN IMBRECHT: Probably the other way to  
12 do it is to offer two means by which they could file the  
13 AFC, that one, or elect to file an AFC with the final  
14 results provided prior to acceptance of the application,  
15 in which case it's an election of two alternatives, and  
16 I think it would be even more clear as to an acceptance  
17 of that condition.

18           MR. CHAMBERLAIN: Yes. We could draft that as  
19 well.

20           CHAIRMAN IMBRECHT: Since I think that is really  
21 the competing viewpoint for the Commission in essence as  
22 to how to handle this issue.

23           COMMISSIONER COMMONS: I could accept the latter  
24 alternative. I don't think the former alternative is fair  
25 play.

1 CHAIRMAN IMBRECHT: I'm not sure I understand  
2 that.

3 COMMISSIONER COMMONS: I think to essentially  
4 say to an Applicant, whether you agree or not, if you file  
5 on an application, you are going to have to live under  
6 this rule of having granted an extension, is not fair play.  
7 If you grant the alternative to the Applicant that this  
8 is a condition, however we are willing to waive the condi-  
9 tion upon the following, which is what your second alter-  
10 native was --

11 CHAIRMAN IMBRECHT: Which is a far more onerous  
12 alternative than the former, so I --

13 COMMISSIONER COMMONS: But that's certainly  
14 within the prerogative of the Commission to have made that  
15 as a condition for filing the AFC, that at least that  
16 is fair play.

17 CHAIRMAN IMBRECHT: All right. Okay. Well,  
18 that will be the position that I would offer on this matter,  
19 and I guess I would inquire as to whether or not the  
20 parties wish to be heard on it.

21 Let me put it in the form of a motion, and I  
22 think my motion is stated clearly. Do you have it,  
23 Mr. Valkosky?

24 HEARING ADVISER VALKOSKY: Pardon me, Chairman?

25 CHAIRMAN IMBRECHT: Do you understand the motion?

1 HEARING ADVISER VALKOSKY: Yes, I do.

2 CHAIRMAN IMBRECHT: All right. Fine. Is there  
3 a second?

4 HEARING ADVISER VALKOSKY: Mr. Chairman, if I  
5 might add, does your motion include the incorporation of  
6 the first three pages of the August 6th errata to the pro-  
7 posed decision?

8 CHAIRMAN IMBRECHT: Yes, it does. Thank you  
9 very much.

10 All right. Seconded by Commissioner Crowley.  
11 The motion is properly before us. Does anyone wish to  
12 be heard on that approach to responding to this issue?

13 COMMISSIONER GANDARA: Mr. Chairman?

14 CHAIRMAN IMBRECHT: Commissioner Gandara.

15 COMMISSIONER GANDARA: I wonder if I might pose  
16 an amendment now, and if I receive a second, then maybe  
17 there can be comments with respect to alternatives in the  
18 proposed motion. Either way, you know, if you want to  
19 get some --

20 CHAIRMAN IMBRECHT: Well, why don't you just  
21 state your alternative, and then let's solicit comments  
22 both on the motion and --

23 COMMISSIONER GANDARA: My alternative would be  
24 to --

25 CHAIRMAN IMBRECHT: -- and I'll recognize you

1 at any time to offer a substitute motion if you would care  
2 to.

3 COMMISSIONER GANDARA: Okay. My alternative  
4 simply is Version 2, that is to require the -- as part  
5 of the AFC filing the completed results of the cooperative  
6 transmission system reinforcement and mitigation study.  
7 It's the wording that has been there since -- since the  
8 errata sheet was issued last Tuesday, was it?

9 CHAIRMAN IMBRECHT: Okay. All right. Does any-  
10 one wish to be heard?

11 Ms. Schori.

12 MS. SCHORI: Yes, if I could, I would just like  
13 to ask a real -- a couple of quick questions of clarifica-  
14 tion. By "prior to acceptance" presupposes that the full  
15 Commission would be taking action on acceptance?

16 CHAIRMAN IMBRECHT: Yes. That's in our regula-  
17 tions.

18 MS. SCHORI: The --

19 CHAIRMAN IMBRECHT: The process basically is  
20 that you file, the staff considers data adequacy, and the  
21 Executive Director makes a recommendation to the Commission.  
22 It is ultimately the decision of the Commission to accept  
23 or not to accept the AFC. On acceptance, that is the  
24 triggering date for the ordinary 12-month period.

25 MS. SCHORI: Well, technically, I guess that

1 is not precisely my reading of the regulation, which does  
2 indicate that the Executive Director can accept an applica-  
3 tion if the Executive Director finds that it is substan-  
4 tially complete, but I didn't necessarily want to raise  
5 that discussion.

6 I just am trying to pin down the meaning of  
7 "acceptance" and the time -- we are trying to calculate  
8 the time frame, obviously.

9 CHAIRMAN IMBRECHT: That was changed. That's  
10 correct, Mr. Chamberlain?

11 MS. SCHORI: With respect --

12 CHAIRMAN IMBRECHT: The Executive Director no  
13 longer has the ability to accept an application.

14 MR. CHAMBERLAIN: That's correct.

15 CHAIRMAN IMBRECHT: You must have an old copy  
16 of the regulations.

17 MS. SCHORI: Okay. With respect to the second  
18 portion of the motion which says that the final results  
19 must be available six months prior to the conclusion of  
20 the AFC?

21 CHAIRMAN IMBRECHT: That's correct. That's  
22 basically to insure that we have a minimum of six months  
23 to -- we and the staff have a minimum of six months to  
24 consider the final results of that study.

25 MS. SCHORI: For purposes of our calculation,

1 then, we start with what day, so that we get an end date  
2 and then back up six months.

3 CHAIRMAN IMBRECHT: For purposes of calculation,  
4 whenever you file the final report on that study, you then  
5 add six months on from that date, and that is your final  
6 date for a decision in the AFC.

7 MS. SCHORI: So this ultimately, then, is in  
8 essence a resolution which forces upon the Applicant an  
9 extension in the schedule without the Applicant's agreement.

10 CHAIRMAN IMBRECHT: Well, the alternative would  
11 be to -- we phrased this in such a fashion that the other  
12 alternative you would have would be to file in essence within  
13 the constraints of Option 2, which would require final  
14 results prior to the acceptance.

15 MS. SCHORI: I don't think that's the only option  
16 here. I think what I'm after is whether or not, by includ-  
17 ing this type of a requirement in the AFC, we automatically  
18 extend the schedule here today by virtue of having done  
19 that, or whether or not you wish to make that as the direc-  
20 tion, the condition that the Applicant must meet, and then  
21 leave it up to the AFC reviewing committee at that time.  
22 In the event that that schedule is not met, to evaluate  
23 the circumstances and allow the opportunity for the parties  
24 at that time to assess where they should be with respect  
25 to the schedule.

1 CHAIRMAN IMBRECHT: Well --

2 MS. SCHORI: And I would submit that I think  
3 the end result may be the same, because ultimately you  
4 may end up extending the schedule without the Applicant's  
5 agreement, but if the wording is adopted precisely as what  
6 you just indicated, my concern is that in essence you  
7 are already extending the schedule without the Applicant's  
8 agreement.

9 So I am wondering if we couldn't leave that part  
10 of it to the discretion of the AFC Committee, but go ahead  
11 and include the date.

12 CHAIRMAN IMBRECHT: Let me answer that for a  
13 moment, and then I will call on Commissioner Crowley.

14 I think in essence that would create the very  
15 concern that other parties and staff have expressed, that  
16 then we end up with sliding submittal times, and so forth,  
17 with no clear understanding in advance of when these final  
18 reports would have to be filed.

19 The other consideration in essence is there have  
20 been representations that this could be eight months, 12  
21 months, et cetera. I guess I'm trying to build into this  
22 a strong motivation for, one, you to conclude your con-  
23 tract with PGandE and get this study underway, which  
24 apparently has not occurred as yet, and, secondly, a very  
25 strong motivation to try to accelerate the study.

1           In essence, the ball would be in your court. The  
2 sooner you can complete the study, and it might mean a  
3 commitment of additional resources, I -- and when I'm told  
4 that we have a study that takes eight months to complete,  
5 it seems to me that that's probably a reflection of what-  
6 ever particular level of personnel are assigned to such  
7 a study, and --

8           MS. SCHORI: Maybe I could go into that just  
9 a little bit, because I think you have just raised a very  
10 critical point.

11           We are trying to do a joint study, and we are  
12 trying to hire PGandE to do it for us, and we are using  
13 PGandE's transmission planning department to do it.  
14 Mrs. Thomas who was here earlier is one of the people  
15 that's involved in that.

16           PGandE has a limited number of people. They  
17 have other projects that they are working on, some of which  
18 are much higher priority than this one is to PGandE, and  
19 to be honest I was somewhat troubled by the staff's  
20 characterization of the fact that PGandE is the Joint  
21 Owners' contractor under these circumstances. If I am  
22 going to be blunt about it, we don't have the kind of  
23 leverage with PGandE that we have when we go out and hire  
24 a separate contractor, and if you include this kind of  
25 a condition you are going to be sending a big flag signal

1 to the Joint Owners that maybe we had better get somebody  
2 doing the studies that we have a little more enforceable  
3 action with.

4 CHAIRMAN IMBRECHT: I haven't really heard any  
5 strong justification for why PGandE is the only contractor  
6 that would be appropriate or qualified to conduct such  
7 an analysis.

8 MS. SCHORI: There are others who can perform  
9 the studies. The fundamental problem you face, though,  
10 is that the essence of these studies is studying the PGandE  
11 system. It's PGandE's information, they are taking the  
12 position that that information is proprietary to them.

13 I didn't really want to get into some of the  
14 reasons we are having trouble with the contract, but  
15 basically these are a lot of the issues we are trying to  
16 work out with them, and why it's taken us a little longer  
17 to come up with an acceptable framework, and that's why  
18 what I'm suggesting here is that I don't really think it's  
19 necessary that you automatically extend the schedule today  
20 if those study results are not available, because all  
21 the parties in the case may be satisfied at the time that  
22 the problem arises that it's going to be resolved, and  
23 we don't have to face that kind of a -- what in essence  
24 is amounting to a day-for-day slip on the schedule.

25 CHAIRMAN IMBRECHT: Well, I guess my response

1 to that, because my guess is that if we call other parties  
2 up we are going to hear pretty strong differences of view-  
3 point relative to that point you are just making, and I  
4 -- I guess I would suggest that the other alternative is  
5 if in fact the scenario you lay out actually occurs, there  
6 is always the remedy of returning to the full Commission  
7 during the pendency of the AFC proceeding and asking for  
8 relief, and you are entitled to seek that, or the Committee  
9 that would have jurisdiction is entitled to in essence  
10 return to the full Commission and point out a change in  
11 circumstances, et cetera.

12           So it's not as if this is so utterly locked in  
13 stone or inscribed in stone that there are -- there is  
14 no possibility of flexibility. I'm just doing my best  
15 to understand how we are likely to produce an AFC proceed-  
16 ing that is going to move smoothly and has the support  
17 of all or most of the members of the Commission, et cetera,  
18 and --

19           MS. SCHORI: Well, I guess that the last comment  
20 I would make --

21           CHAIRMAN IMBRECHT: -- is the unenviable task  
22 of trying to balance a lot of very strongly-held viewpoints,  
23 and competing positions.

24           MS. SCHORI: I would conclude, then, with two  
25 comments with what would be my reaction to the proposal,

1 and number one is this is going to place severe difficul-  
2 ties on any ability to do joint studies, and the second  
3 thing is that I think fundamentally for the Commission  
4 today to extend the AFC schedule with a finding like this,  
5 without the Applicant's concurrence, violates the statute.

6 CHAIRMAN IMBRECHT: Commissioner Crowley.

7 COMMISSIONER CROWLEY: My comment deals with  
8 that point of view. It doesn't seem to me that it does  
9 that unless the material is delayed.

10 In other words, if it were to come in within  
11 the first six months after acceptance, then there would  
12 be no delay, and so I don't see the two alternatives you  
13 suggest to be the only two. There is the third of getting  
14 it in within six months.

15 MS. SCHORI: That's correct.

16 COMMISSIONER CROWLEY: And the other point is  
17 you say when the AFC is filed, and so you do have another  
18 time that you can -- that is flexible from your point of  
19 view for allowing for all the contingencies of planning  
20 and studying that you need to take care of. Is that of  
21 no help?

22 MS. SCHORI: I think that the -- the point that  
23 I tried to make earlier today is that we feel that we have  
24 very little flexibility, if any, on the schedule, and so  
25 the front-end time, from our perspective, we don't have

1 much room to move on that at all.

2           And with respect to the other issue, you are  
3 correct. If we provide the study results within six months,  
4 there's no problem. Based on the information that I have  
5 available to me today, we can't do that, and that is what  
6 I represented, and so my concern is that I wish to make  
7 it very clear we are not stipulating today to an extension  
8 in the schedule.

9           CHAIRMAN IMBRECHT: Oh, I understand that, and  
10 -- or are we asking you to and, as Commissioner Crowley  
11 pointed out, in essence the schedule is under your control.  
12 The schedule to some extent -- I mean the whole question  
13 of whether it's eight months or six months, and who your  
14 contractor is, and so forth, in essence you ask us to  
15 accept all of the assumptions that you've got in your  
16 schedule and all the assumptions you've got in terms of  
17 how you want to conduct your portion or responsibilities  
18 under the AFC, I have to signal to you pretty clearly as  
19 well that I question as to whether or not you have adequately  
20 persuaded some of my colleagues as to the question of timing  
21 of the project.

22           And the question of negotiating contracts with  
23 PGandE, and the Stanislaus commitments, and all of those  
24 ancillary issues, are relatively unique in terms of a  
25 posture about how to establish need. Need has traditionlly

1 here at the Commission I think pretty much, in terms of  
2 regulatory planning purposes, more focused on the question  
3 of physical capacity, as opposed to the question of con-  
4 tractual obligations, and while in essence you have another  
5 opportunity to make that case in the AFC proceeding, at  
6 this juncture, and we have I guess signaled that there  
7 is not a real clear call on those issues of need, and I'm  
8 not going to suggest to you that that's entirely your fault.  
9 In fact, I would point out, and I think it's important  
10 to note this, that the circumstances have changed during  
11 the pendency of this proceeding, not the least of which  
12 is the fact that Pacific Gas and Electric announced defer-  
13 ral of one or more of their projects, which certainly would  
14 have affected the timing of finding physical need, as  
15 reflected in the Presiding Member's report.

16 That happened while -- after you were in the  
17 door. Certainly circumstances beyond your control, but  
18 nonetheless circumstances which it seems to me we have  
19 an obligation to take into consideration. That's the  
20 unfortunate place where we find ourselves.

21 So, I understand your perspective. Anything  
22 you would care to add?

23 MS. SCHORI: No.

24 CHAIRMAN IMBRECHT: Okay. Mr. Ratliff, do you  
25 have any --

1 MR. RATLIFF: Yes, Mr. Chairman. Of course,  
2 the staff's preference would be to have 12 months to do  
3 an AFC, and we thought we had compromised about all we  
4 could when we said nine months as a compromise proposal.  
5 Now it appears that we will have six months, which --

6 CHAIRMAN IMBRECHT: I really have to take excep-  
7 tion to that because, if anything, I have to say quite  
8 candidly that you have not persuaded me as well that this  
9 is the only issue in an AFC proceeding, and to suggest  
10 that you only have six months for an AFC under this scenario  
11 I think is a --

12 MR. RATLIFF: No, no. I'm sorry --

13 CHAIRMAN IMBRECHT: -- an inaccurate representa-  
14 tion. There are --

15 MR. RATLIFF: Only on this issue. That's what  
16 I'm referring to.

17 CHAIRMAN IMBRECHT: There are dozens of other  
18 issues that will have to be considered in the AFC proceed-  
19 ing, all of which can go forward independent of this matter.  
20 One piece of the AFC you will have six months on, rather  
21 than 12, and with preliminary results up front as it was  
22 encompassed within the position which you had requested.

23 MR. RATLIFF: Yes. I didn't mean to imply that  
24 the entire AFC would --

25 CHAIRMAN IMBRECHT: The net difference is about

1 90 days between your proposal and --

2 MR. RATLIFF: But it still will put a burden  
3 on the staff, of course, to provide --

4 CHAIRMAN IMBRECHT: I --

5 MR. RATLIFF: That gives really our transmission  
6 specialist about three months to provide their final staff  
7 analysis prior to submitting it to the Commission, so that  
8 is -- that is a difficulty for the staff, but at the same  
9 time, if that is the Commission's decision, then the staff  
10 will live with it.

11 At least we have a date certain. It adds a  
12 certainty to the process, and we will now try to put that  
13 into our schedule.

14 CHAIRMAN IMBRECHT: I guess the only thing I  
15 would suggest, it also in essence builds on the motivation  
16 for you as well, and your transmission people, to be very  
17 much on top of the pendancy of this study, the proceedings  
18 and the preliminary data that Ms. Schori indicated would  
19 be provided, and in essence attempt to work within that  
20 kind of constraint as well.

21 I can't believe that staff's analysis cannot  
22 be initiated until the so-called final report is filed.  
23 There certainly is independent work that you can do on  
24 these issues, and evaluation of some of the preliminary  
25 results as well, it would seem to me, from a logical

1 standpoint.

2           Some of the things that will undoubtedly be in  
3 the preliminary findings, which I would guess would be  
4 more likely than others, and might be the ones that you  
5 would want to make a management decision on as to where  
6 you would focus your attention.

7           MR. DETER: Let me -- let me assure you that  
8 we will do everything possible, if this is the Commission's  
9 decision, to implement your decision, and we will be --  
10 as I understand, we will have the preliminary data at the  
11 beginning of the AFC, so we will not wait until we get  
12 the final data to begin our analysis, so it may very well  
13 be that we can do the work in the time that we are talking  
14 about. We will certainly make every attempt to do that.

15           CHAIRMAN IMBRECHT: Okay, Commissioner Commons.

16           COMMISSIONER COMMONS: A point of information.  
17 If you have this six-month delay and they were to submit  
18 this AFC timely, you would have an overlap between ER-5  
19 and ER-6, and --

20           CHAIRMAN IMBRECHT: A six-month delay, where  
21 did the six-month delay come from?

22           COMMISSIONER COMMONS: Well, let's say they sub-  
23 mit this application in September --

24           CHAIRMAN IMBRECHT: Um-hum.

25           COMMISSIONER COMMONS: -- or October, and let's

1 say it takes them eight months to get their final, and  
2 six months after that would mean that we would be in ER-6,  
3 and I would like to know, as to the need assessment, if  
4 it would be under ER-5 or under ER-6.

5 CHAIRMAN IMBRECHT: Well, I really think that  
6 is an appropriate issue for the Committee that has juris-  
7 diction on this, and that is a circumstance that I think  
8 it is very difficult for us to divine at this juncture.  
9 We have to see what the ultimate payout of all these cir-  
10 cumstances are.

11 Now, I think, just as I indicated, that what  
12 I am trying to do here is build in a little motivation  
13 for the Applicant to accelerate or use whatever control  
14 they can to move this along. You know, we have had a --  
15 an ongoing debate as to whether or not they should have  
16 anticipated the need for this study and begun it some  
17 months ago, or whether in fact the staff was perhaps negli-  
18 gent in not calling this to their attention. I don't really  
19 feel at this juncture that there is any way we can funda-  
20 mentally resolve that.

21 It does seem to me that it was reasonably fore-  
22 seeable that information of this nature would be necessary  
23 in the AFC proceeding, whether at the front end or at least  
24 at a reasonable point throughout the case, and I think that  
25 the question of which CFM this will be considered under,

1 also, is to some extent consideration for the Applicant,  
2 vis-a-vis some of the other matters that I raised.

3           There is some indication that they may -- that  
4 some of their members who have in the past sought exemp-  
5 tion from the CFM process may determine that it is prefer-  
6 able now to participate in that process, and that might  
7 in turn provide the basis upon which -- I stress "might,"  
8 I don't know -- provide a basis upon which they could more  
9 clearly demonstrate need within the more traditional con-  
10 texts that are reflected in the proposed decision.

11           COMMISSIONER COMMONS: Well, my concern here  
12 is that we have looked at grandfathering here, and grand-  
13 fathering there, and we have looked at an applicant not  
14 having any certainty as to what the rules of the game are,  
15 and here we have the situation where we can specify what  
16 the guidance is.

17           And I see -- and I just think when we have a  
18 siting process the rules should be spelled out, and the  
19 rules apply to particular cases, and there shouldn't be  
20 games, and it's a game when you say, well, here or there  
21 we don't know, and it should be spelled out.

22           If they submit their AFC prior to a certain date,  
23 it should be under CFM-5, and if it's after another date  
24 it would fall within CFM-6, and the rules should be spelled  
25 out, and then applied, and the numbers fall where they

1 fall, and right now what we have is another one of these  
2 conditions that the Applicant can go home and not even  
3 know what the rules are.

4 CHAIRMAN IMBRECHT: Okay. You are entitled to  
5 make that point, and we'll see if anyone else cares to pick  
6 up the ball and run with it.

7 Commissioner Gandara.

8 COMMISSIONER GANDARA: I have a question of the  
9 staff.

10 CHAIRMAN IMBRECHT: Sure.

11 COMMISSIONER GANDARA: Mr. Deter, you indicated  
12 that the staff can live with this if that's the Commission's  
13 desire. I guess my question is that in another portion  
14 of what the Commission would be adopting today, which  
15 apparently has been accepted by everybody, is the language  
16 that indicated -- and we had a long discussion about it  
17 last time -- that the Commission did not wish to have the  
18 staff and/or the committees involved in a complex proceed-  
19 ing prior to the establishment of a need determination,  
20 and but for the requirements of the statute that did not  
21 permit us to hold evidentiary hearings prior to 90 days  
22 from the filing, or the acceptance of the filing, you know,  
23 there probably would have been an earlier specification  
24 of the need determination.

25 It's my understanding from the discussions that

1 we had last week, which haven't seemed to have been changed  
2 today, is that the Applicant, you, the Commission, the  
3 Committee, everybody desired an early need determination  
4 before the commitment of staff resources to the rest of  
5 the case.

6 Now, with respect to the proposal that has been  
7 articulated, it's been your position for all the hearings  
8 we have had thus far on this matter that you require this  
9 data to make a need determination analysis.

10 Now, you either are changing that position, or  
11 you are telling the Commission that you would not be able  
12 to do a need determination analysis till, at the earliest,  
13 six months if it were to be instantaneous, before the  
14 end of the date of the case, or if we assumed that there  
15 is going to be some time for you to require to use this  
16 data for a need determination, let's assume it's two months,  
17 that will leave four months remaining in the case, so what  
18 that would either mean is that in fact the other condition  
19 would be meaningless, or the other recommendation by the  
20 Commission was meaningless, that as was indicated earlier  
21 there is going to be a simultaneous commitment of resource  
22 analysis of the other matters of this case pending this  
23 information and resolution of this issue, or you are not  
24 going to do anything else with respect to the rest of the  
25 case until you get this information and do the need

1 determination.

2 I'm curious what it is that you are going to  
3 do and how you are going to reconcile these two different  
4 directions.

5 MR. DETER: We are going to start analyzing the  
6 application at the time that they file it, if it's deemed  
7 to be adequate by the Commission. We will start looking  
8 at all the environmental issues. We don't think we can  
9 wait for three months or four months or five months until  
10 the Commission decides whether or not it is needed, because  
11 if we did then we wouldn't have sufficient time in the  
12 rest of the case to put together a position on all those  
13 issues, so we have to start expending resources as soon  
14 as we get the filing.

15 Secondly, I don't recall -- and maybe I'm wrong  
16 -- saying that this was a -- I recall saying that the sys-  
17 tem impacts was a part of determining whether or not this  
18 transmission line was needed, if the generation capacity  
19 was less than a thousand megawatts. I think the first  
20 cut on need would be to determine whether or not there  
21 will be likely to be a thousand megawatts, in which case  
22 everybody agrees that a third outlet is needed. If it's  
23 less than that, then I think I stated that it would make  
24 sense that the Applicant would include an analysis of the  
25 impacts and a comparison to the two outlets, the one outlet

1 versus a rebuild, to come to a decision regarding need,  
2 and could very well hang their issue of need for the out-  
3 let based on technical problems.

4           So I think that will be the discussions of need,  
5 and there will be, as I understand it, a preliminary filing,  
6 a filing of their preliminary results of their study. We  
7 will start analyzing all that information that we have,  
8 and we think we can get a good jump on the analysis before  
9 we get their final results.

10           COMMISSIONER GANDARA: So, again, that does seem  
11 to be at least an expression that you will not be following  
12 the earlier direction of the Committee -- of the Commission,  
13 which indicated they didn't want you to commit resources  
14 to this case until there was a need determination, and then,  
15 in addition to that, you have just changed your testimony,  
16 because the Chairman and your counsel have had at least  
17 two hearings worth of exchanges as to why it was that one  
18 needed to have this before one did a need determination  
19 analysis.

20           I mean the position has been consistent up to  
21 now that you needed it to do it simultaneously so you could  
22 do a need analysis. You are indicating you don't, so,  
23 again, what is your position?

24           MR. RATLIFF: Well, part of the difficulty the  
25 staff is having with this is that we have no idea, first

1 of all, whether there will be a need hearing and, secondly,  
2 what the structure of the need hearing will be.

3 The staff proposes to have a two-pronged need  
4 hearing, one of which determines the amount of megawattage  
5 that will be developed in the Geysers and, secondarily,  
6 what the best alternative is, a third outlet or a recon-  
7 struction.

8 COMMISSIONER GANDARA: That's precisely what  
9 the Chairman was trying to get you to say for one whole  
10 hearing.

11 MR. RATLIFF: Yeah.

12 CHAIRMAN IMBRECHT: I have to agree. That is,  
13 it seems to me, the thrust of the exchange we had last  
14 week.

15 MR. RATLIFF: I think that's what I've been say-  
16 ing all along.

17 CHAIRMAN IMBRECHT: Okay. Well, I'm glad to  
18 -- I'm finally glad that --

19 MR. RATLIFF: If in fact we are going to -- if  
20 we are going to have a two-pronged need --

21 CHAIRMAN IMBRECHT: -- to see that I can express  
22 myself clearly.

23 MR. RATLIFF: If we are going to have a two-  
24 pronged need finding, then what we have to have in addition  
25 to that is some kind of comparison between the relative

1     preferability of --

2                   CHAIRMAN IMBRECHT:  That's right.  That's what  
3     I called the threshold question, and then the secondary  
4     question.

5                   MR. RATLIFF:  Okay.  And that -- that was why  
6     staff, as an ancillary reason for requiring this trans-  
7     mission system evaluation testimony, or study, was asking  
8     to have the information up front.  It doesn't appear that  
9     we are going to get that, but that is a reason to require  
10    it up front.

11                   That is the staff position.  Now, the inconsis-  
12    tency I suppose that you are pointing to is now that we  
13    are abandoning that requirement up front, it does make  
14    the need-finding much more difficult to make.

15                   CHAIRMAN IMBRECHT:  You did that with the accep-  
16    tance of Option 4 already, so you're not making any new  
17    abandonments, and I would suggest to you that what I have  
18    outlined is not all that terribly dissimilar from what  
19    you've got here.  It's stated a little differently, and  
20    -- and in essence guarantees you slightly less time, but  
21    does give you a -- still a guarantee of at least six  
22    months for the evaluation of the final.

23                   All right.  Does anyone else wish to be heard?  
24    All right.

25                   COMMISSIONER COMMONS:  Are you asking the public

1 or the Commissioners?

2 CHAIRMAN IMBRECHT: I was asking the public,  
3 and I assume that you do want to be heard, so I'll -- all  
4 right, Commissioner --

5 COMMISSIONER GANDARA: Well, I have a motion,  
6 whenever that's appropriate.

7 CHAIRMAN IMBRECHT: All right. Why don't we  
8 let Commissioner Commons complete his items, and we'll  
9 see if we can move this to a resolution.

10 COMMISSIONER COMMONS: Okay. I have a few points  
11 that I wanted to add, which are sort of my considerations  
12 on the project.

13 First of all, I continue to be a supporter of  
14 development of the Geysers. I think this Commission has,  
15 and I want to put that into the context. I am not con-  
16 vinced, and unless someone can show me some supporting  
17 evidence on this Commission finding on page 47, that the  
18 steam resources in the Geysers' area can support develop-  
19 ment to a level of approximately 3,000 megawatts, and the  
20 recently-completed CCPA case, there as substantial testi-  
21 mony on the steam sufficiency hearings as to the impact  
22 of subsequent development on the drilling of additional  
23 wells and the economic impact as the Geysers become more  
24 developed, one on the depletable -- the rate of depletion  
25 of the Geysers, and also on the cost of those persons who

1 have already made pre-existing investments, and --

2 CHAIRMAN IMBRECHT: Can we deal with that issue?  
3 Commissioner Commons, the bottom line is that we are, on  
4 this decision, forced to deal with a record that was  
5 developed in this case, and while there may be testimony  
6 in a proceeding that you are dealing with that might be  
7 somewhat at variance, then I really don't know one way  
8 or the other.

9 It is not a part of the record in this proceed-  
10 ing, and I can assure you that with a hundred parties to  
11 this proceeding that we have had ample -- or we have had  
12 substantial participation, and if that fact were a per-  
13 spective, I can't imagine that it wasn't brought out.

14 COMMISSIONER COMMONS: Well, I'm saying that  
15 I am not able, based on what I have seen in the record  
16 here before us today, and if someone would like to present  
17 information, I have a copy of the Docket No. 84-NOI-1,  
18 and there is not one statement in there to support that  
19 conclusion, and based on what I have in front of me, I  
20 am not able to find any supporting statement in that  
21 docket --

22 CHAIRMAN IMBRECHT: There's 13,000 pages of tran-  
23 scriptions from the hearings, as I outlined in my opening state-  
24 ment on this last week, but, Mr. Valkosky, I don't know  
25 if you can pull out the page of those 13,000 that -- or

1 pages that dealt with that or not at this juncture.

2 COMMISSIONER COMMONS: I'm just saying that --

3 HEARING ADVISER VALKOSKY: That is referred to,  
4 Mr. Chairman, in the transcripts referred to on pages 35  
5 through 36 of the Committee report. To my recollection,  
6 that would have been the hearing of April 9th, 1985. It  
7 is referred to at -- let's see, it's also referred to at  
8 pages 30 through 32 of the proposed decision, which goes  
9 more to Commissioner Commons' point I believe concerning  
10 the long-term generating capacity of the Geysers known  
11 geothermal resource area.

12 CHAIRMAN IMBRECHT: Those pages -- Commissioner  
13 Commons, I would just note for you that these numbers say  
14 RT, and then a number, and so forth, those are all page  
15 numbers of the various transcripts.

16 COMMISSIONER COMMONS: Yes. I'm aware of that.  
17 I'm saying I'm not able to support that finding. I've  
18 sat through steam-sufficiency hearings now, and I find  
19 that it is a very complicated engineering issue, and I  
20 have not seen sufficient evidence submitted in this case  
21 to substantiate the finding and to understand what the  
22 economic impact as you approach 3,000.

23 This is something that each time you put in a  
24 new project we gain more information, and to make a guess-  
25 timate today and say with a certainty that this level of

1 development is economical. It may turn out to be 27, it  
2 may turn out to be 33. I do not feel that their record  
3 supports substantiating that finding.

4           CHAIRMAN IMBRECHT: There is no reference here  
5 whatsoever to the economics. This is a pure reference to  
6 the geological evidence presented as to the physical steam  
7 capacity, not whether it's economic to build out to 3,000,  
8 not whether there is need for that kind of generation  
9 capacity. It is purely a statement and a finding relative  
10 to a technical issue of whether or not there was testimony  
11 that -- and I might say testimony that was not refuted  
12 or rebutted, and finally I would note for you that many  
13 of the same parties in this proceeding are also in the  
14 CCPA, which would further suggest to me that if they ques-  
15 tioned those geological assessments that they would have  
16 offered testimony to that effect in this case.

17           COMMISSIONER COMMONS: Well, they may have the  
18 development potential -- potential for the development,  
19 and the questions become as to what are the economic impacts  
20 on other facilities, what is the rate of depletion, and  
21 I am not able to support that finding within the study,  
22 and when we have the vote on the issue I want it to be  
23 shown as not -- not supporting that particular finding.

24           The second -- the second item of concern to me  
25 is, although it's not required in an NOI to have an

1 affirmative finding of confirmity with a 12-year demand  
2 forecast, and this was done under ER-4, we clearly have  
3 the opposite in this case, is that under the ER-4 there  
4 is not the need for 2960, or anywhere near that amount  
5 of geothermal development in Northern California.

6 In fact, if you were to take all of the different  
7 types of power plants, cogeneration, wind, geothermal,  
8 under ER-4 there is not a need in the PGandE planning area  
9 for that amount of additional resources over and above  
10 that which is currently under construction or in existence,  
11 so it's not the fact that you don't have to find anything,  
12 make an affirmative finding. In this case we can make  
13 and have to make the negative finding that there is not  
14 need for the project under ER-4, since the project is  
15 brought before us as per the adoption of CFM under ER-4,  
16 that a finding should be appropriate.

17 And so I would want to add to the findings that  
18 under ER-4 this project is not needed, because that's the  
19 facts of the -- that's the facts of the -- that's the fact  
20 of the case.

21 Well, if it's not needed under ER-4, then it  
22 gets to the issue that we are not discussing today, and  
23 that is the people who have their farms, have their lives,  
24 and essentially have a threat hung over their head of the  
25 construction of a new facility which may take a substantial

1 amount of their land, a facility that is clearly not  
2 needed under the guidelines under which we are proceeding,  
3 and to me it does not seem unreasonable where you have  
4 this type of situation that you should first examine  
5 whether or not to support the needed development within  
6 the Geysers, as to whether or not we can reconstruct the  
7 existing facility, and whether or not that is economic,  
8 and that it only be upon a finding that that would not  
9 work, or that there is a need for an additional facility,  
10 that we would look at putting forth an additional line.

11 CHAIRMAN IMBRECHT: That is exactly what will  
12 occur in the AFC.

13 COMMISSIONER COMMONS: Yes, except the AFC, when  
14 you have a nonneeded facility, continues to carry the threat  
15 to the farm persons that there may be a facility built  
16 which is under our existing guidelines not needed.

17 Under ER-4, there is no need for this facility.  
18 There is not a need for 2960, or anywhere near that amount  
19 of additional energy in the PGandE planning area, and this  
20 is brought before us under ER-4.

21 CHAIRMAN IMBRECHT: That is not the issue here,  
22 but I'm not -- I frankly don't even feel obliged to spend  
23 the time on it because I don't believe you spent the time  
24 on this case to go through that in some depth.

25 The question involved in 2960 is expected to

1 develop that you don't build a transmission line in the  
2 same context of determining need for a generation facility,  
3 and as I tried to indicate to you earlier, it's obvious  
4 that the PGandE line was built with capacity substantially  
5 greater than that which had been developed at the time  
6 that that line was built.

7           The reason was I think fairly obvious, and that  
8 is that you build based upon a single line, rather than  
9 having to come back in 500-megawatt increments, or some-  
10 thing of that nature, and once you go in and disturb the  
11 environment, et cetera, it's probably preferable to do  
12 it one time rather than, as I say, in incremental pieces,  
13 as well as all the impacts that you correctly point out  
14 that affect the people whose property would be impacted  
15 by any such development.

16           And in fact, in the AFC, as we have just been  
17 discussing with Mr. Ratliff, and the point of long dis-  
18 cussion last week, is that the first question that will  
19 be determined is need for any additional carrying capacity  
20 out of the Geysers.

21           If that need is shown, then the question is how  
22 much need, and if that need is in excess of 2960 -- or  
23 if that likely development is in excess of 2960, then there  
24 is a consensus that a third outlet line is required. If  
25 it is less than that, then it becomes an evaluation of

1 which is the most economic, either a rebuild of the exist-  
2 ing line or, in turn, a third line.

3 So all those questions that you have a concern  
4 about will be addressed, but in a logical order, and deal-  
5 ing with them in a serial fashion.

6 COMMISSIONER COMMONS: Well, I would like to  
7 ask a point of information, then, of our legal counsel.  
8 The Chairman is saying I am incorrect in that need deter-  
9 mination on a transmission line is not using the 12-year  
10 criteria.

11 Is he correct and, if so, what criteria is used?

12 MR. CHAMBERLAIN: I did not understand him to  
13 say that it did not use the 12-year criteria. What I under-  
14 stood him to say, I believe, was that the Commission could  
15 make an affirmative finding that a transmission line that  
16 exceeds the specific capacity of the Geysers area today  
17 was needed based on the assumption -- based on testimony  
18 that the Geysers area could develop further capacity based  
19 on the assumption that that capacity would indeed be  
20 developed. That would still be based on the 12-year fore-  
21 cast.

22 COMMISSIONER COMMONS: My understanding is that  
23 the findings on need must be based on the 12-year forecast  
24 adopted by the Commission, and the Chairman, it is my  
25 understanding, is disagreeing with that, and I would like

1 to get an understanding, is the 12-year adopted forecast  
2 the basis for a need determination on an AFC, on a trans-  
3 mission case, or is it not?

4 I think there is some logic in terms of the  
5 Chairman's position that you may want to take the longer-  
6 term perspective. I don't think that's the way the rules  
7 are, though.

8 MR. CHAMBERLAIN: Are you waiting for me to talk?

9 CHAIRMAN IMBRECHT: If you want to say something,  
10 fine. I frankly think we can move on, but --

11 COMMISSIONER COMMONS: Well, I have asked for  
12 a --

13 CHAIRMAN IMBRECHT: I believe we have sufficient  
14 discussion. The question of certifying the construction  
15 of a plant, based upon need within a 12-year period, in  
16 my view, as you indicated, and I do think it is a logical  
17 position, is somewhat different than the question of perhaps  
18 building a line slightly sized greater than what that need  
19 would show for the 12-year period on the assumption that  
20 need will grow in each succeeding forecast, and also  
21 reflective of some of your earlier comments that we continue  
22 to find geothermal development to be attractive and justi-  
23 fiable for the state on a wide range of grounds, not the  
24 least of which is cost and indigenous resources, et cetera,  
25 et cetera.

1           COMMISSIONER COMMONS: Well, there is a difference  
2 if you build -- if you have reached a conclusion based  
3 on your 12-year forecast that there was a need for a proj-  
4 ect, and saying, then, well, now, what is the size of that  
5 project, since we are already going to take this land and  
6 utilize the corridor, should we use a 20-year planning  
7 forecast, or some other criteria, than saying that we are  
8 not -- we are going to disregard the 12-year forecast which  
9 finds that there is no need, and anyway go and put through  
10 a transmission corridor that is not needed under the 12-year  
11 forecast.

12           And what I am saying is my belief is that the  
13 regulations and rules which this Commission is required  
14 to follow demonstrate that we have to use the 12-year fore-  
15 cast for that basic need decision as to whether or not  
16 we should build the facility.

17           Now, there is a secondary question, if you decide  
18 you are going to build the facility, could you take into  
19 consideration subsequent development potential in the sizing  
20 of it, and that's not a need issue, that's a sizing ques-  
21 tion, which I would look at as a different matter.

22           And so I do say it's a relevant question in the  
23 -- in the --

24           CHAIRMAN IMBRECHT: Okay. Well --

25           COMMISSIONER COMMONS: -- in the discussion that

1 we are having.

2 MR. CHAMBERLAIN: I don't think I disagree with  
3 Commissioner Commons here. The statute does not specifi-  
4 cally indicate anything different than the 12-year fore-  
5 cast for any need determination, whether it's a power  
6 plant or a transmission line, for any facility, but --  
7 and so I believe, in order to find the transmission line  
8 needed you would have to find that some -- some reasonable  
9 portion of its capacity would have to be needed within  
10 the 12-year period.

11 But, as Commissioner Commons indicates, the siz-  
12 ing of the line might be allowed to be greater than the  
13 specific amount that you would find needed under the 12-  
14 year forecast, under the anticipation, which I believe  
15 Commissioner Imbrecht has indicated, that it would be  
16 better to go ahead and build the larger line than to have  
17 people coming back three years later and saying we need  
18 another line.

19 CHAIRMAN IMBRECHT: And which I believe we have  
20 the discretion to approve on that basis, but do you have  
21 any other points that you want to --

22 COMMISSIONER COMMONS: Well, I just want to,  
23 then, make it clearer what my -- my outcome is, is that  
24 since there is no need for the project under ER-4 --

25 CHAIRMAN IMBRECHT: No, you --

1           COMMISSIONER COMMONS: There is no need for a  
2 new third line under ER-4.

3           CHAIRMAN IMBRECHT: Well, you don't know that,  
4 Commissioner Commons. What you are saying is there is  
5 no need for 2960 megawatts of development. We still do  
6 not know whether in fact -- you will concede that there  
7 is need for some development under ER-4; right?

8           COMMISSIONER COMMONS: That's correct.

9           CHAIRMAN IMBRECHT: All right. Fine. Then we  
10 fall into the middle-ground question of whether in fact  
11 a third outlet line is preferable to a rebuild, which is  
12 an issue that there is no developed record on, there are  
13 studies underway which will be submitted as a part of the  
14 AFC, and that I anticipate to be one of the significant  
15 questions that will have to be grappled with in the AFC,  
16 what is the most cost-effective, environmentally-sensitive  
17 alternative system, reliability, all the other considera-  
18 tions.

19           COMMISSIONER COMMONS: All right. And what I  
20 am saying is until the Commission makes an affirmative  
21 finding on need and is able to come to the conclusion that  
22 we cannot reconstruct within the forecast the existing  
23 line, that we should proceed on that basis. If at the  
24 end of the period that they submit -- the Applicant submits  
25 their cost estimates for reconstruction, and we do the

1 need assessment, and if that does not solve the problem  
2 only then would we reopen the question as to a third line.

3 CHAIRMAN IMBRECHT: You're not too far off, in  
4 terms of the manner I would anticipate this being handled,  
5 but I just indicated to you, from a serial fashion, there  
6 was an agreement that we would attempt to address the  
7 basic question of need as soon as possible in the proceed-  
8 ing.

9 Then, secondarily, assuming some need for addi-  
10 tional capacity is demonstrated, the Applicant meets their  
11 burden of proof on that issue, then, as I said, the next  
12 issue is which of the options are more preferable, either  
13 a rebuild or a third line, and there are other considera-  
14 tions as to why a third line would be needed under that  
15 context, including the question of whether a rebuild is  
16 technically feasible, and what it does to system reliability.  
17 We don't know. It might be equal to or superior to a third  
18 line.

19 It might similarly be less so. Those are all  
20 questions which the technical evaluation studies are  
21 designed to try to answer, and which our staff hopefully  
22 is prepared to assess and give us an independent judgment  
23 on.

24 COMMISSIONER COMMONS: Well, see, that's why  
25 I am going to support Commissioner Gandara's motion that

1 we first complete the study before we accept the AFC,  
2 because I think there was a very significant difference --

3 CHAIRMAN IMBRECHT: We're talking about two dif-  
4 ferent studies, Commissioner Commons, and this is another  
5 point that was brought out very clearly in last week's  
6 hearing. We're talking in this instance, and his motion  
7 goes to the reinforcement and mitigation study, and that  
8 has to do with system improvements necessary elsewhere  
9 in the PGandE/WAPA distribution system, capacitor upgrades,  
10 new transformers, et cetera, to insure that you've got  
11 reliability in the basic loop.

12 There is an entirely completely separate issue  
13 which is the reconstruction study, and that reconstruction  
14 study is not an issue at this juncture because we have  
15 in essence agreement as to the proposed decision on that  
16 point. They are completely different issues, though,  
17 and last week in my opening comments I went out of my way  
18 to try to distinguish them, because there have been some  
19 problems in some of our earlier dialogues with some of  
20 the parties misunderstanding the fact that they were two  
21 different issues, but I think that is now behind us.

22 COMMISSIONER COMMONS: Well, I'm sorry that a  
23 transcript wasn't available of last week's meeting for  
24 today, which I would have read if it had been available.  
25 But in any event, it is my belief that if you own property

1 in that area there is a difference of requiring the affir-  
2 mative finding, one of need, and second that you cannot  
3 reconstruct and accomplish your objectives, the reconstruc-  
4 tion, prior to going on to the third line, and that it's  
5 a -- maybe what you would call a difference in nuance,  
6 but I would think that it's a difference in terms of the  
7 direction or intent of where we're going.

8           And all the things that have been happening in  
9 the past year, as you have been hearing this case, are  
10 clearly going in that direction, but that is probably the  
11 most economic way to go, unless we run into some type of  
12 technical or other problem that we at this time, no one  
13 has been able to identify and say we don't think we can  
14 go that direction, but that's the direction we are heading,  
15 and I think we should clarify that that's the direction  
16 we intend to go --

17           CHAIRMAN IMBRECHT: Well, what is the direction  
18 we are heading?

19           COMMISSIONER COMMONS: Towards the upgrading  
20 and the reconstruction of the existing line.

21           CHAIRMAN IMBRECHT: I don't -- I frankly don't  
22 know where you base that conclusion from. I have not seen  
23 you at a single proceeding -- I mean we literally have  
24 held probably cumulatively six weeks of hearings on this,  
25 and had thousands of pages of submitted documents as well.

1 I'm not aware of any demonstration one way or another on  
2 that point, absolutely none.

3 COMMISSIONER COMMONS: Well, Mr. Chairman --

4 CHAIRMAN IMBRECHT: And the only reason I am  
5 being a little testy in responding to you on this is that  
6 you are making statements that are going into the record  
7 upon which there is no foundatiuon for those statements,  
8 and if you can cite something on that to lead to that con-  
9 clusion that that is the direction we are heading, I would  
10 like to know what it is.

11 COMMISSIONER COMMONS: Well, Mr. Chairman, I  
12 don't think it makes a lot of sense to take away a lot  
13 of land and put in a whole new line until you find out  
14 if it's economically feasible to upgrade the existing line.

15 CHAIRMAN IMBRECHT: I would agree with you. I  
16 completly agree, and I have already indicated to you that  
17 that is one of the threshold issues that has to be resolved  
18 in the AFC proceeding, but it has not been resolved at  
19 this point. We have no technical studies. There is  
20 nothing in the record of this NOI dealing with that issue.

21 COMMISSIONER COMMONS: Yes, but as you proceed  
22 -- if you were an owner of property --

23 CHAIRMAN IMBRECHT: I --

24 COMMISSIONER COMMONS: -- and the direction as  
25 to the Commission is that the intent of the Commission

1 is in the one way you say it and the way I say it, there  
2 is a difference in how people will perceive us and how  
3 they would go about it.

4 CHAIRMAN IMBRECHT: I'm going to state very  
5 clearly, there is no intent of the Commission. There cer-  
6 tainly is not on my part.

7 Commissioner Gandara.

8 COMMISSIONER GANDARA: If I might suggest a pro-  
9 cedure --

10 CHAIRMAN IMBRECHT: Fine.

11 COMMISSIONER GANDARA: -- by which we might go  
12 out, I'm concerned that I have a commitment, and if we  
13 don't --

14 CHAIRMAN IMBRECHT: Let's take your motion, then.

15 COMMISSIONER GANDARA: -- if we don't proceed,  
16 then, I can't make my motion, I can't make my argument.  
17 I think it won't take long. I am ready to live with the  
18 results of the vote, but in any case I do believe that  
19 if there are any further issues, that if -- you know, if  
20 my motion prevails, or even if it doesn't, that these other  
21 issues can still be discussed.

22 CHAIRMAN IMBRECHT: Maybe yes and maybe no.

23 (Laughter.)

24 COMMISSIONER GANDARA: Well, I leave it up to  
25 the Commission, but --

1           CHAIRMAN IMBRECHT: I'm not going to be sentenced  
2 to staying here all night.

3           COMMISSIONER GANDARA: Again, I don't want to  
4 make -- if I could, I would like to move Version 2, and  
5 if I have a second I would like to address the matter  
6 and discuss that.

7           CHAIRMAN IMBRECHT: Is there a second?

8           COMMISSIONER COMMONS: Second.

9           CHAIRMAN IMBRECHT: Seconded by Commissioner  
10 Commons.

11           Commissioner Gandara.

12           COMMISSIONER GANDARA: Thank you very much.

13           Well, several things seem to be rather clear  
14 here to me. That is that the Applicant knows what it wants.  
15 Intervenors know what they don't want. The staff doesn't  
16 know what it wants, and we need to make a decision, and  
17 what I am going to do is I am going to make an argument  
18 for regulatory simplicity, and that the interest that I  
19 am going to assert is the interest of the Commission and  
20 the Committee with respect to both the data needs, as well  
21 as with respect to procedure.

22           First of all, it does seem to me here that, first,  
23 to comment on the particular proposal before us, that is  
24 the main motion, I have some concerns with that, because  
25 if we look at the versions that have been before us today,

1 Version 1 and Version 2, let's say, are at the extremes,  
2 or represent two points in which the other ones fall in  
3 between.

4           The proposal is actually somewhere between 1  
5 and 3, in that while 3 requires, as part of the AFC filing,  
6 the preliminary results, your motion does not require it  
7 as part of the filing, but only requires it prior to the  
8 acceptance of the AFC.

9           In addition to that, from the other end, the  
10 motion says that we should have the complete study six  
11 months before the end of the proceeding, and it's -- that  
12 is a little bit difficult to actually relate, because it's  
13 sort of like giving someone directions and saying you turn  
14 right on this street before X, and you never know where  
15 X is as you are proceeding that way.

16           In addition to that, I think it's inconsistent  
17 with the earlier announced decision of the Commission,  
18 which was to recommend to the staff, the parties, and the  
19 future AFC committee, that an early need determination be  
20 made.

21           If in fact one does believe that this is an  
22 essential part, the need determination, they cannot be begun,  
23 and certainly not be completed, prior to six or seven  
24 months in a proceeding, regardless of -- let's assume for  
25 now that it only takes 12 months, which overlooks the point

1 that the Applicant and the staff, and everybody that's  
2 commented thus far, have accepted the fact that this study  
3 is not going to be ready for eight months, so --

4 CHAIRMAN IMBRECHT: If they use PGandE.

5 COMMISSIONER GANDARA: If they use PGandE, I  
6 guess. That's been one of the assumptions.

7 But I don't -- the point that I'm trying to make  
8 is that -- is that six months is illusory, because, first  
9 of all, the one month prior to that is really gone, because  
10 the Presiding Member's report has to be ready at the begin-  
11 ning of the 11th month, and the Hearing Advisor, if this  
12 situation is typical, is going to have to require at least  
13 a month to write up this case, if not more. Let's assume  
14 it's a month. Okay?

15 So that really cuts down that period down to  
16 four months, and then if you assume that the staff receives  
17 this final analysis, and that they do whatever analysis  
18 they need to do within one month, then you are going to  
19 have the scheduling of evidentiary hearings, the Committee  
20 wanting a resolution within that three-month time frame.

21 I would suggest that it probably is very unlikely  
22 that that can be accommodated.

23 The experience that we have had with AFCs is  
24 that under the bset of circumstances, when there have not  
25 been issues of need determination, of siting policy, of

1 conditions, of which tests, of complications of need, and  
2 so forth, or even questions of data adequacy, they have  
3 taken the full 12 months. That's been our experience.  
4 So that the 12-month time line is about as tight as it  
5 can get for the best of circumstances.

6 So I think that we are probably overlooking the  
7 fact that -- you know, even the proposal here sort of com-  
8 pounds the problem at both ends. I understand the intent,  
9 and I appreciate the intent to try and resolve a difficult  
10 situation, but at the same time I don't -- I don't think  
11 that it offers the simplicity that in fact we need to have  
12 in these regulatory decisions.

13 I do believe that we are overly complicating  
14 the situation here and that we to some extent would be  
15 turning the NOI/AFC process, if not on its head, at least  
16 sideways.

17 The NOI/AFC process, the separate NOI/AFC, pro-  
18 vides us a rare opportunity to spend 12 months with the  
19 case to identify the data needs, if nothing else, and  
20 to reduce the alternatives.

21 Now, what we have here is we have spent, not  
22 12 months, but 20 months on a case, have identified data  
23 needs, but rather than say that should be required for  
24 the filing of the AFC, we instead have said we will instead,  
25 you know, condition the length of the AFC.

1           Now, that is something that I don't think really  
2 was contemplated within the context of what the NOI/AFC  
3 intent should be, so that I think what we will be doing,  
4 we will be just postponing a considerable discussion on  
5 data adequacy. We have already had two very lengthy dis-  
6 cussions on data adequacy with Irwindale and with Crockett,  
7 and I think the thing that concerns me quite a bit here  
8 is that we do have a complicated case.

9           We do have, at least to address some of the other  
10 issues that were raised, we have even differing notions  
11 of how to do a need determination. Staff says they are  
12 not quite certain how they are going to do it.

13           The Applicant by an earlier comment indicated  
14 that, even with existing capacity not expanded, that there  
15 would be a need for it, because of the necessity for the  
16 benefit to the ratepayers in restructuring of contracts.  
17 Perhaps that is appropriate for a need analysis for a  
18 transmission line.

19           I, you know -- but on the other hand, should  
20 there not be societal tests as well, and not just the rate-  
21 payer tests, and that is the issue that the Intervenors  
22 are raising.

23           The basic issue here is that we are looking at  
24 a lot of trees without really looking at the forest, and  
25 what the pattern, the overall pattern says is that we have

1 never sited a transmission line. I'm not even sure that  
2 the statute contemplated us siting this kind of transmis-  
3 sion line, and this is kind of like -- calling this trans-  
4 mission line a tap line is like calling the Sacramento River  
5 a trout stream, a picturesque trout stream up in the  
6 Sierras.

7           It is a very different animal, and at the same  
8 time we have to some extent accepted the initial structure  
9 of a need determination which, as you look at capacity,  
10 look at demand, and then you look to see whether you can  
11 connect those, and that's not a bad structure necessarily,  
12 but we've got into problems because whose demand, and what  
13 does the statute say about what demand do you use, but  
14 the overall problem here is that, overlooking all those  
15 problems, and overlooking all those issue, that nonethe-  
16 less the Committee has gone a long way toward coming fairly  
17 close to a resolution that will get something done, and  
18 I don't think that should be forgotten.

19           But at the same time, there's a very critical  
20 issue where I think that we -- we are paid to make diffi-  
21 cult decisions, I should add underpaid, but we have such  
22 a decision before us, and tough decisions have tough con-  
23 sequences.

24           And when I look at the need analysis, I perhaps  
25 find nothing more relevant to this case than the preliminary

1 need analysis. Whether it's affirmative finding of need  
2 or not is not the issue. The issue is that the proposal  
3 at least initially is conceived through seven counties,  
4 engendered, and threw a lot of people into a tizzy about  
5 where it's going to go and what it's going to do to a lot  
6 of people, but the best thing that we have been able to  
7 say about it is that, given the thorough review that it  
8 has had over 20 months, is that without making affirmative  
9 finding, it says we don't think it's needed, we don't think  
10 it's going to be needed until 1991, because we don't think  
11 that capacity is going to be there.

12 The Applicant says, well, it doesn't matter whether  
13 the capacity isn't there. We think it's still needed,  
14 and we need it by 1988, because we need to address some  
15 contracts. Fundamental differences in viewing of need.

16 And so the situation where I wind up is, is that  
17 the tough decision and the tough consequence is to recog-  
18 nize that, even if one were to require Condition 2, which  
19 the Applicant considers the most onerous, which at its  
20 worst also assumes that PGandE is the contractor, now,  
21 if we are willing to waive that assumption with respect  
22 to the new proposal, we should be willing to waive that  
23 assumption with respect to Condition 2, and it would not  
24 also be a 12-month delay.

25 And in any case, even if it were, let's just

1 assume that, and the AFC was processed within 12 months,  
2 because the data was there to be able to do that work,  
3 and the line was constructed, it would still be finished  
4 before 1991, before what is indicated as a preliminary  
5 need situation or need status.

6           So that it does seem to me that I think we have  
7 to raise the larger public policy issues, that if indeed  
8 the need determination is not going to be based so much  
9 on capacity but, rather, on other factors, many of them  
10 having to do with economics, then are we then the appro-  
11 priate forum to do that, and should we have really looked  
12 at that more to begin with.

13           I'm just looking at it more in the situation  
14 that, at worst, and I'm not quite sure that would be the  
15 case, that at worst, if Condition 2 did result in that  
16 12-month delay, what we would have gained is -- we would  
17 have gained by imposing Condition 2, is regulatory simpli-  
18 city, we would have benefited the Committee, because it  
19 is the Committee who needs this data. It's not so much  
20 the Commission here is extracting it for the benefit of  
21 the staff, it's that the Committee needs this data, and  
22 we would have been able to proceed with the case, and this  
23 transmission line would be in place prior to what its  
24 indicated need now is.

25           Now, it may be that there are differences with

1 respect to when it might be needed, but I think that's  
2 where the tough decision comes, is that there's nothing  
3 in the record that seems to indicate it would be needed  
4 before that, unless one has to assume that it is needed  
5 for reasons other than capacity, and if that is, then we  
6 are in a different dimension of this ball game, but I would  
7 finally just end my comments by a closing comment, and  
8 that is to ask which Commissioner wants to sit on the AFC  
9 case, knowing from the very beginning that the data needed  
10 is not there, that it's going to be late, that the staff  
11 is going to come in with a request, and that we will not  
12 have avoided what we said we were going to avoid, which  
13 was the involvement of the entire staff in a huge, complex  
14 case, when we have other cases, real cases, that require  
15 resolution now, that do have time lines, that for the indi-  
16 cations that we have, the establishment of need is a very  
17 different matter.

18           We do have consequences of this case rippling  
19 to other cases with respect to unavailability of our own  
20 staff but, rather, a lot of contractor support in other  
21 cases. We do have the rippling effect of unavailability  
22 of hearing advisers. All these things are things we have  
23 to deal with.

24           But the question is, do we have to live with  
25 that situation, and I -- I don't think we do. I would

1 again ask to see if there are any volunteers for this case,  
2 knowing the data issues that have been discussed. Maybe  
3 there are and, if so, maybe it's a moot point, but I think  
4 as a matter of policy we probably don't do us a -- a lot  
5 of good by complicating the matter in the way that the  
6 main motion would.

7 So I would just offer as an alternative Version  
8 2. Thank you very much.

9 CHAIRMAN IMBRECHT: Commissioner Commons, are  
10 you volunteering?

11 COMMISSIONER COMMONS: Oh, no.

12 A very short statement. The main reason that  
13 I am going to support Commissioner Gandara's motion is  
14 I think the reality is, during that period of time every  
15 other applicant that has a case before us is going to find  
16 that their case is delayed, and that we will have been  
17 giving unfair treatment to their cases in deference to this  
18 case.

19 I also feel that the alternative that you have  
20 proposed, Mr. Chairman, in essence is asking for a delay  
21 which the Applicant was unwilling to provide, and that  
22 we have a right to impose this as an initial condition.

23 But the primary reason is that I think we have  
24 to treat all applicants in an equal and similar fashion,  
25 and with our staff limitations we will not be able to

1 complete this case and do fair treatment of all the other  
2 people who have projects before us.

3 CHAIRMAN IMBRECHT: Okay. Well, a slight de-  
4 fense, and then I'm going to move it to a vote and get  
5 this over with.

6 The question of need is not one of if, but when,  
7 and in that sense '91 may or may not be a fundamentally  
8 significant date.

9 The second point, your comment, Commissioner  
10 Commons, I -- I would be interested in asking the  
11 Applicant, faced with the two alternatives before them,  
12 whether in fact they are willing to reject both of them.  
13 I would be surprised.

14 Secondly, I would also just note for you, and  
15 for Commissioner Gandara, that even my motion contemplates  
16 a substantially greater delay than the Applicant was will-  
17 ing to accept. For openers, I conditioned the acceptance  
18 of the AFC on the filing of the preliminary report, assum-  
19 ing that PGandE is the contractor. The testimony is that  
20 that is going to take a minimum of three to four months,  
21 rather than an AFC being accepted in September, and the  
22 final date sometime a year from now in September. We are  
23 really probably looking at this matter not being accepted  
24 at its earliest until the end of this year or the first  
25 of next year.

1           Then, beyond that, with the requirement of six  
2 months consideration after the filing of the final report,  
3 again if you assume their timing scenario, that would  
4 probably push it off a couple more months.

5           I remain in my conclusion that I am not too far  
6 off from that which was proposed by the staff. I also  
7 note that there are some other matters of equity and fair-  
8 ness as well.

9           This process was established to in essence allow  
10 people their day in court, and I think that to that extent  
11 the applicants are entitled to their day in court. They  
12 represent public agencies with substantial constituences,  
13 and I have to assume that the management of those agencies,  
14 whose ultimate responsibility is to the citizens of their  
15 own service areas, and our elected officials that govern  
16 these bodies also take their responsibilities very  
17 seriously.

18           I think that in that context, if they determine  
19 to go forward under the very difficult conditions which  
20 we have outlined, then I would just continue to note for  
21 you that I have not accepted their definition of need.  
22 In fact, what you see reflected in this decision is the  
23 traditional need evaluation of the Commission as to physical  
24 capacity, rather than contractual problems, et cetera.

25           I think that if you read the sum and substance

1 of it, it should be apparent that the Applicant has a very,  
2 very steep road to climb and has substantial burdens of  
3 proof, and I would guess that, even assuming that my pro-  
4 posal were adopted, and the NOI and the rest of it that's  
5 before us is adopted, that they are going to have to do  
6 some very serious soul-searching and evaluation as to the  
7 appropriate thing to bring this project forward.

8 At the same time, I am trying to offer an oppor-  
9 tunity that does not preclude them their day in court that  
10 I believe is contemplated by our statute.

11 The points that Commissioner Commons raises are  
12 -- pardon me, Commissioner Gandara raises, are valid points,  
13 but at least in my own judgment they are outweighed by  
14 the other considerations that I have already enunciated.

15 In any case, unless anyone else wishes to be  
16 heard, the substitute motion before us is to approve the  
17 NOI with the second version enunciated on the proposals  
18 for Condition 1, Transmission System Evaluation, which  
19 is that the final results of the reinforcement mitigation  
20 study must be filed with the AFC.

21 COMMISSIONER COMMONS: Point of information.

22 CHAIRMAN IMBRECHT: Commissioner Commons.

23 COMMISSIONER COMMONS: Is that an amendment or  
24 a substituted motion?

25 CHAIRMAN IMBRECHT: That's a substitute motion.

1           COMMISSIONER COMMONS: All right. I would have  
2 an amendment to the substituted motion, if we are talking  
3 about --

4           CHAIRMAN IMBRECHT: You may not. A substitute  
5 motion also is characterized as an amendment under Roberts'  
6 Rules, I believe, and may not be amended. Correct me if  
7 I'm in error, Mr. Chamberlain.

8           MR. CHAMBERLAIN: I believe you can amend an  
9 amendment. However, you cannot amend beyond that.

10          COMMISSIONER COMMONS: I believe a substitute  
11 motion --

12          CHAIRMAN IMBRECHT: I would like you to take  
13 a look at that.

14          COMMISSIONER COMMONS: I believe a substitute  
15 motion can be -- can be amended, because I'm not even talk-  
16 ing about the area that the substitute motion designates.  
17 You have a substitute motion before the Commission. You  
18 may have a number of amendments that go to the heart of  
19 that.

20          CHAIRMAN IMBRECHT: Sure. To clarify Commissioner  
21 Gandara's substitute motion, it includes all the other  
22 elements that I incorporated within my motion, with the  
23 exception of the treatment of the Condition 1 transmission  
24 system evaluation.

25          COMMISSIONER COMMONS: Well, I'm going to make

1 my motion, and then we can have a ruling from legal counsel  
2 and from the Commission as to the --

3 CHAIRMAN IMBRECHT: I'll ask Mr. Willoughby as  
4 a former legislative consultant, but, anyway, go ahead.

5 COMMISSIONER COMMONS: I would like --

6 CHAIRMAN IMBRECHT: Let's see if you've got a  
7 second, and then we'll determine whether or not it's even  
8 a --

9 COMMISSIONER COMMONS: Yes. I would like to  
10 move to amend the motion that CFM-5 would apply, so long  
11 as the AFC is submitted on or before the date that this  
12 Commission adopts the forecast for CFM-6, which is expected  
13 to be adopted sometime next May, and after the date of  
14 the adoption of that forecast that CFM-6 would then apply.

15 CHAIRMAN IMBRECHT: Is there a second?

16 COMMISSIONER NOTEWARE: I would second that.

17 CHAIRMAN IMBRECHT: Okay. I am going to wait  
18 for a ruling on whether or not we can amend a substitute,  
19 but while we're waiting for that ruling, I would just argue  
20 on a policy basis that is very bad precedent to establish  
21 that kind of constraint on a committee that would have  
22 jurisdiction, and frankly I can foresee circumstances that  
23 that in essence would substantially inhibit the ability  
24 of the applicants to go forward and make the case that  
25 they choose to make, and in essence builds in an even

1 further delay in terms of when they might file.

2           If, for example, Commissioner Commons, they deter-  
3 mine that they want to try to make their need showing on  
4 the basis of filings by each of the parties that constitute  
5 the Joint Owners, they might ultimately elect or desire  
6 the utilization of CFM-6, since they obviously did not  
7 all file in CFM-5

8           COMMISSIONER COMMONS: Well, while they are look-  
9 ing it up, let me make the argument that I think is quite  
10 clear. The whole reason of having two-year forecasts is  
11 to have an adopted forecast, and the rules of the forecast  
12 apply to projects that are brought before the Commission  
13 under that forecast, and everybody is treated the same.

14           You don't have a committee that should have a  
15 right to say, well, in this case I think I'll use this  
16 forecast, and in this case I think --

17           CHAIRMAN IMBRECHT: Well, we haven't --

18           COMMISSIONER COMMONS: -- we will use that fore-  
19 cast --

20           CHAIRMAN IMBRECHT: Your proposal is inconsistent  
21 with the manner in which we just handled the overlap between  
22 CFM-4 and 5, in that we only use CFM-4 for those proceed-  
23 ings where the proposed decision had already been published  
24 prior to the adoption of CFM-5, and all of those others  
25 were --

1           CHAIRMAN IMBRECHT: I am perfectly open to an  
2 alternative way of resolving it. My belief is that the  
3 Applicant should have a right when they leave the room  
4 today as to know what the rules for the need determination  
5 are, and as to whether CFM-5 will apply if they submit  
6 it on one day, and if CFM-6 would apply if they have it  
7 on another date, and it is not fair to the Applicant and  
8 to other parties to not know what the rules are, and to  
9 me a very reasonable period, which is --

10           CHAIRMAN IMBRECHT: Okay.

11           COMMISSIONER COMMONS: -- advance notice, was  
12 to choose the date which is six months prior to the time  
13 that the ER-6 is adopted when this Commission officially  
14 adopts the CFM-6 forecast.

15           But if you have an alternative that you think  
16 would be more appropriate, I am perfectly open to that.  
17 I just think that the Applicant has a right to know what  
18 the rules are, and there are not two rules, there's one.

19           CHAIRMAN IMBRECHT: Mr. Chamberlain, what is  
20 your interpretation of this, because I'm having a hard  
21 time reading through it.

22           MR. CHAMBERLAIN: Mr. Chairman, my interpreta-  
23 tion --

24           CHAIRMAN IMBRECHT: I would be happy to read  
25 it for you, and you can -- anyone that would like to can

1 tell me what this means.

2 MR. CHAMBERLAIN: My interpretation is that under  
3 Roberts' Rules there is a main motion which you have made.  
4 There is also appropriate a primary amendment, which  
5 Commissioner Gandara has made, and it is also appropriate  
6 for someone to make a secondary amendment, that is an  
7 amendment to what Commissioner Gandara has made.

8 However, no one could try to amend the secondary  
9 amendment. It would either go up or down, and then there  
10 could be other secondary amendments.

11 CHAIRMAN IMBRECHT: All right. Fine. I'll  
12 accept that.

13 All right. Commissioner Commons' amendment to  
14 Commissioner Gandara's amendment or substitute motion is  
15 before us. Does anyone wish to be heard?

16 COMMISSIONER NOTEWARE: Mr. Chairman --

17 CHAIRMAN IMBRECHT: Commissioner Noteware.

18 COMMISSIONER NOTEWARE: I share Commissioner  
19 Commons' observation that an applicant should know in  
20 advance what the ground rules are going to be. However,  
21 at this point we don't have any idea what the ground rules  
22 are going to be for ER-6, and could we not accomplish the  
23 same thing by merely specifying that this procedure will  
24 be carried out under the -- under the rules set forth in  
25 ER-5? That really establishes what is going to face the

1 Applicant.

2 COMMISSIONER COMMONS: I would -- I would accept  
3 that as a friendly motion --

4 CHAIRMAN IMBRECHT: I don't believe you can,  
5 because I think that is contrary to our statute, but,  
6 Mr. Chamberlain --

7 COMMISSIONER COMMONS: Well, so long as -- so  
8 long as the AFC were submitted within the time lines when  
9 CFM-5 were outstanding. That would -- that would be legal.

10 CHAIRMAN IMBRECHT: Mr. Chamberlain?

11 MR. CHAMBERLAIN: Well, it has always been my  
12 understanding that, except in the unusual circumstances  
13 that the Commission determined in CFM-5, where they had  
14 applications that were -- where the evidentiary records  
15 were essentially closed before the ER-5 was adopted and,  
16 therefore, there would be extreme delays involved in sub-  
17 mitting those applications to a -- to other than a previous  
18 ER, that the Commission is required to use the most recent  
19 forecast available.

20 It is unclear today whether this particular AFC  
21 would be evaluated under ER-5, ER-6, or potentially a later  
22 ER, depending on when the AFC is filed and when it ulti-  
23 mately gets decided, so I would think it would be inappro-  
24 priate for the Commission to try to specify today which  
25 ER it would be handled under.

1 COMMISSIONER CROWLEY: Mr. Chairman --

2 CHAIRMAN IMBRECHT: Commissioner Crowley.

3 COMMISSIONER CROWLEY: It would seem to me that  
4 this, however, has a good deal of importance, and perhaps  
5 could it be -- I believe this to be an important issue,  
6 and I think one that might well be considered as we con-  
7 sider filing questions in our next topic on the agenda.

8 COMMISSIONER GANDARA: We can set up an escrow  
9 account for transmission lines.

10 (Laughter.)

11 COMMISSIONER COMMONS: Mr. Chairman --

12 CHAIRMAN IMBRECHT: Commissioner Commons.

13 COMMISSIONER COMMONS: Could you correct me,  
14 Mr. Chairman. Does not our statute say that the -- the  
15 date for a CFM is the -- not the date of the adoption of  
16 the Electricity Report, but the date of the adoption of  
17 the forecast?

18 MR. CHAMBERLAIN: Can you give me some idea which  
19 section you are referring to?

20 COMMISSIONER COMMONS: Well, that's why I asked  
21 the question of you, sir.

22 MR. CHAMBERLAIN: All right.

23 CHAIRMAN IMBRECHT: Well, Commissioner Commons,  
24 I'm just going to say it, I think we set a very bad prece-  
25 dent with the manner in which you have offered this amendment

1 to the amendment.

2 But in essence, it would seem to me, then, that  
3 any applicant for another case could also argue that if  
4 they simply filed prior to the adoption of CFM-6, that  
5 that in essence becomes the determinative question as to  
6 when they -- what their need determination is.

7 It seems to me that the manner in which we  
8 handled this between CFM-4 and -5 is a far more logical  
9 approach. In other words, if the case is virtually com-  
10 plete, i.e., the Presiding Member's report is out prior  
11 to the adoption of the new CFM, that -- and it would require  
12 reopening the hearings in essence in order to accommodate  
13 the new forecast, that that is an inappropriate burden  
14 to place on the applicant.

15 COMMISSIONER COMMONS: That would also be --  
16 that would also --

17 CHAIRMAN IMBRECHT: I'm -- on the other hand,  
18 I mean, this would -- this would create a situation where  
19 somebody could file a month before CFM-6, and -5 becomes  
20 the controlling forecast. I don't really think that's  
21 what we want to do.

22 COMMISSIONER COMMONS: Mr. Chairman, that would  
23 also be acceptable to me. What is unacceptable is if you  
24 had the possibility of an applicant filing and having two  
25 forecasts available and they could pick and choose, or

1 the Commission could pick and choose which way they wanted  
2 to go. There should be one forecast that is applicable  
3 to a case when it's before the Commission.

4 And the way I voted for and supported is the way  
5 we did it under CFM-5, so that's a perfectly acceptable  
6 proceeding, but I think the applicant has a right to know  
7 where they stand and what forecast is going to prevail  
8 when they submit their AFC.

9 CHAIRMAN IMBRECHT: Why don't we find out if  
10 the Applicant desires this -- since we are doing this  
11 for the Applicant -- all right.

12 MS. SCHORI: What are we doing for the Applicant  
13 now?

14 (Laughter.)

15 CHAIRMAN IMBRECHT: Do you want specificity as  
16 to which forecast?

17 MS. SCHORI: My understanding of your regulations  
18 and the way that I have advised my client at the moment --

19 CHAIRMAN IMBRECHT: Thank you.

20 MS. SCHORI: -- is that under Appendix B, apply-  
21 ing to nongeothermal AFCs, we are required to file in con-  
22 formity with the current adopted demand forecast, which  
23 would be CFM-5.

24 However, there is the opportunity later during  
25 the AFC process for potentially having to reevaluate your

1 position under -5, if -6 is adopted in time, and I think  
2 we sort of went through this whole discussion on Unit 21  
3 and CCPA --

4 CHAIRMAN IMBRECHT: Right.

5 MS. SCHORI: -- and there were decisions made  
6 about how to handle it there. I would assume you may run  
7 into the similar kind of decisions, but --

8 CHAIRMAN IMBRECHT: Do you think that's a more  
9 appropriate manner to handle it, as we did on CC --

10 MS. SCHORI: Yes.

11 CHAIRMAN IMBRECHT: All right. Fine. Would  
12 you accept that as a friendly --

13 MS. SCHORI: I would submit that I think that's  
14 appropriate, and the -- and I think the current regulations  
15 allow for that approach.

16 CHAIRMAN IMBRECHT: Let's move this along. Would  
17 you accept that Commissioner? You just indicated you would,  
18 so that --

19 COMMISSIONER COMMONS: Yes.

20 CHAIRMAN IMBRECHT: All right. Fine. I assume  
21 that you will accept that as a substitute.

22 Mr. Geringer.

23 MR. GERINGER: Yes. If you are calling for --  
24 for parties, especially as the Applicant is one of the  
25 parties and the Farm Bureau being an equal party --

1 CHAIRMAN IMBRECHT: Certainly.

2 MR. GERINGER: I'm sure you wouldn't want to --

3 CHAIRMAN IMBRECHT: We would never preclude you  
4 an opportunity to speak.

5 MR. GERINGER: I knew you would not.

6 First of all, as an intervenor, we would welcome  
7 certainty, and in fact we found nothing more than major  
8 problems of the grandfathering clause --

9 CHAIRMAN IMBRECHT: Okay. You are about to get  
10 it, so let's --

11 MR. GERINGER: -- in Section -- and as used in  
12 Unit 21, and also CCPA-1 and -2, and in fact what you are  
13 proposing to do here is give an applicant two bites at  
14 the apple.

15 If this applicant does not qualify under CFM  
16 -- or, excuse me, ER-5, then they can take steps which  
17 they are now proceeding to do under CFM-6, to use ER-6  
18 to their advantage, and what we can simply be doing is  
19 the issue I raised last week at this time, what we simply  
20 could wind up doing is going forward with the proceeding  
21 on need, potentially having a negative finding, suspending  
22 the project for a time period, coming back under CFM-6  
23 and ER-6 with another need determination, and redoing the  
24 whole project again.

25 I believe Commissioner Commons' outlook on this

1 situation is totally proper, in that this would give cer-  
2 tainty to all parties as to what would be the basis for  
3 the ground rules for this proceeding, and we won't be faced  
4 with this question, as we were in Geysers 21 and CCPA-1  
5 and -2, on whether, since the decision is out can we do  
6 an additional finding under the new forecast within a period  
7 of time, or will we have to extend the process which cannot  
8 be extended unless the Applicant approves, and which we  
9 found not to be the case both in CCPA-1 and -2, and in  
10 Geysers 21.

11 I think in simplicity of regulations in fairness  
12 to all parties, the simple answer is that the Applicant  
13 will have their choice when they want to file, let them  
14 file under whatever they think is their best shot, and  
15 let's go for it and we'll take it from there.

16 CHAIRMAN IMBRECHT: Commissioner Commons.

17 COMMISSIONER COMMONS: A short comment. I think  
18 the point that tells from what you have said is that if  
19 we were to establish a precedent here, it would probably  
20 have to apply to other cases, and so it's my belief that  
21 this has not been properly noticed, and I would like to  
22 suggest that you submit the matter to the -- to Doug and  
23 the CFM-6 committee to come back and look at it in a broader  
24 context, and that we not go further, because I don't think  
25 it's been noticed --

1 CHAIRMAN IMBRECHT: I take it that means you  
2 withdraw your amendment.

3 COMMISSIONER COMMONS: And I would withdraw my  
4 amendment, because I don't think it's properly noticed.

5 CHAIRMAN IMBRECHT: All right. Fine.

6 All right. Now we are -- that took us about  
7 25 minutes, and now we're back to Commissioner Gandara's  
8 amendments, and that is simply to adopt the NOI with  
9 Version 2 for Condition 1 on transmission system evalua-  
10 tion. Is everyone clear?

11 All right. Ms. Secretary, would you please call  
12 the roll.

13 MS. GERVAIS: Commissioner Commons.

14 COMMISSIONER COMMONS: Aye.

15 MS. GERVAIS: Commissioner Gandara.

16 COMMISSIONER GANDARA: Aye.

17 MS. GERVAIS: Commissioner Noteware.

18 COMMISSIONER NOTEWARE: Aye.

19 MS. GERVAIS: Vice-Chair Crowley.

20 COMMISSIONER CROWLEY: Aye.

21 MS. GERVAIS: Chairman Imbrecht.

22 CHAIRMAN IMBRECHT: No.

23 Aye's four, no's one. The NOI with Version 2  
24 is adopted and, therefore, the full study must be submitted  
25 prior to filing of the AFC.

1           Commissioner Commons.

2           COMMISSIONER COMMONS: Yes. I would like to  
3 request the right to file a separate concurring opinion  
4 if I so desire.

5           CHAIRMAN IMBRECHT: I don't see any objection  
6 to that.

7           COMMISSIONER COMMONS: And since there are 17,000  
8 pages of testimony, I would like to request --

9           CHAIRMAN IMBRECHT: Thirteen thousand.

10          COMMISSIONER COMMONS: -- that I be allowed,  
11 not the next business meeting, but the two weeks following  
12 one.

13          CHAIRMAN IMBRECHT: Fine.

14          COMMISSIONER COMMONS: Thank you.

15          CHAIRMAN IMBRECHT: Okay. That item is concluded.  
16 The next item is a --

17          MR. CHAMBERLAIN: Mr. Chairman --

18          CHAIRMAN IMBRECHT: Yes.

19          MR. CHAMBERLAIN: I assume, consistent with past  
20 practice, the Commission will give Commissioner Commons  
21 something like two weeks to present that, because the deci-  
22 sion is not final until it's signed and docketed.

23          CHAIRMAN IMBRECHT: Well, considering the fact  
24 that now the study has to be filed, it seems to me that there  
25 is no immediacy on signing and docketing. Two to four

1 weeks. That's fine.

2 COMMISSIONER COMMONS: Not the next business  
3 meeting, but the one following.

4 CHAIRMAN IMBRECHT: Okay. Now we will move to  
5 the question of need determination.

6 (Discussion off the record.)

7 CHAIRMAN IMBRECHT: I am advised Commissioner  
8 Gandara wanted to make some further statements about this  
9 proceeding, so I will let him do it while the staff is  
10 setting up.

11 COMMISSIONER GANDARA: Yes. I was a little bit  
12 confused by the procedural formalities there, but I didn't  
13 want the opportunity to pass without there being a recog-  
14 nition that as the second member of the committee I have  
15 to say that I am impressed both with the Hearing Adviser  
16 and the Presiding Member of the committee, who really had  
17 to wade through a considerable amount of testimony and  
18 issues and complexities, which I have already made  
19 reference to, and but for the fact that there was a techni-  
20 cality of a substitute motion rather than an amendment  
21 which passed me, I didn't want the record to be clean of  
22 at least the fact that the Committee was fully agreed with  
23 respect to all the other issues, and there was a minor  
24 but I think important distinction here at the end.

25 CHAIRMAN IMBRECHT: Thank you.

1 COMMISSIONER CROWLEY: Can we recall the motion?

2 CHAIRMAN IMBRECHT: Yeah, I think we can.

3 Excuse me. It just occurs to me that in terms  
4 of the way that final vote came out that there might be  
5 a misinterpretation of the record, and I think that perhaps  
6 I would have been better off characterizing that as an  
7 amendment, which I would have proposed as indicated, and  
8 then supported the main motion.

9 Does it take unanimous consent to rescind, and  
10 then move through those steps real quickly? Well, I think  
11 that -- I think unanimous consent can allow us to rescind;  
12 is that not correct?

13 MR. CHAMBERLAIN: Yes.

14 CHAIRMAN IMBRECHT: Just be calm, Commissioner  
15 Commons. I'm going to move through this very quickly.

16 I would ask for unanimous consent to rescind  
17 the previous action.

18 Okay. I will move and Commissioner Crowley will  
19 second the adoption of the NOI as I had originally speci-  
20 fied. Commissioner Gandara moves, Commissioner Commons  
21 seconds that an amendment be offered to adopt -- to simply  
22 change Condition 1 to Version 2.

23 Please call the roll on that motion.

24 MS. GERVAIS: Commissioner Commons.

25 COMMISSIONER COMMONS: Aye.

1 MS. GERVAIS: Conditioner Gandara.

2 COMMISSIONER GANDARA: Aye.

3 MS. GERVAIS: Commissioner Noteware.

4 COMMISSIONER NOTEWARE: Aye.

5 MS. GERVAIS: Vice-Chair Crowley.

6 COMMISSIONER CROWLEY: Aye.

7 MS. GERVAIS: Chairman Imbrecht.

8 CHAIRMAN IMBRECHT: No.

9 The amendment is carried. Aye's four, no's one.

10 Now, on the main motion, is there objection to  
11 a unanimous roll call?

12 Hearing none, aye's five, no's one. The NOI  
13 is adopted, with --

14 COMMISSIONER CROWLEY: Wait, wait. Not aye's  
15 five, no's one.

16 CHAIRMAN IMBRECHT: No's none. Did I say --

17 COMMISSIONER CROWLEY: One.

18 COMMISSIONER COMMONS: One.

19 CHAIRMAN IMBRECHT: Well, I meant to say none.

20 Excuse me. Aye's five, no's none. The NOI is adopted with  
21 Version 2 as Condition 1 for transmission system evaluation.

22 All right. Now, Mr. Ward.

23 MR. WARD: Thank you, Mr. Chairman.

24 As the Commission directed staff at the last  
25 business meeting, we have been spending time with applicants

1 and potential applicants, as well as the General Counsel's  
2 Office, and have a summary of staff recommendations that  
3 has evolved from that.

4 I will let Scott Matthews, who is heading this  
5 up from the staff's perspective, summarize those for you.

6 MR. MATTHEWS: What I have handed out is a minor  
7 modification of the recommendations that we made to you  
8 last week, which were based upon a report that we issued  
9 on the 1st of August called Escrow Issue Discussion and  
10 Recommendation.

11 This morning we met with the interested parties  
12 who participated in the workshop we had several weeks ago,  
13 also participated in front of you in the last business  
14 meeting, to discuss these issues. We had some recommenda-  
15 tions then. We have subsequently modified them in reac-  
16 tion to some of their concerns.

17 The primary concerns that we heard this morning  
18 echoed what they had said to us earlier, which is that  
19 some resolution of some issues need to be made relatively  
20 soon, and there are a large number of issues, we can't  
21 handle them all at once, that we should focus on those  
22 issues that we can resolve now, and continue to work  
23 through the other issues and come back to you in a series  
24 of steps such as this, and present solutions to -- to other  
25 concerns as we develop them.

1           So we are down to six recommendations that we  
2 will be preparing an order to implement in the near future.

3           The first recommendation is that -- that is sort  
4 of implied, but I don't believe is explicitly stated any-  
5 where, that the date of acceptance of applications shall  
6 initially determine the order of allocation of reserve  
7 need.

8           In other words, if you are using first-in/first-  
9 out, the first-in counts when you get accepted in terms  
10 of an AFC and, as indicated in the staff's paper, if you  
11 are a small power plant exemption it's at the time that  
12 the Executive Director determines that that small power  
13 plant exemption application is accepted.

14           The second recommendation is that energy effici-  
15 ency and ratepayer protection issues should not be an  
16 element of the escrow determination.

17           The third recommendation is that the Commission  
18 should initiate development of gas-fired cogeneration effi-  
19 ciency criteria independent of any particular siting case.

20           Fourth, that the Commission should hold a one-  
21 time consolidated hearing to make an escrow determination  
22 for all the in-house cases. Now, this is not the only  
23 procedural way that this ought to be accomplished. It  
24 just seems to be the -- the slickest one that we can con-  
25 ceive of, but doing it on a case-by-case basis could also

1 be worked out.

2           The fifth recommendation is that for all future  
3 cases, past the ones that are covered in the one-time hear-  
4 ing, escrow should be determined as early as feasible in  
5 the regular hearing process. This is a modification from  
6 my earlier position that escrow should be determined by  
7 data adequacy would change the position because of legal  
8 concerns of implementing it at the data adequacy phase.

9           It's against the Warren-Alquist Act to have a  
10 hearing before the 90th day, and an examination of the  
11 case reveals that much of the issues are the same, so we  
12 don't feel it's that substantial of a burden on the parties  
13 to make the escrow determination to determine which test  
14 applies, as long as it's done relatively early in the hear-  
15 ing process.

16           And the final recommendation is that -- and this  
17 is the same as we saw before, that the Commission should  
18 apply the specified reserve need test to all projects filed  
19 before the adoption of the ER-5. We would recommend a  
20 reallocation to 276 megawatts from the unspecified reserve  
21 need to the specified reserve need as an interim reloca-  
22 tion in order to accomplish this recommendation. If one of  
23 those projects did not get certified or did not succeed  
24 in its request for exemption, that -- those megawatts that  
25 had been reallocated would revert back to unspecified need.

1 Are there questions?

2 COMMISSIONER CROWLEY: Any question?

3 Commissioner Gandara.

4 COMMISSIONER GANDARA: Are you presenting this  
5 for informational purposes, or are we supposed to reach  
6 a decision today? Because I notice it was noticed for the  
7 next Commission meeting as well. Where are we procedurally?

8 MR. MATTHEWS: This is -- this is for information  
9 and discussion purposes. We will be preparing an order  
10 that we will be circulating to all the parties in all the  
11 cases, and would recommend that you make a decision in  
12 the September 4th business meeting.

13 COMMISSIONER COMMONS: I'm sorry. September  
14 4th? Why -- are we not able to act today on this?

15 MR. MATTHEWS: There is no order in front of  
16 you for you to act, just a -- just a series of recommenda-  
17 tions. These recommendations have been evolving. We would  
18 want to get an order before you and, in addition, we would  
19 want to give all of the parties in all the cases an oppor-  
20 tunity to comment on the recommendations.

21 COMMISSIONER COMMONS: That's not my -- that's  
22 not my question. Is this a legally-noticed item? Could  
23 we act on it today if we wished?

24 MR. CHANDLEY: Our advice is that you not do  
25 so because, to the extent that the matters which you would

1 decide today would affect the parties in each of the siting  
2 cases.

3 The notice that would be required in siting case  
4 proceedings has not been provided to all the parties in  
5 the case. However, we have provided notice or we can pro-  
6 vide that kind of notice, and the length of notice that  
7 is required by the regulations, by that date.

8 COMMISSIONER COMMONS: Are you saying that, since  
9 we only have one week between now and the next business  
10 meeting, you do not feel we can act at the next business  
11 meeting on this item?

12 MR. MATTHEWS: Correct, because in a siting case  
13 you would need ten days notice.

14 COMMISSIONER COMMONS: Okay. Now -- all right.  
15 Now, let's say that we act affirmatively on all or a por-  
16 tion of this. Oh, I didn't have the floor. I'm sorry.

17 COMMISSIONER CROWLEY: Commissioner Commons.

18 COMMISSIONER COMMONS: All right. Well, let  
19 us say now that we acted affirmatively on this. Then my  
20 understanding would be that the committee would still have  
21 to hold -- hold a hearing on each case, and then whether  
22 or not a project received reserve need status would be  
23 based on that hearing.

24 MR. MATTHEWS: If -- if you accepted all our  
25 recommendations, the Recommendation 6, you would decide

1 as a body to apply the specified reserve need test to all  
2 those projects filed before -- actually that should read  
3 accepted before 5-15-85.

4 And then you would hold a consolidated escrow  
5 hearing, because there are still a number of factual mat-  
6 ters that must be determined, such as the size of the  
7 projects, the -- whether or not they comply with the PURPA  
8 definition of cogen, several other items that I can't recall  
9 off the top of my head, but there are a number of items  
10 that still need to be resolved.

11 COMMISSIONER COMMONS: All right. Well, the  
12 issue I want to make clear, and I should probably be  
13 addressing this to Mr. Chandley, is within this proceeding  
14 that we are talking about here we cannot amend ER-5, and  
15 we are required to hold a committee hearing.

16 Now, this Commission clearly at the time that  
17 they were to adopt this or a similar type of escrow pro-  
18 ceeding could have a hearing of the whole Commission, such  
19 as is identified under Item 4, but prior to the time that  
20 we adopt an escrow for the reserve need element there has  
21 to be a hearing, and a hearing before the Commission would  
22 satisfy that, but we could not adopt it without having that  
23 hearing and noticing it.

24 Otherwise, that would be an amendment to ER-5,  
25 which we could not do under this procedure.

1 MR. CHANDLEY: Well, I think you have to recog-  
2 nize that if Recommendation 6 is what you want to go for-  
3 ward with that it implies an amendment to the Electricity  
4 Report. I mean that's implicit within it.

5 COMMISSIONER COMMONS: No, I was looking at No. 4.  
6 I was going to come to No. 6 and -- in the discussion  
7 essentially I believe we could not do No. 6 without notify-  
8 ing that in holding a public hearing as required under  
9 -- Bill, you know the numbers, under 24205 or --

10 MR. CHAMBERLAIN: 25305.

11 COMMISSIONER COMMONS: Under twenty-five -- we  
12 would have to hold a hearing under 25305 and amend the  
13 Electricity Report to adopt No. 6.

14 However, under the Electricity Report we could  
15 do a consolidated hearing as suggested under No. 4, and  
16 do it at the time of that September 4th business meeting,  
17 but we would have to notify that we would be doing that  
18 hearing, and then at the end of that hearing we could  
19 actually act as a Commission on all of the different proj-  
20 ects that are before us, assuming we didn't do No. 6 here.

21 I just -- my main concern on this whole issue  
22 of escrow is that we don't end up in court by, one, having  
23 regulations or, two, amending the Electricity Report with-  
24 out following our procedures.

25 Applicants I am sure are more concerned as to

1 where their cases are, into which category they may fall,  
2 but from the Commission's perspective I think the main  
3 thing we want is to make sure when we site a project, then  
4 that project then is able to go forward and be built,  
5 rather than ending up in a court case.

6 And so my understanding is we could not do 6  
7 on September 4th unless we were to follow 25305 and have  
8 a hearing on the Electricity Report and reopen the  
9 Electricity Report.

10 Now, there is nothing that prevents the Commission  
11 or any Commissioner from saying that they would wish to  
12 take the first cases and give the reserve need to the first  
13 cases that came in. Now, there is nothing that I read  
14 that would prohibit a Commissioner or the Commission from  
15 saying that that would be the way that they would like  
16 to allocate their priority.

17 COMMISSIONER CROWLEY: Did you wish to comment  
18 on that?

19 COMMISSIONER GANDARA: Yes, I had some questions.

20 Commissioner Commons, do you see reopening the  
21 ER-5 independent from BR-5? Do you see the -- also the  
22 possibility of reopening BR-5 for corresponding or conform-  
23 ing changes.

24 COMMISSIONER COMMONS: Well, it would be my hope  
25 that we can implement the escrow issue without having to

1 reopen either ER-5 or BR-5. I do not -- unless we were  
2 able to come to a conclusion that we cannot so implement  
3 it fairly, it would be my strong voice that we not reopen  
4 something that has already been decided, and I would have  
5 to be given very strong evidence, which I have not yet  
6 heard, that the wishes of the majority of the Commission  
7 could not be legally implemented within a proceeding.

8           And I believe if the Commissioners wished to  
9 apply the specified reserve need test to projects in  
10 chronological order under ER-5, they have the right to  
11 do that now. There is nothing that would inhibit the  
12 Commissioners from expressing that viewpoint by voting  
13 for it on a project-by-project basis, or in one vote, and  
14 I see no need at this time to reopen the ER-5.

15           COMMISSIONER GANDARA: May I ask a question of  
16 staff?

17           Mr. Matthews, before the staff's presentation  
18 at the last business meeting, I found very useful the  
19 transcript of the escrow account workshop that was held  
20 July 26th. I understand you have been in a workshop all  
21 day. Will there be a transcript of today's workshop, also?

22           MR. MATTHEWS: Yes, and that will be available  
23 before noon on Friday.

24           COMMISSIONER GANDARA: This Friday?

25           MR. MATTHEWS: Um-hum.

1           COMMISSIONER GANDARA: Thank you. Will you be  
2 distributing it automatically to the Commissioners, or  
3 do we have --

4           MR. MATTHEWS: Yes. That automatically goes  
5 to the Commissioners. Also, I will do the same thing I  
6 did last time and give an extra copy to the Commission  
7 advisors.

8           COMMISSIONER CROWLEY: Commissioner Commons.

9           COMMISSIONER COMMONS: Yes. The way I would  
10 see this unfolding -- and, Randy, I don't know if I'm talk-  
11 ing to you or Mr. Matthews or our legal counsel -- is an  
12 applicant -- we have four tests that we have put forward.  
13 An applicant has a right to come before us under any one  
14 of those tests, or all four of those tests.

15           Essentially, they make a motion to the Commission  
16 or to the respective committee saying that we would like  
17 to go under Test 1, or Test 1 and 2, or whichever test  
18 that they wish, and then what the Commission would be say-  
19 ing, if we were to adopt this procedure, is we would con-  
20 solidate all of those motions into one -- one consolidated  
21 escrow determination hearing, and we would be ruling as  
22 a Commission, rather than having nine or however many cases  
23 we have in-house, separate committee hearings, and then  
24 sequentially having to hear the same issue at different  
25 business meetings.

1           We would, as a body -- well, there's a Latin  
2 word, but as one body we would hear all of those motions,  
3 and then for those cases that are in-house we would then  
4 vote as to which ones would be put into which category.

5           But the affirmative action must be taken by each  
6 of the applicants, in terms of their submitting a motion  
7 to us. We do not have the authority, since we have no  
8 rules, to say to an applicant that you shall be under 1,  
9 or 3, or 4. That's the applicant's right to come before  
10 us and say this is the test or tests that we would like  
11 to be considered under.

12           And so then we would essentially be ruling on  
13 the motions that they have submitted to us and, rather  
14 than having separate committee meetings, so forth and so  
15 on, if we were to doubt this, we would just have a -- an  
16 en banc -- I guess that's the term, an en banc hearing,  
17 and we would hear all the testimony on it, and then the  
18 Commission would vote as to which projects would then be  
19 given what priority, in terms of the escrow.

20           And it's a very important distinction, because  
21 we don't want to go in and do a rulemaking procedure. What  
22 we are trying to do is implement an escrow where it's up  
23 to the applicant to tell us and to petition to us what  
24 they wish to be considered under. We don't tell them what  
25 they have to do. They make a request to us, and then,

1 just like any case that comes before the Commission where  
2 you have a motion by an applicant, the committee, and in  
3 this instance we're saying the Commission, would rule on  
4 that motion.

5 But we want to do it -- if we were to adopt  
6 your recommendation, we would be doing it one time for  
7 all those cases that would be before us.

8 MR. MATTHEWS: I guess I'm -- I'm confused by  
9 your interpretation. Section -- or the Appendix 5.1.2  
10 says -- one of the things it says is that the Presiding  
11 Committee will hold a hearing to determine the appropriate  
12 need category and need test, and whether sufficient unfilled  
13 reserve need is available for the proposed project to allow  
14 an affirmative need determination, which implies that it  
15 would be the committee that would make a determination  
16 on what tests would apply.

17 COMMISSIONER COMMONS: Yes, but the --

18 MR. MATTHEWS: And the reason that we went with  
19 this recommendation was to get all the committees to do  
20 that in one body, just because it was a simple way of  
21 getting things done.

22 COMMISSIONER COMMONS: Yes, but -- you know,  
23 when a commission delegates authority to a committee, it  
24 can withdraw that authority at any time we wish because  
25 of -- in this instance I think it's just the -- an equity

1 thing. It's not fair to have nine separate hearings, and  
2 all the time problems, and all the other things. It just  
3 makes a lot more sense, and I assume that's why you are  
4 suggesting it, that we do it all together, and since we  
5 are all on different committees, that we just do it in  
6 one -- in one hearing.

7 COMMISSIONER CROWLEY: But I think the thrust  
8 of what Scott was saying was that we -- that it is not  
9 the applicant who chooses the test, that the 5-A -- what  
10 is it, 5 --

11 MR. MATTHEWS: Yeah, 5.1 -- Appendix 5.1.

12 COMMISSIONER CROWLEY: Point one -- Appendix  
13 5.1 indicates that the committee. Now, that -- it seems  
14 to me that it would be perfectly appropriate to say we  
15 choose that the whole Commission, but his point was that  
16 the applicant doesn't come in saying I want to be --

17 COMMISSIONER COMMONS: Well, if we were to tell  
18 the applicant that you are under a particular test, my  
19 concern would be, then, that that is rulemaking, and if  
20 the applicant -- we have four different tests, and the  
21 applicant only is required to pass one test, and we don't  
22 have a right to tell the applicant that you have to come  
23 under this test or that test. An applicant may wish to  
24 come under Test 1 or Test 2, or whatever test that they  
25 wish.

1           COMMISSIONER CROWLEY: But aren't you saying  
2 that the appendix says that, Mr. Matthews?

3           MR. MATTHEWS: Yes.

4           COMMISSIONER CROWLEY: And I think that if you  
5 say we don't have the right to do that, then we have a  
6 different question than what we are going to do in the  
7 future. The question then is, is the appendix right.

8           COMMISSIONER COMMONS: Well, the appendix doesn't  
9 answer the question as to -- the appendix only says that  
10 the committee will conduct a hearing. It doesn't say does  
11 the Commission state to the applicant that you will be  
12 reviewed under Test 1 or --

13          COMMISSIONER CROWLEY: Mr. Matthews, do you  
14 want to read that?

15          MR. MATTHEWS: Well, I --

16          COMMISSIONER CROWLEY: Because I thought that's  
17 just what he said it read.

18          MR. MATTHEWS: It's in the materials that I --  
19 that I handed out last time, and I -- but it says that  
20 the Presiding Member will hold a hearing to determine the  
21 appropriate need category and need test.

22          COMMISSIONER COMMONS: Well, but you hold that  
23 -- it doesn't answer the question as to -- if you want  
24 to hold that hearing, that hearing can still be -- and  
25 what we are saying is not inconsistent -- hold the hearing,

1 and it's on the applicant's motion as to which test they  
2 wish to be considered under.

3 We are not obligated to put each applicant into  
4 a particular category. That's what we decide as a  
5 Commission. But if an applicant doesn't want to be con-  
6 sidered under Test 3, we don't have a right to place them  
7 under Test 3.

8 COMMISSIONER CROWLEY: May I ask, please, a pro-  
9 cedural question of you, Mr. Chandley.

10 If we accept this as staff recommendation today,  
11 it is, as I understand it, the intention to circulate this  
12 among all the applicants, and on September 4th -- is that  
13 right -- then hear from them as to their comments, and  
14 at that time make a decision as to the applicability of  
15 the recommendations? Is that what I understand the pro-  
16 cedure to be?

17 MR. CHANDLEY: I think you really need to separate  
18 the different decisions you would be asked to make at that  
19 time. The first decision that I think impliedly the staff  
20 is asking you to make is to enlarge the reserve need cate-  
21 gory, the specified reserve need category, all right, so  
22 we would go through this process for the purpose of making  
23 that decision, that is to change that aspect of the  
24 Electricity Report.

25 COMMISSIONER CROWLEY: Um-hum.

1           MR. CHANDLEY: Once you have enlarged and made  
2 that decision, then you would hold a consolidated hearing  
3 in order to apply that decision to the first five or six  
4 cases in-house, and the application of that decision would  
5 -- without any complications, the application of that deci-  
6 sion would be that the specified reserve need test would  
7 then apply to those first five or six cases.

8           COMMISSIONER CROWLEY: Would it be necessary  
9 for us to make that determination today, or is that --  
10 is that where -- is that what is implied in circulating  
11 this for discussion on the 4th?

12           MR. CHANDLEY: Well, you need to do two things.  
13 First of all, you need to let people know in advance that  
14 you are planning to change the Electricity Report.

15           COMMISSIONER CROWLEY: So it is a modification  
16 of the Electricity Report.

17           MR. CHANDLEY: And we have to go through some  
18 sort of procedural process of notice a hearing, putting  
19 out a draft in advance, something that roughly approxi-  
20 mates the process one goes through in adopting the  
21 Electricity Report in the first place, because you have  
22 to -- you have to go through that ritual.

23           And then -- then we think it also advisable to  
24 provide notice to the parties in the siting cases that  
25 something affecting the need determination in that -- in

1 that each specific siting case is going to be decided at  
2 that hearing, and so we would want to have the time to  
3 provide notice to each or those parties.

4 There are really two decisions that are being  
5 called for here in order.

6 COMMISSIONER CROWLEY: And the first would be  
7 made on the 4th; is that correct?

8 MR. CHANDLEY: Both would be made on the 4th.

9 COMMISSIONER CROWLEY: Well, but the point is,  
10 not today.

11 MR. CHANDLEY: That's correct.

12 COMMISSIONER CROWLEY: Yes. Okay. Thank you.

13 Is there any other comment on this?

14 Yes. Commissioner Noteware.

15 COMMISSIONER NOTEWARE: It seems to me we could  
16 live with -- with the procedure that's established in  
17 ER-5, but I think we're not being realistic in what we  
18 really have here. Let's stand back a minute and see what's  
19 really the case.

20 All of our applications are for cogeneration,  
21 and the specified reserve need is cogeneration. The unspeci-  
22 fied reserve need is also going to be taken up totally  
23 with cogeneration, so really what's the difference?

24 Then we come to the reserve need displacement.  
25 Again, that's all cogeneration, and it strikes me that

1 if cogeneration has displaced something that we consider  
2 a good project, like for instance a good hydro project,  
3 or something like that, it's still a worthwhile thing,  
4 so it seems to me that it's more a matter of semantics  
5 at this point, and why have four or five different tests  
6 all to accomplish the same purpose, just because we are  
7 trying to -- to live with what we anticipated a few months  
8 ago that isn't actually the situation today?

9           If you follow what I'm saying, that -- I see  
10 that the difference between specified reserve need and  
11 unspecified reserve need, there's no difference, so why  
12 have two different tests?

13           And carrying that on through the need displacement,  
14 what we are really faced with is how much cogeneration  
15 do we want to have?

16           COMMISSIONER CROWLEY: Then do I hear you suggest-  
17 ing that perhaps one of the questions we should be answer-  
18 ing on the 4th is a reconsideration of the reserve need  
19 category?

20           COMMISSIONER NOTEWARE: Well, I think if we don't  
21 reconsider what it is, we should -- we should be realistic  
22 about living with it as it actually is going to exist.

23           COMMISSIONER CROWLEY: Commissioner Commons?

24           COMMISSIONER COMMONS: Yes. Well, I would not  
25 agree with you on the issue, but I think what you are doing

1 is outlining the issues that need to be discussed. I --  
2 and I see it in a slightly different vein than the way  
3 John is putting forth.

4 I think the first question that we need to  
5 address is given the ER that we have already voted on just  
6 a few months ago, how do we implement that escrow account  
7 within the ER that was adopted, and that's the first thing  
8 that we should come to grips with, because we have cases  
9 that are before us, and we should -- we should move on,  
10 so we should allow these cases and the committees to pro-  
11 ceed as to knowing where they are located.

12 I think there's a second issue, and that is any  
13 commissioner has a right to reopen a rulemaking proceeding,  
14 and if we feel that, as a Commission, that we want to  
15 modify either the unspecified reserve need or to modify  
16 the reserve need boxes, then what we have to do is reopen  
17 the ER and hold a hearing under the ER, and make -- and  
18 make those adjustments.

19 And there are issues related as to whether or  
20 not we ought to, and I don't think -- well, we could dis-  
21 cuss the issues today as to the policy aspect. If we start  
22 getting too much into the reopening of the ER, I think  
23 we are going to find that it's going to be very difficult  
24 to close on this, certainly in the month of Septebmer,  
25 and we are going to be finding ourselves going into October

1 before we actually make any -- make any decisions, because  
2 it's going to require hearings. Then you are going to  
3 have to have the hearings on which cases go into it if we  
4 reopen the EER. Then you have a sequential set of hear-  
5 ings.

6 COMMISSIONER CROWLEY: I think you have charac-  
7 terized that correctly, but I think doing what we -- the  
8 staff recommends here is in effect doing that simply struc-  
9 tured inside the ER-5 framework.

10 In other words, you are in effect naming these  
11 things, other things, when in reality they all are cogenera-  
12 tion, and I think you are -- are offering -- being offered  
13 a solution here which amounts to the same thing, only it  
14 is simply called something else so that it won't reopen  
15 the ER-5 process.

16 COMMISSIONER COMMONS: Well, now, if you follow  
17 through with what Doug was saying, and I can see arguments  
18 for his side, is rather than having separate tests when  
19 you are looking at cogeneration, have the same test, which  
20 may be somewhat -- may raise some of the issues that are  
21 raised in other tests, like is it good for the ratepayer,  
22 is this a thermally-efficient facility, and -- but you  
23 would have one test that would apply to all the cogenera-  
24 tion projects, and then you would come to grips with a  
25 number, rather than having three separate tests the different

1 cogeneration projects would come under.

2 COMMISSIONER CROWLEY: Well, we have separate  
3 tests --

4 COMMISSIONER COMMONS: Right now we have --

5 COMMISSIONER CROWLEY: We have tests now; is  
6 that right?

7 COMMISSIONER COMMONS: Right now you have --  
8 right now the problem that we have that he is identifying  
9 is that to a certain extent when you have submitted an  
10 application it may put you under one test or another test,  
11 and so just -- when you got your application to us, or  
12 something else, it may make it more difficult for that  
13 project to pass another, the one that got in earlier, and  
14 my understanding of what he was saying is we should have  
15 one test for all the cogeneration projects, and we should  
16 come to grips with a number, and the number would be a  
17 number higher than 650, but less than the sum of the  
18 unspecified, the reserve need, and the displacement, and  
19 we should come to grips with that number and have one test  
20 for all cogeneration projects up to that number.

21 COMMISSIONER CROWLEY: Does that characterize  
22 what you --

23 COMMISSIONER NOTEWARE: Not exactly. I think  
24 we could live within the ER-5 framework as it stands, but  
25 greatly simplify the testing procedure by not having the

1 distinctions as they are established there.

2 COMMISSIONER COMMONS: I guess I don't -- I would  
3 not -- in other words, you would use like the reserve need  
4 test for all unspecified, or the unspecified test for all  
5 reserve need under cogeneration? You have to still have  
6 a number.

7 COMMISSIONER NOTEWARE: Yes.

8 COMMISSIONER COMMONS: And that would require --  
9 if that number were different than the one in the ER, that  
10 would require a modification of the ER, and if you are  
11 going to have one test that would eliminate the other tests,  
12 so that would also require a modification to the ER.

13 COMMISSIONER CROWLEY: And wouldn't your recommen-  
14 dation modify the ER to the degree it would have to be opened?  
15 In other words, if you -- if you changed the tests so that  
16 they were symmetrical as among all the boxes, reserved  
17 and nonreserved, and so on, or unspecified, or --

18 COMMISSIONER NOTEWARE: Well, it's my under-  
19 standing that the ER-5 was accepted without definitive  
20 tests being prescribed. The numbers are there, the boxes  
21 are specified, and I'm saying we can still live with the  
22 numbers within the boxes, but that the -- the tests that  
23 we establish can reflect the fact that the unspecified  
24 reserve need is going to be the same as the specified  
25 reserve need for the cogeneration.

1           COMMISSIONER COMMONS: So, in other words, if  
2 you were looking at a cogeneration project and the unspeci-  
3 fied reserve need, there you have to demonstrate that  
4 there is oil and gas displacement, which is not required  
5 to be done for reserve need, so you say you would drop  
6 that -- you would drop that test for cogeneration projects  
7 under the reserve need test, that we would not have to  
8 demonstrate there would be oil and gas displacement.

9           COMMISSIONER CROWLEY: Or add it to the other.

10          COMMISSIONER NOTEWARE: Or add it to the other.

11          COMMISSIONER COMMONS: Or you would add it to  
12 the other one.

13          COMMISSIONER NOTEWARE: Yes.

14          COMMISSIONER COMMONS: So you would have one  
15 -- one common test for all projects under all -- for all  
16 cogeneration projects.

17          COMMISSIONER NOTEWARE: Yes.

18          COMMISSIONER CROWLEY: Regardless of which need  
19 category they were -- reserve need or unspecified they were  
20 going for.

21          COMMISSIONER NOTEWARE: Yeah.

22          COMMISSIONER COMMONS: I can find merit in --  
23 in that position. The -- and we wrestled with that issue  
24 in terms of ER-5, and I would have -- I would ask two ques-  
25 tions.

1           First of all, to accomplish that would probably  
2 take more than one public hearing, I think, because you  
3 are raising a major issue that there would be a lot of  
4 people that would want to comment on it. You would have  
5 to put out what test is. That is going to require some  
6 time of the staff, and I think realistically you are talk-  
7 ing a 60- to a 90-day period to accomplish that.

8           The other question would be, if we are under  
9 a 15-month process, should we do that under ER-6, or should  
10 we, because of the importance of the issue, you know, the  
11 Public Utilities Commission did something similar by stop-  
12 ping their outstanding orders, that I could see this  
13 Commission saying that this is a very important issue,  
14 and that it is not fair to different applicants to have  
15 different tests, in that even though it does take 60 or  
16 90 days to do it that way, so I could --

17           COMMISSIONER CROWLEY: Then what would be the --

18           COMMISSIONER COMMONS: I could be sympathetic  
19 to it, but I think we have to realize that if we were to  
20 do it the consequences and the levity of the action that we  
21 would be taking --

22           COMMISSIONER CROWLEY: The levity?

23           COMMISSIONER COMMONS: Well, wrong word -- con-  
24 sequences. It's a -- it would be a weighty action of this  
25 Commission to change.

1           COMMISSIONER CROWLEY: Then what would happen  
2 if we decided to do that to the cases in-house? Would  
3 you say we would drop back to -- what, case by case, or  
4 what?

5           COMMISSIONER COMMONS: Well, no. It would hold  
6 up essentially the processing of all the cases that are  
7 before us until we arrived at that decision, or you could  
8 say that we will allow cases -- that this change in ER-5,  
9 and you would have to reopen ER-5, would only apply to  
10 those cases -- or projects that were submitted after such-  
11 and-such a date.

12           However, that would again require the reopening  
13 of ER-5 to even make that decision.

14           COMMISSIONER NOTEWARE: No, I'm not advocating  
15 reopening ER-5 in any event. I -- I just --

16           COMMISSIONER COMMONS: Well, to accomplish your  
17 objective would require legally the reopening of the ER-5,  
18 and why don't we get a - rather than taking my opinion  
19 on that, why don't we make sure that legal counsel would  
20 agree.

21           John, what Doug is requesting, and I'll let Doug  
22 put it in his words, would it or would it not require the  
23 reopening of the ER-5?

24           MR. CHANDLEY: During the last week, we examined  
25 the option of coming up with a single test that applied

1 to everybody, and having spent some considerable time on  
2 that, the only way that one achieves any economy or  
3 administrative efficiency by doing that is to go back and  
4 change a couple of the criteria in a couple of the tests  
5 in order to achieve that consolidation. They couldn't  
6 figure out a way to do that otherwise.

7           Now, whether you think those changes are signi-  
8 ficant or not, or whether you think they are worthwhile  
9 making is another question, but the bottom line is that  
10 we think that you could achieve a single integrated test,  
11 but that it would require changing the test as it would  
12 be applied in some projects and, therefore, you would have  
13 to go back and reopen the ER in order to make that change.

14           MR. WARD: And let me add that one of the reasons  
15 that type of a proposal is not before you today is because  
16 it would in fact ask -- change some of the questions, the  
17 formats and the tests that were of significant debate  
18 during the ER, one of which was raised by Commissioner  
19 Commons, which was the oil and gas displacement test, which  
20 was specifically addressed as not being part of the  
21 specified reserve need test.

22           So it was those kinds of complications that led  
23 us to the conclusion that this was a far more expeditious  
24 way to approach the issue to solve the problem that we  
25 have.

1 I might mention for Commissioner Commons' bene-  
2 fit a couple of things that came out of the workshop that  
3 at least staff sensed the applicants were saying very loud,  
4 which was don't stop the cases.

5 COMMISSIONER CROWLEY: You're talking about  
6 today's workshop?

7 MR. WARD: No, the workshop both today, and also  
8 the one on the 26th, and then they -- that they wanted  
9 some consistent direction, and so that's what we have been  
10 attempting to do in working with them is lay out a frame-  
11 work that was understandable that followed the inten. of  
12 ER-5, and that where we did see some problems, and the  
13 major problem here we thought was the issue of those cases  
14 that had had a substantial amount of their record recorded  
15 prior to the adoption of the ER.

16 COMMISSIONER COMMONS: Doug, there's --

17 MR. WARD: And, frankly, that's a policy issue  
18 to bring as an option before the Commission. What we are  
19 proposing here will work either way.

20 COMMISSIONER COMMONS: One of the --

21 COMMISSIONER CROWLEY: Even --

22 COMMISSIONER COMMONS: Oh, I'm sorry.

23 COMMISSIONER CROWLEY: Excuse me. Commissioner  
24 Commons.

25 COMMISSIONER COMMONS: One of the reasons for

1 the multiple tests is there is more than one reason to  
2 site a power plant. If you have one test before us for  
3 all power plants, to really look at it from one perspect-  
4 vie, there might be one power plant that turns out to be  
5 a little more expensive for the ratepayers, but we are  
6 going to get a thousand jobs for California and save the  
7 community, or it's going to have significant air pollution  
8 benefits to a basin, or save an industry.

9 Another -- another cogeneration plant may not  
10 have those economic benefits but -- to a community, but  
11 it may be really great in terms of the ratepayer.

12 Another one might help us significantly displace  
13 oil and gas.

14 Another one, we have this need out there, and  
15 we've got to get a certain number of sitings just in order  
16 to have the system going, and so there are reasons I feel  
17 to have different grounds for siting power plants, and  
18 so it doesn't bother me to have the different tests.

19 We still as a group of commissioners want to  
20 say, even though we site some under one category and some  
21 under a different category, we still have an upper limit,  
22 in terms of the total number of power plants that are  
23 needed under -- under CFM-5, and so at a certain point,  
24 when we have too many applicants, which is what this list  
25 is, we are going to have to say no to some.

1           But I don't feel that necessarily there is only  
2 one reason to site them. There may be different reasons  
3 to site different power plants, and it's a nice situation  
4 to be in, that we have more applications than we have need,  
5 so we can select some of the better ones. That is why  
6 our office is working on essentially a bid system which  
7 would allow the competitive process to come forward later  
8 on, and essentially the low bidder would be the one who  
9 would win, and we would just open up an envelope, and that  
10 would be the way it would be done, and then you just go  
11 through the siting for your environmental grounds. But  
12 the --

13           MR. WARD: One other clarification I might add  
14 is that, Commissioner Noteware, the only reason under the  
15 staff proposal in front of you today that you would have  
16 to open up ER-5 would be to increase the specified reserve  
17 need by 276 megawatts. If you did not agree with that  
18 alternative as presented, then you would not have to open  
19 up the ER at all.

20           COMMISSIONER COMMONS: Yes. No. 3 also, I would  
21 have to say, Randy, I think is beyond the confines of the  
22 discussion of the escrow issue. That's a separate matter.

23           COMMISSIONER CROWLEY: I think that that's an  
24 appropriate thing --

25           MR. WARD: That -- that's correct.

1           COMMISSIONER CROWLEY:  -- but I do agree that  
2 that's -- I think that's outside what --

3           COMMISSIONER COMMONS:  I think we have enough  
4 problems to try to wrestle to -- and I would tend to agree  
5 with what you are saying came out of the workshop.  I would  
6 tend to be of the school, unless we really still have a  
7 strong need, is to implement CFM-5.  If we have mistakes  
8 in CFM-5, then the Commission can correct those, and we  
9 clearly when you do something new are going to find ways  
10 of improving it.

11           And that's the job of the CFM-6 committee, is  
12 to use that experience to improve on it, and right now  
13 it is not fair to the applicants that are in the holding  
14 tank, essentially, not to have this thing implemented and  
15 to go forward, and if we later on feel we need to make  
16 an adjustment this Commission has the ability and the  
17 authority to do so.

18           But the first thing we should do is to try to  
19 process the cases that are log-jamming and coming up the  
20 pike, and implement the escrow account that has been estab-  
21 lished under CFM-5.  That -- that's my own personal opinion.

22           MR. WARD:  Well, I'm certainly not here to give  
23 anyone the impression that we don't think it's doable.  
24 I mean we definitely think it's doable, and we are not  
25 coming to you with that kind of a problem as being anything

1 apparant to us.

2 We are still at it, and we are taking the --  
3 the steps incrementally. We are aware of the cases and  
4 the position of those cases, and the dates they have been  
5 filed, and what has to happen. There's other issues in  
6 the context of implementing the siting policy that we are  
7 going to be raising before you on a regular basis, and  
8 we are also segregating those issues as to those that are  
9 doable within -- between now and the time ER-6 is adopted,  
10 and those kinds of things that need to be addressed in  
11 ER-6, so --

12 COMMISSIONER CROWLEY: Your recommendation, as  
13 far as implementation of these five things -- six things,  
14 though, is that we hear them described today, and then  
15 have a hearing of all the parties and deal with them in  
16 September?

17 MR. WARD: In --

18 COMMISSIONER CROWLEY: Is that correct?

19 MR. WARD: The first business meeting in  
20 September.

21 COMMISSIONER CROWLEY: Okay. Then let me ask  
22 the Committee's -- the Commission's consideration of Item  
23 3. Do you see that as one of the points to be made regard-  
24 ing how we deal with cases in-house, for the purposes of  
25 the escrow account? It seems to me that's extraneous to

1 the issue at hand to some degree.

2 MR. WARD: Well, okay. There are numerous  
3 references in the Electricity Report and the appendices  
4 to energy efficiency and ratepayer protection, and energy  
5 efficiency is about as vague and ambiguous as you can get,  
6 and that is something that we have heard complaints from  
7 -- in unison from applicants.

8 COMMISSIONER CROWLEY: I thought I said three.  
9 I'm sorry. Are you speaking to two?

10 MR. WARD: Okay. No, I -- but the issues are  
11 similar. Okay? What we are saying is that those energy  
12 efficiency and ratepayer protections should not be part  
13 of the escrow determination, but they still are part of  
14 the overall text of the siting proceeding, and in that vein  
15 we need some direction formally adopted by this Commission  
16 that gives us a benchmark for efficiency of cogeneration.  
17 Okay.

18 Right now we have nothing other than the guidance  
19 of federal law and state law that gives us that benchmark  
20 which, in the Electricity Report, the policy preference  
21 there is for cogeneration that meets or exceeds, preferably  
22 exceeds, I guess --

23 COMMISSIONER CROWLEY: I understand.

24 MR. WARD: -- the efficiency set forth in --  
25 in statute. And so if that's the task, then we need to

1 be getting on with it and developing that kind of a bench-  
2 mark.

3 COMMISSIONER CROWLEY: You're saying we need  
4 to do that --

5 MR. WARD: We need --

6 COMMISSIONER CROWLEY: -- before we can deal  
7 with the siting cases that are in-house?

8 MR. WARD: Exactly. In other words, in the --  
9 as the process is unfolding right now, I don't see us being  
10 able to do anything on efficiency that is going to be  
11 meaningful in the context of the case necessarily, over  
12 and above using the statute as prescribed -- what is pre-  
13 scribed in federal law as being cogeneration efficiency.  
14 And that has been something that we have been grappling  
15 with for --

16 COMMISSIONER CROWLEY: Is it your intent that  
17 we hold all the siting cases --

18 MR. WARD: No.

19 COMMISSIONER CROWLEY: -- that deal with cogen --

20 MR. WARD: No, it's not.

21 COMMISSIONER CROWLEY: -- until we establish  
22 that, or that we proceed under the FERC guidelines?

23 MR. WARD: Well, that -- that's the intention.

24 COMMISSIONER CROWLEY: Okay. Then that's why  
25 I say I don't believe that that is part of dealing with

1 this immediate issue.

2 MR. WARD: Okay.

3 COMMISSIONER CROWLEY: If you want to put it  
4 as part of it, then it would seem to me we hold the whole  
5 rest of it until you establish the benchmark, and I didn't  
6 think you intended to do that.

7 MR. WARD: Yeah, this is primarily dealing with  
8 the escrow issue. You're correct.

9 MR. MATTHEWS: No, it's in there to -- to get  
10 guidance on how that issue should be resolved, and it's  
11 our position that the resolution of implementing the  
12 Commission's preference for energy-efficient cogen that  
13 protects ratepayers should be done through a generic pro-  
14 ceeding and we adopt guidelines, and so that's why it's  
15 there, just because -- the question of not being in an  
16 escrow immediately raises another question of what do you  
17 do with it, and it's that second question.

18 But you are right. It's a second -- a second-order  
19 issue.

20 COMMISSIONER CROWLEY: Then what is the pleasure  
21 of the Committee -- Commissioner Gandara has a comment  
22 -- of the Commission, I mean.

23 COMMISSIONER GANDARA: All right. Madam Chair,  
24 I'm going to have to leave in a few minutes. I indicated  
25 that previously to the Chairman --

1                   COMMISSIONER CROWLEY: Yes. And I'm hoping  
2 that we can come to some closure on this.

3                   COMMISSIONER GANDARA: -- and so I have exercised  
4 the discipline of a 20th-level Zenmaster throughout these  
5 discussions, because, you know, I had my differences with  
6 some of these issues, but I can't help but think that we  
7 are still, in the words of a participant in one of the  
8 workshops here indicated, rearranging the deck chairs of  
9 the Titanic here.

10                   And then I'm also kind of profoundly impressed  
11 by this great concern over not reopening BR-5 or ER-5 as  
12 somehow we are sort of piercing some statutory virginity  
13 there that has been violated quite a bit here, and so what  
14 I -- what I really -- if I really think that -- if the  
15 Commission is really considering doing some serious  
16 restructuring here, okay, then I think we can do it within  
17 the context of what we have and not try to do violence  
18 to anybody's concepts, but try and make them workable.

19                   What I would recommend is an option that isn't  
20 here at all, and that is that, rather than have a multi-  
21 boxes concept that we retain the box concept by having  
22 one large box, and that one large box would be the dif-  
23 ference between the forecast and the likely-to-be-available  
24 category.

25                   And so that the Commission should focus more

1 on the likely-to-be-available, a very careful accounting  
2 of what is likely to be available, and those two give you  
3 the box of everything that you need to meet the demand.

4 Now, if I take what the Commission said I guess  
5 at the last BR is that cogeneration was likely to pose  
6 a problem, there were many applications, a lot of contracts  
7 out there, and so, therefore, to some extent, the whole  
8 reaction to the box concept or the multi-box concept was  
9 the idea that again we are going to make some tough deci-  
10 sions, and there are some that are better than others,  
11 and, therefore, what shall be the criteria for choosing  
12 among them.

13 And it does seem to me that the message that it  
14 was sending out is that cogeneration may no longer be  
15 preferred. It may not be a preferred technology, so if  
16 that's the statement we are trying to make, then I see  
17 no policy basis why we would continue with policies of  
18 small power plant exemptions.

19 When I look at what we have here, we have four  
20 or five SPPE applications that we expect, for a total of  
21 270 megawatts. Those 270 megawatts combined are larger  
22 than all but two or three of the expected applications,  
23 so then I would ask on what policy basis do we somehow  
24 give preference for 270 megawatts of cogeneration, and  
25 not -- you know, in lieu of one single large application.

1           Then I look at the SPPEs and I see that all but  
2 one or two are less than 55 megawatts. There is one for  
3 53 and one for 51. The last separate NOI/AFC this  
4 Commission processed spent 18 months processing a 55-  
5 megawatt plant, a geothermal plant, I might add, for which  
6 there is a certainty of oil and gas displacement, so then  
7 I would ask what is the policy basis for having that process  
8 on the books, and yet having a preference for -- for a  
9 small power plant exemption.

10           So I would say that what the Commission would  
11 need to do is to say there is no longer a distinction  
12 between various cogenerating proposals within our juris-  
13 diction.

14           Then the next question is, if there is no distinc-  
15 tion between cogeneration applications, then ought we not  
16 to make a distinction? Well, perhaps we ought, but we  
17 have a very serious constraint, and that is we have a  
18 statute that defines cogeneration, and until we change  
19 that statute, I would think that an applicant would have  
20 a very strong argument with any rules or regulations that  
21 one would come up with that would say, you know, that we  
22 now have a rule or regulation for cogeneration efficiency  
23 that is stricter than what is in the statute, so that's  
24 a constraint.

25           So I'm not quite so sure that we should embark

1 on this cogeneration efficiency criteria without first  
2 taking a look at what needs to be changed in the statute.  
3 Otherwise, we may be spending a lot of time on something  
4 that might not be very useful.

5           So then that gets us back to what distinction  
6 do we use among all the applications in the large box.  
7 Well, I would say that a good candidate would be whether  
8 one should review the oil and gas displacement policy.  
9 I'm not sure that an oil and gas displacement policy has  
10 survived the box concept, and is there a reason for still  
11 continuing oil displacement policy? Perhaps yes, perhaps  
12 not.

13           Is there a reason to make a distinction between  
14 oil and gas? If we have an oil displacement policy should  
15 that apply equally to gas?

16           In other policy areas we evidence a great concern  
17 over the declining demand in gas and, therefore, more a  
18 policy that are being promoted or pushed on the Commission,  
19 or advocated, I should say, that in fact we ought to be  
20 more concerned about the demand or the consumption of gas  
21 and, if so, then perhaps that distinction ought to be made  
22 or forgotten.

23           Then the last question is, well, what would happen  
24 if an application tomorrow is better than an application  
25 today? I've seen a lot of applications, and I can find

1 comparability the most difficult of things, even among  
2 the geothermal applications. They are all different in  
3 some way. Efficiency is a very difficult thing to compare,  
4 and within the cogeneration application, an application  
5 for food processing, an application for thermally-enhanced  
6 oil recovery, an application for refinery operations, are  
7 all very different.

8           So, does efficiency, the measure of efficiency  
9 in fact reflect the concern we should have? So I'm not  
10 quite so sure.

11           So then you go back, if we cannot in fact sort  
12 of define the universe or the population of applications,  
13 do we -- can we even further lay out efficiency criteria  
14 that would be in any way really comparable? So that leaves  
15 us without a possibility of using that. So what do we  
16 use then?

17           Then we go back to first in time, first in right,  
18 Well, that was an element of the new siting policy that  
19 we were supposed to be trying to get away from, and when  
20 I look at the Table 3, and I look at the specified reserve  
21 need of the first three, and unspecified of the next ten,  
22 and then we -- I would venture to say that I see first  
23 in time, first in right, in any case, so we have never  
24 really departed from that.

25           So then I would ask the question what is wrong

1 with that? Now, may it not be in some way the natural  
2 order of the universe that first in time is first in  
3 right? I mean it's well-founded property law, it's well-  
4 founded precedent in many areas, and I can see the argu-  
5 ment that, yes, that we have two identical applications  
6 and it can clearly be established that one is better than  
7 the other, should we not in fact make a distinction, but  
8 can we really under the circumstances and, therefore, can  
9 we -- do we really have a better system than first in time,  
10 first in right, because if we don't, what we've created  
11 in this situation is a finite resource that is an entitle-  
12 ment, and what we are about is allocating that entitlement  
13 for which every allocation affects everybody else's  
14 interest, and we are doing nothing more than creating  
15 a contentious atmosphere as to who shall be asked to be  
16 head of the line.

17           And is there any better way to do it, really,  
18 practically speaking? I mean we're talking about just  
19 a common-sense application. Is there really any better  
20 way to do it than to in fact have first in time, first  
21 in right, as terrible as it sounds? I mean it worked,  
22 it has worked in many areas for many years, and, after  
23 all it is really the only thing that is left to us without  
24 really changing the statute with respect to cogeneration.

25           So I would think that that is not a proposal

1 before us, but I would say that if one is considering  
2 changes, perhaps better to do it that way and to do it  
3 now than to add again additional complexities that will  
4 divert us from the central issues, will get us involved  
5 in another morass with some unexplained problems, and if  
6 it's -- one thing that I've learned with respect to regu-  
7 lation, and it's not really just here at the Commission  
8 but I think as a general rule, is that the more that there  
9 are requirements laid on anything, the more innovating  
10 people will be or the more the unexpected situation will  
11 occur, so that you will see a perverse effect of that  
12 particular application, so that something else will crop  
13 up, and can we really be smart enough to anticipate all  
14 those possibilities.

15           So, again, I don't feel too strongly about it,  
16 or emotionally wedded to it. I put some distance between  
17 my feelings about it in the last development, but I am  
18 really not quite certain that we are doing us much good  
19 by a continued massaging of the elements that we have here,  
20 and when the Executive Director indicates that as a prac-  
21 tical matter he feels that -- and as I do agree with that  
22 particular point, that the statute defines the cogeneration  
23 criteria, and beyond that can we -- until we change the  
24 statute can we really distinguish -- can we require a dis-  
25 tinction?

1 COMMISSIONER CROWLEY: Mr. Chairman --

2 CHAIRMAN IMBRECHT: Yes. Commissioner Crowley.

3 COMMISSIONER CROWLEY: We asked staff, within  
4 certain confines, what they would recommend, and given  
5 what Randy said and what Commissioner Gandara has been  
6 saying -- Mr. Ward and Commissioner Gandara have been say-  
7 ing, would it perhaps, if they were asked just the general  
8 question, it might not be -- would it not be possible that  
9 their recommendation would be that we should initiate  
10 development of gas-fired cogeneration efficiency criteria,  
11 and then applying first-in, first-in-right -- first in  
12 time, first in right, then applying rigorous criteria to  
13 the cases that we have, since it appears cogeneration is  
14 what is coming through the door?

15 In other words, my question is, if they were  
16 asked to recommend something without being told what it  
17 was, wouldn't they recommend -- would you all recommend  
18 first benchmarks on cogeneration, and then find out what  
19 cases are appropriate?

20 MR. WARD: Well, I think what you are soliciting  
21 is -- has some problems in terms of what it would do to  
22 existing cases. In other words, we --

23 COMMISSIONER CROWLEY: I'm sorry. I didn't hear  
24 you.

25 MR. WARD: What it would do to existing cases

1 if we were to say, okay, let's put everything in abeyance  
2 until we have some threshold measure of cogeneration  
3 efficiency for all the various types and characteristics  
4 of cogen systems that Commissioner Gandara articulated,  
5 that that would have holding up the siting cases.

6           And again, you know, our direction is the policy  
7 direction that came out of the ER, and you all went through  
8 fair and thoughtful and hard, long debate on that, and  
9 I think the issue was to continue a diverse number of  
10 resources in the state with a relatively constrained amount  
11 of need, and given that we are doing our best to try to  
12 implement that.

13           And we have -- as I indicated two weeks ago,  
14 Scott Matthews is heading up from the staff's perspective  
15 an internal task force, and we have a fairly thoughtful  
16 process that's evolving, and I don't think the Commission  
17 or the staff anticipated that we would have all the answers  
18 on the 15th of June after the 15th of May that this was  
19 adopted, and we are still at it.

20           It's going to take us some time. We are rais-  
21 ing some questions now that hadn't been raised before,  
22 but as I said, we are trying to divide the issues now in  
23 terms of what can we do to facilitate the cases that are  
24 currently in our process, do as much as we can to implement  
25 the ER-5 policy with regard to those specific cases, and

1 then take the next step for the ones that we can't, and  
2 the other issues that may require regulatory change or  
3 statutory change, address those in the ER-6.

4 So we have tried to frame it as logically and  
5 rationally as we possibly can.

6 CHAIRMAN IMBRECHT: I understand that -- that your  
7 contemplation now is September 4th for resolution of this.  
8 Does that cause us any problem? I thought we had some  
9 exigency noted at the last meeting.

10 MR. WARD: That's probably the best we can do,  
11 and it was explained earlier while you were out,  
12 Mr. Chairman, that in terms of putting an order together  
13 and notice, and sending out this to all potentially interes-  
14 ted parties, it would probably be in our best interest  
15 to wait until the 4th of September.

16 CHAIRMAN IMBRECHT: Okay. Is there anything  
17 else to be heard on this matter at this point?

18 MR. MATTHEWS: I would imagine there's public  
19 comment.

20 CHAIRMAN IMBRECHT: Anyone else wish to be heard?  
21 Mr. Gersick, I see you on the edge of your chair  
22 now.

23 MR. GERSICK: Actually, I was moving back into  
24 it rather than out of it, Mr. Chairman.

25 I'm afraid I just -- I came back in and did not

1 understand where we are. Is there going to be public com-  
2 ment now on the six-element recommendation, on the ques-  
3 tion of deferral until the 4th, or any or all of the above?

4 CHAIRMAN IMBRECHT: Anything you care to speak  
5 to, although we --

6 MR. GERSICK: If there is going to be opportunity  
7 for comment on the 4th, Mr. Chairman, I think I'll reserve  
8 my comments till then.

9 COMMISSIONER CROWLEY: Yes.

10 CHAIRMAN IMBRECHT: There certainly will.

11 MR. GERISCK: Thank you.

12 CHAIRMAN IMBRECHT: All right. Anyone else wish  
13 to be heard? Mr. Perez.

14 MR. PEREZ: Mr. Chairman, last week on the record  
15 of the business meeting Mr. Chandley made a statement to  
16 the effect that he was providing the Commissioners with  
17 a legal memorandum, I am presuming at this point, address-  
18 ing the question of the escrow account.

19 It is also my recollection that during that  
20 time Mr. Ward indicated that he had only received the --  
21 a copy of the memorandum that morning. In light of the  
22 distribution of legal advice to the Commissioners, as well  
23 as one of the parties in ongoing proceedings in the  
24 Commission, I would recommend that you consider a distri-  
25 bution of copies of that advice to all parties in those

1 proceedings, to avoid any potential negative legal impact,  
2 either in terms of violation of an ex parte prohibition  
3 or a general denial of due process on the part of those  
4 prospective applicants.

5 CHAIRMAN IMBRECHT: I don't understand the ex  
6 parte reference. Could you explain that further?

7 MR. PEREZ: Well, it wasn't -- it wasn't clear  
8 to me, and part of my ambiguity reflects the fact that  
9 I was unclear at the time whether Mr. Chandley was repre-  
10 senting the general counsel, providing advice to the full  
11 Commission, or representing the staff appearing before  
12 the full Commission, each member of which is currently  
13 sitting as a presiding member of a variety of siting cases  
14 before the Commission.

15 To the extent that we analyzed the --

16 CHAIRMAN IMBRECHT: Okay. Well, let me just  
17 say -- excuse me, and I'll take any comment from  
18 Mr. Chamberlain. It's been my understanding of the opinion  
19 which carries on its face attorney/client privilege, the  
20 representation is that it is a memorandum that addresses  
21 only the legal requirements to institute any of these  
22 policy determinations and potential legal exposure the  
23 Commission would have in a court proceeding that might  
24 contest any of those decisions, and I believe that it is  
25 on that basis that it was provided to us as attorney-client

1 privilege, but --

2 MR. CHAMBERLAIN: That's correct, and he was  
3 -- he was representing the Commission on my behalf.

4 CHAIRMAN IMBRECHT: It was to the Commission  
5 and not the staff as well. I don't --

6 COMMISSIONER CROWLEY: It went to staff, as I  
7 understood it, but maybe I'm wrong.

8 MR. PEREZ: It was my understanding from the  
9 record of last week that a copy was given to staff as well.

10 MR. CHAMBERLAIN: That's correct, but this is  
11 not a quasijudicial proceeding and, therefore, staff is  
12 not an independent party, and the ex parte rule does not  
13 -- does not apply. There isn't a distinction between --  
14 between our client in this case.

15 MR. PEREZ: My recommendation is, in order to  
16 achieve maximum participation in the Commission's siting  
17 process, and I am speculating that the advice of the  
18 Commission was provided, as well as the advice -- copies  
19 of which were provided to one of the parties in currently  
20 ongoing proceedings, could affect those proceedings. To  
21 that extent, I am recommending that the Commission consider  
22 that all of those proceedings could benefit by having  
23 copies of the advice which has already been shared with  
24 one of the parties in those proceedings.

25 CHAIRMAN IMBRECHT: Okay. Well, I think we

1 ought to take that under advisement, and my suggestion  
2 is, since we are short two members of the Commission, that  
3 we schedule this for discussion in the executive session  
4 at our business meeting next Wednesday. In the event we  
5 chose to release it at that point in time, that would still  
6 provide two weeks prior to the anticipated adoption date  
7 of any of these changes, or I should say of any of these  
8 implementation policies.

9 COMMISSIONER COMMONS: Could I have a copy of  
10 what you're talking about?

11 CHAIRMAN IMBRECHT: You should have one in your  
12 office. It's a question of -- okay.

13 I believe that concludes our agenda for the day.  
14 Commissioner Commons?

15 COMMISSIONER COMMONS: I do believe this is a  
16 noticed meeting, so there was a right for public comments.

17 CHAIRMAN IMBRECHT: I suppose. I don't -- does  
18 any member of the public wish to address the Commission?

19 We've been through this, Commissioner Commons.  
20 I -- I don't know if you qualify as a member of the public  
21 and as a member of the Commission as well, but whatever  
22 you want to say, let's go.

23 COMMISSIONER COMMONS: Okay.

24 CHAIRMAN IMBRECHT: Let's get it over with.

25 COMMISSIONER COMMONS: Yeah. At the last business

1 meeting, the Commission took a position on a piece of  
2 legislation from Senator Presley, with an amendment from  
3 Assemblyman Costa, and what this legislation did essentially  
4 was eliminate tax credits on load management and shifted  
5 them to conservation.

6           And I don't want to be secretive, but I opposed  
7 the Commission's position, and will be working to see that  
8 we do not eliminate the load management tax credits, and  
9 that that shift does not apply, and in reading the legis-  
10 lative package that was submitted to the Commission, there  
11 was no discussion in there that said that load management  
12 was actually being eliminated, and so I did not know if  
13 the Commission was aware of it.

14           Thank you.

15           CHAIRMAN IMBRECHT: All right. Anything further  
16 to come before the Commission?

17           All right. We stand in adjournment.

18           (Thereupon, the business meeting of the  
19 California Energy Resources Conservation and Development  
20 Commission was adjourned at 4:35 p.m.)

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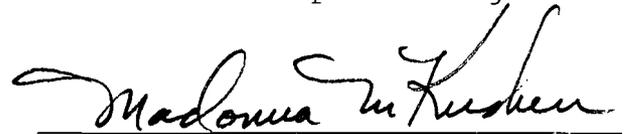
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1  
2 REPORTER'S CERTIFICATE

3  
4 THIS IS TO CERTIFY that I, Madonna M. Kushen,  
5 Reporter, have duly reported the foregoing proceedings  
6 which were had and taken in Saramento, California, on  
7 Tuesday, the 13th day of August 1985, and that the forego-  
8 ing pages constitute a true, complete and accurate trans-  
9 cription of the aforementioned proceedings.

10 I further certify that I am not of counsel or  
11 attorney for any of the parties to said hearig, nor in  
12 any way interested in the outcome of said proceeding.

13  
14   
15 Madonna M. Kushen, Reporter

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