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AND DEVELOPMENT COMMISSION

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BUSINESS MEETING

Wednesday, February 18, 1998

10:00 a.m.

Held at the:

California Energy Commission  
1516 Ninth Street, Hearing Room A  
Sacramento, California 95814

<http://www.energy.ca.gov>

Reported by:

Susan Palmer

CEC COMMISSIONERS

WILLIAM J. KEESE, Chairman  
DAVID ROHY, Vice Chair  
JANANNE SHARPLESS (not present)  
MICHAL C. MOORE  
ROBERT A. LAURIE

CEC STAFF present  
(Alphabetically listed)

BILL CHAMBERLAIN, Chief Counsel  
BETTY CHRISMAN, Associate Energy Specialist  
ROSS DETER, Deputy Director, Energy Efficiency Division  
GABRIEL HERRERA, Counsel  
MARWAN MASRI, Renewables Program  
BETTY McCANN, Secretariat, Media and Communications Office  
ROBERTA MENDONCA, Public Advisor  
TRACI STEVENS, Assistant Director, Office of Governmental Affairs  
STEPHEN RHOADS, Executive Director

INDUSTRY PARTICIPANTS PRESENT  
(Alphabetically listed)

MICHAEL GERSICK, Energy Research Corporation

ERIC MILLER, Foresight Energy Company

ORVILLE MOE, Energy 2000

KELLY MORTON, Oxbow

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1 Wednesday, February 18, 1998

10:02 o'clock a.m.

2 P R O C E E D I N G S

3 **CHAIRMAN KEESE:** I call this meeting to order. We  
4 will go into executive session, and we'll be back in about two  
5 minutes.

6 (Meeting adjourned briefly for an executive session and  
7 resumed as follows at 10:04 o'clock a.m.:)

8 **CHAIRMAN KEESE:** Call the meeting back to order.

9 We have some time constraints today. Commissioner  
10 Sharpless is out of town on business and will not be joining  
11 us.

12 Item 1 has been moved to the March 4th calendar.

13 Item 2 has been moved, the Bright Schools Program has  
14 been moved to the March 4th calendar.

15 I will announce right now that Item 4 is postponed.  
16 And we need to know by tomorrow whether it's going to be on  
17 the March 4th calendar. I regret to see that we're postponing  
18 three of our first four items, but it was necessary.

19 We'll take up Item 3, Appliance Efficiency  
20 Directories, possible approval of directories published by the  
21 Air Conditioning and Refrigeration Institute for use by  
22 builders and building officials in compliance with the Energy  
23 Commission's building standards.

24 Good morning.

25 **MS. CHRISMAN:** Good morning. Thank you.

1           For the record, I'm Betty Chrisman, Program Manager  
2 of the Commission's Appliance Certification Program.

3           Today I am presenting a summary of the five months  
4 following the Commission's September 24, 1997 reapproval of  
5 the two appliance directories published by the Air  
6 Conditioning and Refrigeration Institute, ARI.

7           More detail is provided in the Staff report entitled  
8 "Order Approving ARI Directories" through February 28, 1998.

9           As background, on July 24, 1996 the Commission  
10 approved portions of both the Unitary and Applied Directories  
11 published by ARI.

12           This approval was for purposes of determining  
13 certification under Section 100(g) of the Building Standards.

14           That section states, in part, that "[t]he  
15 certification status of any such manufactured device may be  
16 confirmed only by reference to ... [a] directory published or  
17 approved by the Commission."

18           Building officials use the information published in  
19 these directories to determine whether appliances are  
20 certified and, as a result, whether they may be installed in  
21 new construction.

22           The initial Commission approval was for one year.

23           On September 24, 1997, the Commission gave  
24 probationary reapproval of the same portions of the same two  
25 directories through February 28, 1998.

1           The September 24 order required frequent review of  
2     ARI's directory data due to problems encountered with the ARI  
3     submittals through last July.

4           These problems primarily centered around ARI's  
5     failure to submit all required files on a monthly basis and  
6     their failure to mail copies of both of their directories to  
7     all California building officials. These problems have since  
8     been resolved.

9           ARI continued to have problems with the data portion  
10    of their submittals through November 1997. Staff has worked  
11    closely with Intertek, ARI's contractor, to resolve these  
12    problems and significant progress continues to be made in  
13    clearing up most of them.

14          Since the previous Staff report Intertek hired a  
15    programmer whose first task was to straighten out the problems  
16    with the ARI submittals to the Commission.

17          Staff has spent significant time in phone conference  
18    with this programmer and other Intertek staff explaining the  
19    problems in precise detail. Staff's response to ARI's  
20    November submittal was extremely detailed.

21          Based on this detail and the work done by Intertek's  
22    programmer, the December submittal was virtually error-free.  
23    Less than 20 models out of over 11,000 submitted failed the  
24    edit check. And each of these failed for valid reasons.

25          The January submittal was an improvement over the

1 excellent December submittal with only four models incorrectly  
2 submitted.

3           There are significant advantages to the Commission,  
4 ARI, ARI's manufacturer members, Intertek and the users of the  
5 Commission's data in having this program work. ARI's  
6 directory printing and mailing program represents a  
7 significant cost savings to the Commission. ARI provides and  
8 extra benefit to their manufacturer members. The  
9 manufacturers don't make duplicative submittals.

10           This is an added application to Intertek's desire to  
11 provide more expansive data-management services to ARI, one of  
12 Intertek's primary customers.

13           The Commission receives updated data on a regular  
14 basis, which benefits not only the manufacturers and the  
15 Commission, but the users of the data as well.

16           As you may already be aware, the appliance database  
17 pages on the Commission's Internet Website are among the most  
18 heavily-accessed pages on the site, averaging about 10,000  
19 hits a month.

20           Staff has provided copies to both ARI and Intertek of  
21 the January 27 Staff report and the proposed order that are  
22 before you today.

23           Mark Menzer of ARI sent me an email on January 28th  
24 that said, "I am pleased to note that you are recommending  
25 that the Commission extend the ARI order through July 31,

1 1998. We are delighted with the progress we have made through  
2 the efforts of our contractor, Intertek, in improving the data  
3 submittals. Your help and patience have been invaluable."

4 Mr. Menzer went on to thank Commission Staff for our  
5 continued support and cooperation with both ARI and Intertek.

6 Based on the substantial progress made in recent  
7 months, the good-faith effort put forth by Intertek in hiring  
8 a programmer to correct the problems, and the problems  
9 actually being corrected, Staff recommends extending the ARI  
10 order through July 31, 1998. A draft order reflecting this  
11 recommendation is included in the backup material.

12 This concludes my presentation. I welcome any  
13 questions you may have.

14 **CHAIRMAN KEESE:** Thank you.

15 Any questions here on the Commission?

16 Commissioner Laurie?

17 **COMMISSIONER LAURIE:** I would simply move the  
18 recommendation, Mr. Chairman.

19 **COMMISSIONER MOORE:** Very good.

20 **CHAIRMAN KEESE:** Moved and seconded.

21 Any additional public comment?

22 (No response.)

23 **CHAIRMAN KEESE:** All in favor?

24 **COMMISSIONERS:** Aye.

25 **CHAIRMAN KEESE:** Opposed?

1 (No response.)

2 **CHAIRMAN KEESE:** Four to nothing, adopted.

3 (Motion unanimously carried to approve the ARI  
4 directories.)

5 **CHAIRMAN KEESE:** Thank you.

6 **MS. CHRISMAN:** Thank you.

7 **CHAIRMAN KEESE:** Good work.

8 Submission of Item 4 is over.

9 Item 5, Renewable Technology Program.

10 Do you want to take this as one entity, or do you  
11 want to take a --

12 **COMMISSIONER MOORE:** If I can, I'd like to ask  
13 Marwan to come up and we'll --

14 **CHAIRMAN KEESE:** Take all four items?

15 **COMMISSIONER MOORE:** -- take all four if we can.

16 **CHAIRMAN KEESE:** Okay.

17 **COMMISSIONER MOORE:** Committee -- Jan, as you  
18 mentioned, isn't here today. So if I can, --

19 **CHAIRMAN KEESE:** Anyway, we're going to hear Item 5,  
20 Renewable Technology Program, possible approval of emerging  
21 technologies, possible approval of changes to the Commission's  
22 guidelines for the Emerging Renewable Resources Account,  
23 possible approval of substantive changes to the Commission's  
24 guidelines for the Existing Renewable Resources Account,  
25 possible approval of substantive changes to the Commission's

1 guidelines for the New Renewable Resources Account.

2           **COMMISSIONER MOORE:** And with that, I'm going to ask  
3 Marwan to summarize the changes that the Committee has made in  
4 our recommendations to you.

5           **MR. MASRI:** Thank you, Commissioner Moore.

6 Good morning.

7           On January 21st, this year, this Commission adopted  
8 the final guidelines for the Renewables Program  
9 implementation. And at that meeting we indicated that we have  
10 described two substantive changes that will be forthcoming to  
11 this Commission for adoption and also submitted to the record  
12 a host of nonsubstantive changes.

13           Since then we have republished the guidebooks for the  
14 Existing, New and customer credit account that incorporated  
15 all the nonsubstantive changes that were described in the  
16 business meeting on the 21st and also included in the mail-out  
17 for this business meeting. The mail-out here is to simply  
18 fulfill the public notice requirement for those nonsubstantive  
19 changes of 10-days' notice.

20           So although they were handed out at the business  
21 meeting at the 21st, we went ahead and mailed it out so that  
22 everybody can have an opportunity to comment on them today.

23           **COMMISSIONER MOORE:** Marwan, let me ask you to  
24 digress for just a second --

25           **MR. MASRI:** Yes.

1           **COMMISSIONER MOORE:**   -- and describe the process  
2 that we're using, Commission-wide and with the Committee, for  
3 changes to this, how an item, which either hasn't been adopted  
4 or has been adopted can be changed, or someone can petition us  
5 for a change, what our time limits are.

6           **MR. MASRI:**   I'll be happy to do that. And Gabe can  
7 help in time here.

8           Basically, this is what we're doing as far as that  
9 process. Our guidelines for implementing the Program have, in  
10 them, a process by which changes to the guidelines may be  
11 implemented. And those changes are either substantive or  
12 nonsubstantive.

13           For nonsubstantive changes the Committee would send  
14 out the proposed change, 10-day notice. Ten days after that,  
15 if there's no comment, the change becomes effective.

16           For substantive changes, the same 10-day notice is  
17 required. The Committee will send out a notice of proposed  
18 change. However, those changes become effective only after  
19 they are adopted by the full Commission.

20           **MR. HERRERA:**   There's a 30-day period that's  
21 required so that these substantive changes can be reviewed by  
22 the public.

23           **COMMISSIONER MOORE:**   Someone in the public could  
24 submit a request for a change to us at any time.

25           **MR. HERRERA:**   Although it's not specified in the

1 guidelines, they could. Nothing prohibits them from doing so.

2 **COMMISSIONER MOORE:** Thank you.

3 **MR. MASRI:** Okay. You're welcome.

4 I will briefly describe the substantive changes that  
5 are proposed for the guidelines today.

6 The first one has to do with a cliff date dispute.  
7 This was described in the 21st business meeting. We now have  
8 a specific language to deal with that issue. And, basically,  
9 the issue here is in the current guidelines we proposed -- or  
10 the Committee proposed that QFs involved in a dispute with the  
11 utility about when the fixed-price-period ends. When the  
12 dispute begins, we had proposed that we would stop paying  
13 those QFs.

14 And the current change would, instead, it would stop  
15 paying them and keep the money that would be due those  
16 projects, if they lose their dispute, in a special account  
17 that the project can then get reimbursed for that period in  
18 which we did not pay them.

19 The utilities do drop these projects to variable  
20 costs, which is a criteria for eligibility during the dispute  
21 period. So, instead of stopping the payment and keeping that  
22 in the special account, this current change would continue to  
23 pay the QFs.

24 However, if the QFs win the dispute, meaning they  
25 will be getting paid back for the period of dispute at the

1 high fixed-energy prices, they would have been -- that period  
2 would not have been eligible for our funding.

3 We would then have legal access to the money that the  
4 projects get paid by the utility, some form of a lien that  
5 would, acceptable to the Commission, that would give us access  
6 to the money even before the project gets it.

7 So, in other words, we will continue to pay them and  
8 get our money back if the project wins the dispute and gets  
9 paid back large sums of money as a result.

10 So that's the change, is to pay them and then get our  
11 money back later instead of stopping the payment and then pay  
12 them after they lose.

13 Second change has to do with the Renewable Resource  
14 Account. And the changes here, we actually wanted to do them  
15 on 21st, but time did not allow us to incorporate them at that  
16 time.

17 For eligibility to bid on a New Account, projects  
18 must terminate their long-term contracts. Basically Standard  
19 Offer 2s or 4s. And we had indicated in our previous  
20 guidebooks that PUC approval is somehow required for that.  
21 And that was not correct information. Two of the three IOUs  
22 informed us that there is no such approval needed by the PUC.  
23 And so we're making the change here to reflect that.

24 For Volume 3 in Emerging Account, this change was  
25 described in the January 21st business meeting. It has to do

1 with the criteria for designating which technologies specified  
2 in SB 90 as emerging meet the Commission criteria for such  
3 designation.

4 SB 90 says four technologies, photovoltaics, solar,  
5 thermal, fuel cells fueled by renewable fuel and wind, 10  
6 kilowatts or less, are emerging subject to us, the Commission,  
7 finding that they do meet the criteria in our Policy Report  
8 for Emerging Technologies.

9 At the January 21st business meeting we had not had  
10 the time to review all the information needed to make a  
11 recommendation to the Committee.

12 Since then we have done that and the Committee is now  
13 recommending that all four technologies specified in SB 90 be  
14 found as to fit the criteria for Emerging.

15 However, most technologies have different levels of  
16 development that span demo stage all the way to commercial  
17 stage. And the Emerging fund is not meant to fund  
18 demonstration projects.

19 So, in conjunction with declaring these four  
20 technologies eligible for Emerging funding, we would require  
21 that each project submitted for funding, or system, meet seven  
22 criteria in our guidebook.

23 Criterias such as full warranty for five years, one  
24 year reliable operation, and so on. They have been in our  
25 guidebook for a long time. And we may find that some systems

1 we expect will meet that, some won't, from the same  
2 technology.

3           The next substantive change has to do with  
4 photovoltaic certification requirement. We had previously  
5 required that all photovoltaic modules and inverters be  
6 certified by a nationally-recognized testing laboratory.

7           To recognize the fact that not all components have  
8 standardized testing available, we now distinguish -- we  
9 require testing for those that have standardized testing  
10 available, such as flat-plate photovoltaic modules, for  
11 example, must meet Underwriters Laboratories Standard 1703.

12           And for the other components, when such standards are  
13 in place, we'd require that they meet them. But, when they're  
14 not in place, of course, we can't require that they meet  
15 standards that don't exist.

16           The next change has to do with a licensing  
17 requirement for installation of emerging technologies. And  
18 this just specifies the licensing requirements per technology.

19           For example, for photovoltaics and solar-thermal,  
20 again, this is based on our information from the State  
21 Contractor Licensing Board, a contractor must have either a  
22 C-10 or a C-46 license to install PV or solar-thermal. To  
23 install fuel cells, they must have either an A- or a C-10  
24 license. To install small wind, they must have a C-10  
25 license.

1           The last of the substantive -- I'm sorry, not the  
2 last, the second-to-the-last -- changes, substantive changes,  
3 has to do with a situation where -- just to quickly summarize  
4 how the emerging account would work:

5           Buyer and seller would make a reservation for a given  
6 size system, once they agree on concluding the transaction and  
7 installing the system. They are then given a period of time  
8 to install the system and they come back for funding.

9           This change deals with the possible situation that  
10 between the time a reservation is made and the time that  
11 funding will be released, the system may have changed in size.

12           So, for example, somebody may have proposed and  
13 reserved a two-kilowatt system, but when they completed the  
14 deal and came for funding, it's now a three-kilowatt system.

15           We have to deal with this because there are  
16 limitations on how much money is available for certain sizes  
17 in SB 90. We also have to deal with it because the funding is  
18 divided into different blocks. And each block has its own  
19 subsidy level as expressed as either dollars-per-watt or  
20 percent of system cost, whichever is lower.

21           So we may have a situation where a reservation for a  
22 certain size was made when a certain block was applicable, its  
23 parameters of subsidy, and so on. And then with the funding  
24 comes, the time for funding comes, the size of the system, as  
25 well as the parameters of subsidy may have changed. And this

1 change would, basically, calculate some kind of weighted  
2 average of subsidy between the two blocks that were available  
3 between the time the system was reserved and the time funding  
4 is to be dispersed.

5 And the last of the substantive changes has to do  
6 with the start date for the buydown program. And this date,  
7 assuming that the Commission adopts these changes today, on  
8 February 18th, then the Commission will begin accepting  
9 reservations for funding from the Emerging Account at 8:00  
10 a.m. Pacific Standard Time on March 20th, 1998.

11 However, if these changes are not adopted today, the  
12 date will be different, and we will notify participants  
13 accordingly.

14 The rest of the changes we are proposing are  
15 nonsubstantive changes. They are numerous. And I did mention  
16 them on the 21st business meeting. We have sent them out for  
17 comments. And I will not read them, if that's all right, to  
18 the record. And that basically summarizes what we are  
19 proposing today.

20 **COMMISSIONER MOORE:** Let me just clarify one other  
21 point, and that's on the auction for New.

22 **MR. MASRI:** Yes.

23 **COMMISSIONER MOORE:** That, on the March 31st date,  
24 it was a little ambiguous in that the Committee would like  
25 everyone to understand that that's our targeted start date.

1 If we get things out before that, we will begin, but no later  
2 than March 31st.

3 **MR. MASRI:** Yes. I can clarify that if you wish.

4 Basically our guidebook says that the auction will  
5 open on or about March 31st. And I think we need to clarify  
6 what that means, the "auction opens."

7 It means that we will send out a notice of auction  
8 with all the details about the protocols, how we will conduct  
9 the auction, and evaluation and selection.

10 Participants then will have 45 days to respond to  
11 that notice. And that notice will go out no later than the  
12 end of March. And whatever date it goes out, 45 days after  
13 that the parties will have to respond to that notice.

14 **COMMISSIONER MOORE:** Thank you.

15 **MR. HERRERA:** Commissioner Moore, if I can quickly  
16 add --

17 **COMMISSIONER MOORE:** Yes.

18 **MR. HERRERA:** -- concerning the Emerging Account,  
19 there's also a March 31st date in that statute. So if the  
20 substantive changes proposed today aren't adopted, the  
21 Commission needs to get their act together at some point  
22 shortly thereafter so that we can adopt the finalized  
23 guidelines for the Emerging Account before the March 31st  
24 date. That's late on statute, which, I'm sure we will..

25 **COMMISSIONER MOORE:** Let's presume that we will take

1 some kind of action today.

2 And, Mr. Chairman, if there are questions of the  
3 Committee, I'm pleased to answer them, but I know there are  
4 some people that would like to speak. And I would suggest we  
5 take their comments and then bring this back to the Commission  
6 and take action.

7 **CHAIRMAN KEESE:** All right, Commissioner Laurie.

8 All right. We have four requests to speak.

9 Michael Gersick.

10 **MR. GERSICK:** Thank you and good morning, Mr.  
11 Chairman.

12 My request to speak was to address specifically the  
13 matter in 5b, I believe it is, the \$1 million cap.

14 Is that going to be addressed by Staff preliminarily,  
15 or has the Staff and the Committee completed their  
16 presentation to the Commission on all matters in item 5?

17 **COMMISSIONER MOORE:** The matters that are before the  
18 Commission which have been addressed by Marwan represent our  
19 collective thinking.

20 I was absent at the last Commission meeting where you  
21 spoke. But I've had the advantage of looking over your  
22 remarks and had a chance to talk with my colleague about it.

23 So, as it stands right now, what you see in front of  
24 you as far as changes represent the collective Committee  
25 thinking on this.

1           **MR. GERSICK:** Thank you, Commissioner Moore. And  
2 then I will speak now, Mr. Chairman, and members.

3           Good morning.

4           Michael Gersick representing Energy Research  
5 Corporation.

6           I think Chairman Keese, Commissioners Rohy -- and  
7 Commissioner Laurie was not here at the last meeting, nor was  
8 Commissioner Moore, at which time we raised certain questions  
9 regarding the consequences of a \$1 million cap on grants to  
10 any single project, both in terms of the process by which that  
11 cap was adopted by the Committee but, of course, most  
12 especially, the substance of the decision, what consequences  
13 it would have for large industrial sites at which a renewable  
14 technology project might or might not find a home, a  
15 hospitable host.

16           And I think our comments at that time, I hope, were  
17 meaningful and useful in terms of identifying the issue. And  
18 if, in fact, as appears to be the case, the Committee has  
19 taken the matter under consideration and decided not to modify  
20 its recommendations, then that is the Committee's decision.

21           We, Energy Research Corporation, will not stand up  
22 here today, nor before the Commission at any other time and  
23 tell you that funding photovoltaics or whatever the preferred  
24 small technology intended for residential applications is a  
25 bad thing. Clearly that's not the case.

1           It's an elegant technology. It's a beautiful  
2           technology. And, clearly, California will be better off with  
3           however many hundreds of thousands of installations of a  
4           photovoltaic system in residences that will be realized as a  
5           result of the assistance provided by the emerging technology  
6           grant. It is not a bad thing that you're recommending to be  
7           done.

8           It is rather our contention that it is not the  
9           optimal thing before you. It seems to me that the Commission  
10          is deliberately selecting a philosophy of exclusion rather  
11          than inclusion. By that I mean that there are technologies  
12          which meet the criteria established both by the SB 90  
13          statutory profiles and meet the philosophical, or theoretical,  
14          or narrative kinds of criteria proposed by this Commission in  
15          the 1890 analysis and policy report which, despite those two  
16          facts, will be effectively excluded from entitlement to the  
17          moneys.

18          "Effectively," because as a result of their size and  
19          a result of the cost, which is concomitant with their size, a  
20          \$1 million cap means the assistance may amount to no more than  
21          three or four or five percent of the purchase price and that  
22          that is simply insufficient to induce any consumer to make the  
23          choice.

24          It is our contention that there may be a  
25          misunderstanding, perhaps on our parts, of what is intended by

1 the Emerging criteria, the Emerging category.

2           It was our presumption that there were really two  
3 basic objectives. One was to give technologies that had come  
4 out of the demonstration phase their moment on the stage of  
5 public acceptance. That is to say, to invest in their having  
6 an opportunity to meet the market, to meet the consumers'  
7 expectations, and to develop some public response, and to do  
8 that by means of subsidizing some -- some number -- excuse me  
9 -- some number of installations sufficient to generate a  
10 reaction from the market.

11           Secondly, we felt that the Emerging category was for  
12 the purpose of subsidizing the higher production cost of a  
13 brand new technology just being introduced to the market.

14           That is to say, by reducing the costs which are  
15 consequential of it being the first, or among the first five,  
16 or among the first dozen, such technologies, to permit there  
17 to be a neutralization, if you will, of those costs which  
18 result from the fact that they are now one-of-a-kind.

19           We do not see those two -- if those two objectives  
20 are, in fact, what was intended by the Emerging category, we  
21 do not see those two objectives being met by the guidelines  
22 which effectively preclude the two-megawatt-size technologies  
23 from coming into the Program.

24           It seems to me that the Commission, by adopting these  
25 recommendations, is saying we would prefer to have some small

1 technologies, photovoltaics most especially, but perhaps some  
2 others, emerge to the tune of some hundreds of thousands of  
3 installations at the cost of having the larger, industrial-  
4 size technologies, have one opportunity to emerge.

5           And it's not a position that is indefensible.  
6 Clearly there is merit to that side of the argument. But I  
7 think it also must be acknowledged that the consequence will  
8 be that some technologies which are theoretically and  
9 statutorily eligible and included within the category will  
10 simply not be able to take advantage of any portion of that  
11 \$54 million fund.

12           So I wanted to thank Commissioner Keese particularly  
13 for recognizing that there were merits on both sides of the  
14 issue, at the last business meeting, and requesting that the  
15 Committee once again consider the matter to see if there might  
16 be a way to permit all of the eligible technologies to  
17 compete.

18           I expect that the Staff and the Committee did  
19 thoroughly consider the various ways in which alternatives  
20 might have been accommodated, because I know that there are  
21 some such. And we have discussed some alternatives that we  
22 thought were worthy of consideration with the Staff.

23           But, in any case, there's not much more to be said.  
24 I think our arguments have been heard. And I thank you for  
25 being patient with them.

1           Let me take a moment more, if I can, Mr. Chairman.  
2           Ms. Mendonca is on the stage. I wanted to, on the record,  
3           thank her before you for doing some rather extraordinary  
4           things in the service of remote participants in this process.  
5           Her management of certain documents on a very short timeframe  
6           recently permitted some folks who are in California to  
7           receive, to review and to respond to some of your documents.  
8           And I thank her for it and wanted to mention it specifically  
9           on the record to you.

10           Thank you.

11           **CHAIRMAN KEESE:** Okay. Thank you.

12           I have looked into this issue in quite detail. And  
13           probably, at your suggestion, I received a number of  
14           communications from facilities that were interested in seeing  
15           the million-dollar cap lifted. And I'm sure that my fellow  
16           Commissioners received copies of the letters also. And I  
17           received letters on the other side.

18           I respect and will, perhaps, abide by the Committee  
19           decision just because the Committee did review it and the  
20           Committee feels strongly that the million-dollar cap should  
21           stay.

22           I looked at the background, starting with 1890 and  
23           the activities that just came up, and I see a rationale for  
24           the Committee's action.

25           I'm impressed with the proposals, particularly the

1 biogas nature of these large proposals. I think there's a  
2 great deal of merit there. I think the merit is not all on  
3 the electrical generation side. The merit is that this is an  
4 environmental concern that has to be taken care of. So the  
5 larger projects have two justifying factors. And that is  
6 their environmental benefits and what they can contribute to  
7 the electrical generation side.

8 I agree with you. I feel very strongly. There are  
9 very strong arguments on both sides of this case. I am going  
10 to come down on supporting the Committee. That's about all I  
11 can say.

12 Commissioner Rohy?

13 **COMMISSIONER ROHY:** I'd like to comment on this  
14 issue, Mr. Chairman, because I am concerned that we are  
15 excluding one technology, especially in the industrial sizes  
16 where it may be cost-effective.

17 I believe Mr. Masri said, in his opening comments,  
18 this fund was not meant to fund demonstration projects. And  
19 when you get to smaller projects of this type, they become  
20 demonstration projects, not, in fact, commercial projects.

21 Demonstration projects are those which the R&D fund  
22 should fund when they're R&D. This technology is beyond that  
23 now and is supposedly ready for commercial demonstration.

24 And that's, I believe, why Mr. Gersick is presenting  
25 his comments.

1           I also understand why the Committee is making their  
2           comments or their recommendations. And it's based, to my  
3           knowledge, on this first-come, first-serve issue as I  
4           understood from our last business meeting.

5           I would hope, and ask, perhaps, Commissioner Moore to  
6           maybe make some comments on what could change this in the  
7           future.

8           Is this the rules that we're adopting for this first  
9           year's option, or are there opportunities to change in the  
10          future? Should we go in this manner today?

11          What are the options, should this, in fact, prove to  
12          be exclusionary for one of the technologies listed in this  
13          statute? Is there a possibility that we could, in fact, come  
14          back and revisit this and have money left to do something  
15          with?

16                 **COMMISSIONER MOORE:** Mr. Chairman, in response to  
17          the points that you've made and to the point that was just  
18          made by Commissioner Rohy, let me just say that Mr. Gersick's  
19          comments point out the dilemma that we faced.

20                 We had \$54 million to spend in this category, cap.  
21          And the dilemma, of course, is that there are a lot of  
22          deserving technologies out there with a limited pocketbook to  
23          try and address them.

24                 What we wanted to do was to create the most  
25          competitive system that we possibly could, with the most

1 industries being able to participate that possibly could.

2 We don't know, frankly, what is going to be  
3 commercially capable and what will actually apply.

4 So all we can say is the guidelines give us a datum  
5 to work from in this first year. We intend to revisit this  
6 periodically to see how the program is working. I have  
7 assured all the participants that we will be meeting at least  
8 quarterly as a Committee on an information and a hearing basis  
9 to try and take testimony and response from the public as to  
10 how the-program is working.

11 This is clearly one of the areas that we'll be  
12 looking at to see whether we're actually accomplishing what we  
13 set out to accomplish.

14 So I assure Commissioner Rohy that we will be  
15 considering this on a systematic and periodic basis to try and  
16 understand how much market penetration we're having.

17 On the \$1 million cap, as Mr. Gersick pointed out,  
18 the Committee did review this. I looked back of the testimony  
19 that was presented from the last hearing. And we concluded  
20 that, in terms of the kind of competitive market that we  
21 wanted to establish, what we have is as good as we can design  
22 today. And, frankly, we didn't want to have any one industry  
23 potentially capture the money that we have.

24 So, for right now, I recommend this to you. I know  
25 we have more people to hear from. So there's no motion on the

1 table. But I assure you that we will be revisiting this to  
2 find out whether we should have another round, or whether or  
3 not we're achieving the kind of penetration that we want.

4 **CHAIRMAN KEESE:** Thank you. Mr. Miller. Eric  
5 Miller, Foresight.

6 **MR. MILLER:** My comments are actually about a  
7 different issue, if you'd like to go ahead and wrap up this  
8 matter.

9 **CHAIRMAN KEESE:** All right.

10 **MR. MILLER:** I'd be happy to --

11 **CHAIRMAN KEESE:** Why don't we hold.

12 Mr. Morton, did you wish to speak to this issue?  
13 Kelly Morton?

14 **MS. MORTON:** Oh.

15 **CHAIRMAN KEESE:** I'm sorry.

16 **MS. MORTON:** No, I'm sorry. I don't.

17 **CHAIRMAN KEESE:** A different issue, or are you --

18 **MS. MORTON:** Yes, I'd like to -- you could put my  
19 card at the very back?

20 **CHAIRMAN KEESE:** Your card is now at the back.

21 **MS. MORTON:** Thank you.

22 Orville Moe?

23 **MR. MOE:** My name is Orville Moe with Energy 2000.

24 And I've participated in much of the workshops and  
25 other efforts that have gone to get to this point, in

1 renewables and other programs.

2 I'd just like to speak in favor of the \$1 million  
3 cap. We have significant experience in fuel cells. And we  
4 have developed programs where they are using biogas. And we  
5 will be submitting those programs -- they're two -- they're in  
6 the smaller range, under one-megawatt size. And they will  
7 qualify under, we believe, under the current program. We have  
8 solved the problems for the five-year warranty, and support  
9 the Staff and the Commission's position on this.

10 Thank you.

11 **CHAIRMAN KEESE:** Thank you.

12 All right. Is there anybody else who would like to  
13 speak to this issue? This particular issue?

14 All right. Then, Mr. Miller, would you like to  
15 speak?

16 **MR. MILLER:** Thank you, Commissioners.

17 My name is Eric Miller. I'm Chief Executive Officer  
18 of Foresight Energy Company.

19 I wanted to just briefly make you aware of our, and  
20 some others', concern about an item which was listed as a  
21 nonsubstantive change at the prior meeting to the customer  
22 credit subaccount in which the language was inserted into the  
23 package which limited applicability of those funds to only  
24 instate QF purchases as opposed to instate purchases.

25 That change came as, frankly, as a surprise to the

1 entire marketer and wholesaler community. It was not our  
2 understanding, from the beginning, of how that was intended to  
3 work. We understand that change has been made. We wanted to  
4 really let the Commission know that we see it as a very  
5 substantive, even cataclysmic event and change, which we have  
6 deep concern about.

7 We will be filing a petition for reconsideration of  
8 that issue before the Commission and would just ask that you  
9 give it -- my point was not to argue the merits of it today,  
10 but to ask that when you receive that -- we'll be getting it  
11 to you soon -- that you consider it very expeditiously.

12 The market looks like it is going to open April 1st.  
13 And, if this change can't be made, it will probably eliminate  
14 or curtail a good deal of the activity in the green market.  
15 And we would ask for a serious and expedited consideration of  
16 that.

17 **CHAIRMAN KEESE:** Thank you.

18 I'm --

19 **COMMISSIONER MOORE:** Mr. Chairman, let me just  
20 address --

21 **CHAIRMAN KEESE:** Can we take up this issue?

22 **MR. MASRI:** This issue is not on today's agenda, Mr.  
23 Chairman.

24 **CHAIRMAN KEESE:** No, but --

25 **MR. MASRI:** I --

1           **CHAIRMAN KEESE:**   -- two weeks ago? Did we have  
2 witnesses on this issue?

3           **MR. MASRI:**    I don't believe we addressed this in a  
4 business meeting before.

5           **CHAIRMAN KEESE:**   Okay. Thank you.  
6 Commissioner Moore.

7           **COMMISSIONER MOORE:**   My point is simply that Eric is  
8 bringing up the review procedure that we've initiated. I  
9 think it's going to prove to be successful. And I appreciate  
10 his letting us know that it's coming.

11                   He's going to, as I understand it, send us a letter,  
12 initiate the process. We think the process will work and be  
13 fair to all participants.

14                   There's always a problem, I think, in a process that  
15 is as wide-ranging as this one was, for some information to  
16 fall between the cracks or for some misinterpretation to take  
17 place.

18                   We thought we were being clear about this point.  
19 Some of the marketers indicate they knew about it. Some  
20 others didn't. I think it's a fair issue for Eric to bring up  
21 so that we can resolve and get it clearly out on the table.

22                   Again, we thought we'd solved it. Eric and some  
23 others think that we didn't. I will only remind everyone that  
24 in our initial conception of the mathematical algorithms, as  
25 well as the philosophy underlying this report, and I mean,

1 really, the thread that ties it all together, we knew this  
2 market was going to be thin in the opening years. And so the  
3 report is designed to address a thin market that we hope to  
4 build over time.

5 Part of what you're hearing from Eric is that they  
6 have more confidence that there is a fuller market out there  
7 today, and they don't want us to let it go by-the-bye. And so  
8 they want us to address it in a more upfront manner than we  
9 did. So, in this case, I think everyone's motives are  
10 realistic. And we're going to try and accommodate them.

11 So we'll await your letter. And then we'll start our  
12 proceeding following that. We'll address it absolutely as  
13 fast as we can.

14 **MR. MILLER:** Thank you.

15 **CHAIRMAN KEESE:** Very good.

16 **MR. MILLER:** Thank you very much.

17 **MR. MASRI:** I'd like to make a comment, please, just  
18 to clarify the record on what Mr. Miller just -- the statement  
19 that he made.

20 It may have been a surprise to the marketers, what we  
21 had in the last business meeting, but it was not new.

22 The change that we did in the business meeting on the  
23 21st was to take out the reference to SB 90 for the definition  
24 and insert the definition itself. So, really, there was no  
25 new definition proposed. And that's why it was in the

1 nonsubstantive category we proposed last time. I just wanted  
2 to clarify that. It was not really new. It was --

3 **COMMISSIONER MOORE:** But it's what caused everyone  
4 to take notice of it.

5 **MR. MASRI:** Yes, right.

6 **COMMISSIONER MOORE:** And Mr. Miller clearly took  
7 notice of it. And --

8 **MR. MILLER:** Yes. If I could briefly comment.

9 We've been working with the Staff to date on that  
10 aspect of it. To date, unsuccessfully.

11 But if I could just list the people who asked me to  
12 come speak today and who were caught off guard by that issue.

13 Foresight Energy Company, Green Mountain Energy, PG&E  
14 Energy Services, Edison Source, PacifiCorp, Natural Resources  
15 Defense Council, CEERT, NGC, Destec, American Power, Automated  
16 Power Exchange, Enron Energy Services, Enron Capital and  
17 Trade.

18 **CHAIRMAN KEESE:** I'm sure we're going to have a full  
19 discussion of this.

20 **MR. MILLER:** A fair number of people have had a  
21 similar reaction in mind. So, not to, again, argue the merits  
22 at this point, but just to leave as a credible disagreement.

23 **COMMISSIONER MOORE:** Well, no. Only the point that  
24 the information was out there. And, frankly, I'll take part  
25 of the responsibility for not flagging it, because we thought

1 it was important enough that people would pick up. I should  
2 have, perhaps, made a bigger deal out of flagging it. And I  
3 didn't. But the information was out there. So we'll use that  
4 as the datum on which to respond once we get your letter.

5 **CHAIRMAN KEESE:** Thank you.

6 Ms. Morton, did you care to speak, or are you going  
7 to take a pass?

8 **MS. MORTON:** I'll pass now.

9 **CHAIRMAN KEESE:** Thank you.

10 Anybody else in the audience?

11 **MR. HERRERA:** Chairman Keese, if I can add just one  
12 thing.

13 I've noticed in the substantive changes to the  
14 existing account there's a mistake in the first change, the  
15 cliff date dispute. It references page 4 and footnote number  
16 7. That reference is actually to the proposed final, the  
17 Committee-approved guidelines. The finalized guidelines that  
18 were sent out a couple of weeks ago did not include that  
19 footnote number 7. So this is just a point of clarification.

20 Those individuals who would have looked for footnote  
21 7 and not found it, or found language pertinent to the cliff  
22 date dispute might be wondering.

23 **MR. MASRI:** Oh, just to add to that.

24 The way we will be sending out these changes is to  
25 instruct the recipients to replace page x with the new page.

1 So that should deal with, I think, the possible confusion that  
2 Gabe's talked about where there be would no reference to  
3 footnote 7. That doesn't exist right now. But just simply  
4 replace one page with another. And we think that will do it.

5 **MR. HERRERA:** One minute, I'll have it in.

6 **CHAIRMAN KEESE:** Okay.

7 Commissioner Moore, do you have --

8 **COMMISSIONER MOORE:** Move for approval.

9 **CHAIRMAN KEESE:** A motion.

10 **COMMISSIONER ROHY:** Second.

11 **CHAIRMAN KEESE:** I have a motion and a second.

12 **COMMISSIONER LAURIE:** A comment, if I may, Mr.  
13 Chairman.

14 In reviewing the information, and reviewing Mr.  
15 Gersick's testimony from last business meeting, and in  
16 reviewing the other information received, I did have an  
17 opportunity to ponder the issue of the million-dollar cap.

18 I think it is a legitimate issue. I think the points  
19 raised were legitimately raised. And I think the questions  
20 were legitimate questions. And I think the positions stated  
21 were articulately presented.

22 However, I've also heard the rationale from the  
23 Committee. I understand the difficulty of dealing with a  
24 finite number of dollars.

25 And I am persuaded to support the rationale and the

1 position of the Committee on that question. Thus, my basis  
2 for supporting the Committee's recommendations today.

3 **CHAIRMAN KEESE:** Thank you.

4 All in favor?

5 **COMMISSIONERS:** Aye.

6 **CHAIRMAN KEESE:** Opposed?

7 (No response.)

8 **CHAIRMAN KEESE:** No. Four to nothing.

9 Adopted.

10 (Motion unanimously carried to approve the four sets of  
11 changes to the Emerging Renewable Resources Account.)

12 **CHAIRMAN KEESE:** We have no minutes for discussion.

13 We're going to go to the Executive Director's report  
14 on a management reorganization plan for the Commission.

15 **COMMISSIONER MOORE:** Mr. Chairman, before we go to  
16 that I have one Committee item that I'd just like to bring up.

17 **CHAIRMAN KEESE:** Fine.

18 **COMMISSIONER MOORE:** There has been a suggested  
19 filing by Staff. And I don't know whether it's gone to  
20 Intergovernmental Affairs yet, or not.

21 It regards the PUC decision 97-08056 with regard to a  
22 proposal made by New Energy Ventures on competition transition  
23 charges. I've read this and about four iterations of it as it  
24 comes past.

25 Frankly, the decision has already been made with

1 regard to New Energy Ventures. And my recommendation to the  
2 Commission -- and to the Committee, I guess, -- is that we not  
3 file on this.

4 I frankly don't see what role we have in filing on  
5 this, or the impact we would make, if we did, since the issue  
6 is basically done. And, frankly, the suggestions that are  
7 made in the Staff filing probably do more to fall in line with  
8 a recommendation of New Energy Ventures to do something, to  
9 find a rule that already exists, that is, use contracts for  
10 differences to get the lower price. All they have to do is go  
11 do that.

12 I don't know that we're in the business of advising  
13 them on their business techniques, but I guess we're doing  
14 that in this case.

15 I don't see the need to file. And my suggestion to  
16 the Committee would be that we not file.

17 **CHAIRMAN KEESE:** Okay. We have a deadline on this  
18 one. The process that the Intergovernmental Committee has  
19 used is to -- I think this was submitted about three weeks ago  
20 -- that Commissioner Sharpless looked it over, made some  
21 edits, suggested some editorial tone changes. And I looked it  
22 over, and I suggested some editorial tone changes.

23 We both hit on the same issues. We had a version.  
24 Before she left town, Commissioner Sharpless approved the  
25 filing. And I felt the filing was acceptable. I think this

1 is an issue that does not face the Inter -- this is not a  
2 once-a-year problem for the Intergovernmental Committee  
3 because we get filings very late in the process here.

4 I think, under the circumstances, I'm going to have  
5 say, I think we'll file it. I will work with you to see if we  
6 can create a process by which we can get these concerns. I  
7 can't get in touch with Ms. Sharpless.

8 **COMMISSIONER MOORE:** No.

9 **CHAIRMAN KEESE:** She is in Detroit.

10 **COMMISSIONER MOORE:** And you've seen a letter from  
11 me regarding the process and how I think we can improve it.  
12 Mr. Rhoads has a copy of that, --

13 **CHAIRMAN KEESE:** Correct.

14 **COMMISSIONER MOORE:** -- as well.

15 And all I will say is that it seems to me, in a case  
16 like this, we have a dichotomy where it's not just that you  
17 can clean it up; it's whether you need to send it at all.

18 And so, if the Committee's judgment is that we should  
19 file and enter something that's basically a done-deal at the  
20 PUC anyway, then I would simply ask that you record me and  
21 show me as in dissent, that I don't see the need to file it.

22 **CHAIRMAN KEESE:** Okay. That'll be the action.

23 Does anybody else have an action item for today?

24 (No response.)

25 **CHAIRMAN KEESE:** Okay. I am going to have to leave.

1 I'll turn this meeting over to Commissioner Rohy, with the  
2 understanding that this not an action item. I was planning to  
3 make some opening statement before we started this, but I  
4 won't be able to do it. This should be considered the opening  
5 presentation on this issue. Let me ask a question.

6 Commissioner Moore has suggested that we probably  
7 might want to have a committee or a Commissioner involved  
8 within this process. My feeling would be that I would  
9 recommend that Commissioner Laurie accept that role. He did  
10 yeoman service for us in the Strategic Planning process.

11 I know that with Renewables and Information and RD&D,  
12 there's people who have lots of things. Commissioner  
13 Sharpless is not here.

14 Would that satisfy your --

15 **COMMISSIONER MOORE:** I have no problem with that at  
16 all. And I think that Commissioner Laurie's in a unique  
17 position to carry it out. I would only say that you all saw a  
18 copy of the memo that I wrote this morning suggesting an  
19 alternative to what has been presented to us through Mr.  
20 Deter.

21 **CHAIRMAN KEESE:** And I would not expect that we're  
22 -- we're not approving Mr. Deter's --

23 **COMMISSIONER MOORE:** Well, no.

24 **CHAIRMAN KEESE:** -- presentation right of making it  
25 today.

1           **COMMISSIONER MOORE:** No. I would simply say that I  
2 agree with the point of having a Commissioner designated  
3 because it seems to me it puts the focus and the  
4 responsibility where it ought to be.

5           When the reorganization of this Agency comes down, it  
6 really ought not to come from Staff up. It should come from  
7 the Commissioners down. And so having a Commissioner oversee  
8 it and make sure that it gets done in a timely fashion, I  
9 think, is a good one. And I totally agree with the choice, if  
10 he'll accept.

11           **CHAIRMAN KEESE:** Was that --

12           **COMMISSIONER ROHY:** Yes. I made a recommendation  
13 recently to Commissioner Laurie in private conversations that  
14 we have en banc hearings as we did in the past. And, with his  
15 leadership, I would have no problem with that, having en banc  
16 hearings.

17           **CHAIRMAN KEESE:** Okay. With that, Commissioner  
18 Laurie, if you'd be willing to accept, I'd like to ask you to  
19 work on the team that has been working on the items here.

20           **COMMISSIONER LAURIE:** I'd be glad to.

21           **CHAIRMAN KEESE:** Okay. Thank you.

22           Mr. Rhoads.

23           (Chairman Keese departed the business meeting room at  
24 10:57 a.m.; meeting now chaired by Vice Chair Rohy:)

25           **MR. RHOADS:** Today we're here to discuss a process

1 to evaluate the organizational structure of the California  
2 Energy Commission.

3 I have one announcement I'm a little sad to make.

4 When we started this process I was particularly  
5 excited because I was able to convince Ross Deter to postpone  
6 his retirement plans and devote full time to organize and lead  
7 this process. Since then he's had a change of heart or,  
8 perhaps, his wife has. And he has decided that he wishes to  
9 proceed with his retirement. So, unfortunately, this Friday  
10 will be his last day at the Commission. Although, he'll be on  
11 our payroll for some time using vacation.

12 He promises, though, that he will come back and  
13 criticize and help us in this process. But his leadership is  
14 going to be missed. I, in particular, will miss Ross. He's  
15 always had a commitment to this organization, a commitment to  
16 this Staff. And I'll particularly miss his frank and openness  
17 and the way he's addressed issues and the solutions that he's  
18 presented to me. We will survive. It's just going to be a  
19 little harder.

20 As I said, we're here to discuss this process. And  
21 at some time you will have to reach a consensus on what this  
22 process should be. I don't expect that that consensus will be  
23 done today, but it will need to be done before we proceed.

24 The project goal that we had was to identify and  
25 evaluate alternative Commission organizational structures and

1 processes for consideration by the Commissioners.

2           It's important to look at the process goals that we  
3 incorporated. One was a healthy and open discussion between  
4 Staff managers and Commissioners on where we ought to be going  
5 and how we ought to be getting there.

6           The second goal was an opportunity for Staff to  
7 provide input and comment on the projects under development.

8           Ross mentioned in the presentation that we gave  
9 yesterday to the Management and Budget Committee that it is  
10 critical -- and all the readings show this -- that if you want  
11 the reorganizational proposal and plan to be successful, you  
12 have to have buy-in from the stakeholders and from the Staff  
13 at the Commission.

14           And the only way you're going to get that buy-in is  
15 to involve them, is to listen to them, and is to comment on  
16 the proposals and the changes that they are offering.

17           The third goal was that all ideas are encouraged and  
18 valued and will be considered in making the final  
19 recommendation. I would add an extra goal now, that we will,  
20 in this process, be getting a lot of suggestions and critiques  
21 of our way we do business and ways that we can make it more  
22 efficient. And it's very, very important that we listen to  
23 those ways of improving our process. And it's also very, very  
24 important that we act on them. And I'll talk more about this  
25 as we proceed.

1           A small project team to organize, consolidate and  
2 present analysis. We felt that there was a need -- I still do  
3 -- to have a small project team to gather the brainstorming  
4 efforts of Staff and Commissioners, to organize them, to  
5 consolidate them and to present the results.

6           An obvious goal is guidance from the Commissioners  
7 throughout the process. And a full range of options and  
8 analysis will be done.

9           We don't view this as presenting just one proposal.  
10 We view this as looking at as many proposals as possible,  
11 putting everything on the table for an analysis.

12           The next slide shows how we envision the organization  
13 evaluation process. Along the top we have divided it into  
14 four phases: planning, what we call inventory, analysis and  
15 the final decision.

16           I want to mention that we view a lot of feedback,  
17 especially between the inventory and the analysis phase. That  
18 it just isn't going to be a longitudinal, one-segment-at-a-  
19 time, that we'll be going back and forth, particularly between  
20 the inventory and the analysis phase.

21           On the left-hand side, the players, the Commission  
22 Staff, the executive management team, the organization project  
23 team or evaluation team, and, obviously, the Commissioners,  
24 the final decisionmakers.

25           What we have done so far is that we have established

1 the project team. That has been made up of Ross Deter, Ken  
2 Smith, John Wilson, Sey Goldstone, Clare Poe and Bob  
3 Therkelsen. That's six people. I think there is a consensus  
4 that you have to be very, very careful in the size of that  
5 project team. Anything above six you start getting unwieldy.  
6 Maybe you can go to seven, maybe up to eight, but that's about  
7 the limit.

8 This project team has been working, has had extensive  
9 discussions. And these individuals seem to be working very,  
10 very well.

11 We have made presentations to the management team.  
12 We have made presentations to Bob Laurie on the Strategic  
13 Planning and to the Budget Committee. And it was a desire by  
14 everybody to have regular meetings and to be kept informed and  
15 to be involved in the decisionmaking of this effort.

16 We also, at the end of this week, will be talking to  
17 DPA, asking them for their help, their guidance. We may even  
18 entertain borrowing one of their experts under contract to  
19 help us through this process.

20 DPA is a very, very important player, because when we  
21 get through this process, we will be going to them with some  
22 recommendations. And they will be the main control agency on  
23 accepting the recommendations that we will be putting forth.  
24 So it's very, very important to involve them early into the  
25 process.

1           We have also given a presentation to Phil Romero.  
2           There's two points, I think, that he made that are very  
3           important and worthwhile to note.

4           One is he regards this type of a process, especially  
5           for the Energy Commission, as something that must occur and is  
6           just a normal outgrowth of the Strategic Planning.

7           And the second was that we must make every effort in  
8           this reorganization effort to adhere to the Strategic Plan and  
9           to involve the Strategic Plan goals and concepts and to  
10          integrate the two, which is definitely our intention, and will  
11          now, obviously, occur with Bob Laurie's leadership.

12          The second phase is the inventory phase, which we  
13          will go into, assuming that we have reached consensus on the  
14          project planning phase.

15          What we envisioned was meetings with the Staff, very  
16          well thought-out planned meetings with facilitators to  
17          identify the opportunities and the criteria in the Commission,  
18          what works well. How it can be retained. What doesn't work  
19          well. How to resolve it. What's inefficient and needs to be  
20          improved and how we go about proving it. What is the best  
21          organization? Where do we want to end up, and how we can get  
22          there. To start talking about criteria, to evaluate  
23          alternative organizational structure. What makes an  
24          organization good?

25          And in these meetings we expect a lot of information

1 to be collected. We expect a lot of brainstorming by the  
2 Staff. We expect a lot of small groups. And it will be the  
3 job of the project management team to consolidate and organize  
4 that information, to specify the criteria, to present it back  
5 to the Staff and to the Commissioners and to the executive  
6 management team for review, comment and guidance.

7 We expect also in this process that a whole slew of  
8 nonorganizational issues will come and surface, very, very  
9 important issues on how this place can run better, how this  
10 place can run more efficient.

11 We refer to these issues as kind-of "bin" issues. I  
12 don't particularly like the word "bin," because it kind of  
13 implies that we're going to stick it someplace and not address  
14 it. I think it's going to be very, very important that these  
15 issues get addressed and that they get addressed quickly.

16 And I think one of the problems that we're going to  
17 have with this process is that there's going to be a little  
18 skepticism from the Staff. And they need to see that we're  
19 going to address a lot of the concerns that they raise. It  
20 doesn't mean we have to accept every single item, but I think  
21 it's important that they're listed out, that we discuss them,  
22 that we decide whether we're going to proceed with them,  
23 whether we're going to change with them, or whether we're  
24 going to take no action with them.

25 I think these organizational issues I regard as very,

1 very key and crucial and essential and dovetail right with the  
2 reorganization proposals that we will be coming up with.

3 Phase 3 is an analysis phase where we will start  
4 developing alternative organizational structures, where we  
5 will take a very, very hard look at the work functions in the  
6 Commission, much harder that we looked at when we were doing  
7 the reallocation exercise.

8 Dovetail it with the work plans, where we will apply  
9 the Strategic Plan directions, where we will look at each  
10 structure and see how well it fits the decision criteria and  
11 where we will look at the pros and cons of each.

12 As I said before, I see a feedback between this phase  
13 3 and phase 2. I see, obviously, a lot of discussion and  
14 interaction with the Commissioners and with the Staff.

15 The fourth phase is the decisionmaking phase where we  
16 will report and make recommendations on the reorganizational  
17 structures, that we will have review and comment by the Staff  
18 and also, obviously, by the Commissioners and the Committee.

19 And that, hopefully, we will have a decision and,  
20 perhaps, a consensus on what is the best organizational  
21 structure for the Commission.

22 The timeframe that we picked out for this was overly,  
23 overly ambitious. We were looking at an end date of April. I  
24 think it's important to try to keep the time structures as  
25 tight as possible. I think April is going to be very, very

1 tough to meet. But my recommendation to you is that we keep a  
2 tight schedule.

3 That, basically, ends the process as Ross and I see  
4 it, our recommendation to you as a process, and we're here for  
5 questions.

6 **CHAIRMAN ROHY:** Questions from the other  
7 Commissioners?

8 **COMMISSIONER MOORE:** Mr. Chairman?

9 As you might have seen from my note to the other  
10 Commissioners, it would be clear that I fundamentally disagree  
11 with Mr. Rhoads' approach. And here are my reasons.

12 To me, this presentation--- and I had the benefit of  
13 a discussion about this with Ross Deter a couple of weeks ago  
14 -- illustrates a confusion about what our objective is.

15 To me, the objective is to create an organizational  
16 structure, a design for management interaction between the  
17 Commissioners and, frankly, the ongoing interaction between  
18 the Staff and projects or problems that we might be facing in  
19 the real world and the idea of designing something that meets  
20 with everyone's approval in the Agency.

21 Now that process was appropriate for and was used, I  
22 think, very well in the Strategic Plan where we involved  
23 virtually everyone who wanted to participate in the Agency, a  
24 lot of outside players.

25 We took opinions and we designed a set of goals and

1 policies that would guide us over the next few years in  
2 meeting a set of perceived objectives.

3 The structure of the place, management that carries  
4 it out, the role of the managers in response to the  
5 Commissioners, it seems to me, is a wholly different matter.  
6 And it's not a matter that begets a democracy.

7 It is not a democracy. In a sense, any management  
8 structure that is run from the top is a benevolent  
9 dictatorship at best -- I hope -- and functions with clear  
10 lines of authority. I don't believe that my task is to take a  
11 vote about how I ought to relate to my managers or how I ought  
12 to solicit opinions from Staff.

13 I can certainly be open to suggestions. And I hope  
14 that, when we finally get a structure in place, the Staff will  
15 participate fully and in a very ongoing manner about what kind  
16 of fine-tuning makes it run better.

17 But, frankly, I think the discussion about the nature  
18 of the management structure is something that is not open for  
19 a vote and to which I am reluctant to commit to a process like  
20 this, that is, as I said in my note, reiterative to an extreme  
21 and which is unlikely to come to a conclusion that can be  
22 voted on in a clear and responsible way by us.

23 So, with that, I would say that I think that the  
24 timeframe is appropriate. We can certainly agree that it  
25 ought to happen sooner than later. But that we ought to say

1 that our goal here is to design a management structure, not a  
2 democratic institution that's going to be subject to votes in  
3 the future.

4 We should take it upon ourselves to, as we have just  
5 done, designate a Commissioner to head this up; hire some  
6 talent and expertise, someone with experience in this; and  
7 have suggestions about organizational structure submitted to  
8 us; pick the one that the five of us are most comfortable  
9 working with and then go and design that in such a way that it  
10 takes advantage of the people that we have working in this  
11 building, the vast array of talent that we have here, and that  
12 we build a system that takes advantage of that, promotes the  
13 most interactive-working relationships that we can with Staff  
14 and with the consultants that we will hire. And then we turn  
15 back to our fellow member or Committee, and we say, "Let's  
16 implement this."

17 At that point, when we say, "Let's implement [it],"  
18 it seems to me that a structure something like this might  
19 start to come in to play where we start to reach out and  
20 create teams, small teams.

21 And, frankly, I'd be kind of excited about the idea  
22 of reaching down into the mid-management levels and finding  
23 people who have worked their way up through the ranks, know  
24 what the relationships are with the managers and with the  
25 folks that work for them, and use their expertise more than we

1 have in the past.

2 But I think that the place where we come in to a  
3 structure like this is after we've decided what the overall  
4 structure is going to look like, who is going to report to  
5 whom, and we adopt that, and then figure out how to implement  
6 it.

7 **CHAIRMAN ROHY:** Okay. Commissioner Laurie?

8 **COMMISSIONER LAURIE:** And, thank you, Mr. Chairman.

9 I agree in part with Commissioner Moore, most  
10 particularly the responsibility of leadership that rests in  
11 the hands of this Commission. And I believe this Commission  
12 is prepared to accept that responsibility.

13 This task that we have before us is a very exciting,  
14 positive opportunity for all 430, plus or minus, members of  
15 this organization. We have some outstanding work to do and we  
16 have outstanding, extraordinary individuals to perform that  
17 work.

18 I think, over the last period of time, at least since  
19 I have been here, that we've all been talking about that  
20 change. And think that change, for the most part, is  
21 extremely positive. We're not talking about being very  
22 specific about those changes.

23 Our Strategic Plan allowed us the freedom of  
24 expressing generalities, which is a very nice thing to do if  
25 you don't want to have to make tough decisions. I think our

1 Strategic Plan was good. It accomplished its mission. We're  
2 now at our noted phase 2, which may be a little tougher.  
3 Nevertheless, I don't think it's going to be any less  
4 positive. And I'm very optimistic that it will be so.

5 I am not prepared to support the retention of a  
6 consultant today. I may very well be prepared tomorrow. I  
7 have asked the question of myself whether we have the inhouse  
8 capability to conduct a managerial reorganization and,  
9 honestly, I've not satisfied myself as to that answer, today.

10 I don't believe this Commission is intending to take  
11 a vote on the proposal today. I certainly am not prepared to  
12 vote on this proposal today. I think Commissioner Moore's  
13 comments are well taken, that we have some thought to do  
14 before we move in any specific direction.

15 As the Chairman, Commissioner Rohy noted in informal  
16 discussions, I think we have commented upon the need to meet  
17 as a whole and to have all the Commissioners views fully and  
18 firmly expressed in the public domain. And I'm looking  
19 forward to the opportunity.

20 My understanding is, today, we are receiving input.  
21 I think we are about to, in actuality, start the process,  
22 although I'm aware that the team has been working for some  
23 time. I think we're now going to start a public process. And  
24 we can talk about, at some point, what step one really will  
25 be.

1 Thank you.

2 **CHAIRMAN ROHY:** Thank you, Commissioner Laurie.

3 I'd like to add my comments to the debate here and  
4 also state that I don't believe we'll come to a vote today.  
5 That's not the objective. It's to begin the discussion.

6 I am concerned when we talk about reorganization as  
7 our goal. I come from industry. And for many years we  
8 reorganized every two years as something you did because that  
9 was the way to wash away the sins of the past and get a fresh  
10 start.

11 Without specific goals and objectives, however,  
12 reorganizations always fail. And I still have not seen the  
13 goals and objectives of why we are entering this. I think  
14 there's some very good ones. But this Commission needs to  
15 discuss what those goals and objectives are so we have  
16 measureables to know how we are doing on the past to getting  
17 where "where" is. And I don't believe this Commission has  
18 discussed that beyond the Strategic Plan.

19 Before we can pick an organization's structure I also  
20 believe that we need to simplify our processes internally,  
21 figure out what we can do better, figure out how we can  
22 improve the core competencies that we want to retain here.  
23 And we have to do a lot of that work to get the excitement  
24 back in the organization.

25 And only then, after we've worked through simplifying

1 goals, providing goals and objectives, figuring out what our  
2 core competencies are, what the criteria are for the  
3 reorganization, should we then begin a reorganization effort.

4 An often-used phrase that I use -- I often use -- is  
5 that any organization can succeed and any organization can  
6 fail. It depends on what you want to do and how you do it.  
7 And I think that's where we need to have our discussions of  
8 how we want to work in this Commission.

9 This is an opportunity, as Commissioner Laurie said,  
10 that provides a lot of excitement. The result of a good  
11 process here would be the people feel better about their work,  
12 they go home at night saying they really had a significant  
13 impact on the work of the Commission and on the state of  
14 California.

15 We will have this chance, once, to do in the next few  
16 years. We don't often do it twice without getting a lot of  
17 cynicism. So I want to do this correctly. I do appreciate  
18 the work that Ross and the Executive Staff have done to get  
19 the discussion started.

20 It's always hard to put the first balloon out. It  
21 gets shot at. But I want to thank you for doing that. It is  
22 a very difficult process to begin.

23 And from the sound of the discussion we've just had,  
24 it certainly will be a highly-debated topic as we go forward.

25 Further comments, Mr. Rhoads, or Mr. Deter?

1           **MR. DETER:**    I just have one comment.

2           Commissioner Moore commented that this process was  
3           designed and meets everyone's approval and that it would end  
4           up having everybody take a vote on the organizational  
5           structure as if -- that was not what I envisioned in designing  
6           this process.

7           And I know we had a good conversation. And I thought  
8           it was a very good discussion. And I took a lot of your  
9           comments back and redesigned this organization.

10          But basically I think it's very important that  
11          whatever process you decide to do is that you allow an  
12          opportunity for Staff in this organization to give input to  
13          the people who are going to make decisions. I don't think  
14          Staff want to, nor would we envision asking Staff to take a  
15          vote on what the organizational structure ought to be.

16          But I think Staff have been here a long time. They  
17          know how things work; they know how things don't work. And I  
18          think they'll have some very valuable insights into how we can  
19          work better in the future. And that's what this process was  
20          hopefully designed to be.

21          I clearly think that it's the Executive Director and  
22          the Commissioners' position to make decisions about whatever  
23          the organization is going to end up being.

24          So I just wanted to clarify that.

25          **CHAIRMAN ROHY:**    Mr. Rhoads.

1           **MR. RHOADS:**    I just want to say that I am very  
2 excited about this effort, whatever the process turns out to  
3 be. It's a marvelous opportunity for the Commission.

4           And I just think if we do it right, when we get  
5 through with it we will have an organization that, hopefully,  
6 other state agencies will look to as the way of doing business  
7 and meeting the needs of California.

8           **CHAIRMAN ROHY:**    I hope you're right. That's my  
9 objective also.

10           Do you have any further comments, for instance, on  
11 the finance letters? I know that --

12           **MR. RHOADS:**    We submitted the finance letters to a  
13 resource agency, to Mr. Wallace. They will be submitted to  
14 the Department of Finance. We will have a package of those  
15 letters to all the Commissioners.

16           The steps in that process is that they will go to  
17 Department of Finance for their approval. And then they will  
18 be sent over to the Legislature basically as an addendum to  
19 the Governor's budget.

20           **CHAIRMAN ROHY:**    I know you'd given me my copy  
21 yesterday. I haven't had a chance to read through them yet.  
22 But I trust you put in the paragraph saying that we would, in  
23 fact, seek all efficiencies possible before hiring these  
24 people?

25           **MR. RHOADS:**    I hope we did, too. And I'm quite sure

1 we did.

2 **CHAIRMAN ROHY:** That was a rather large package.

3 Thank you, Mr. Rhoads.

4 **MR. RHOADS:** I guess I should say one, you know, one  
5 of the pitches that we will give in the Legislature, when we  
6 talk about these finance letters, is that the -- and one of  
7 the finance letters talks about the redirection of 11 PY. And  
8 we will talking about the fact that we have redirected over 40  
9 PY to the Renewables and to the RD&D Program. And it's our  
10 attempt to do that as much as possible.

11 **CHAIRMAN ROHY:** Thank you.

12 Chief Counsel's report?

13 **MR. CHAMBERLAIN:** I understand I got here a little  
14 late for the closed session and...

15 **CHAIRMAN ROHY:** We do things quickly today.

16 **MR. CHAMBERLAIN:** I think that's just fine. I have  
17 no further report. Thank you.

18 **CHAIRMAN ROHY:** Thank you, Mr. Chamberlain.

19 Public Advisor's report?

20 **MS. MENDONCA:** I have nothing at this time.

21 **CHAIRMAN ROHY:** Thank you.

22 Any public comment?

23 Oh, Ms...

24 **MS. STEVENS:** Mr. Chair, members.

25 We just have one small item from the Legislative

1 Committee, which is adoption of our recommendation from the  
2 Leg Committee on SB 606, which is the technical clean-up bill  
3 from SB 90.

4 If you will remember previous conversations we've  
5 had, there were amendments left on the table last year. And  
6 this bill seeks to rectify that situation. So the  
7 recommendation is to support this bill.

8 **CHAIRMAN ROHY:** Comments on this?

9 **COMMISSIONER MOORE:** None. And I'm prepared to  
10 support.

11 I would simply point out, also, to the members, that  
12 there's a bill out on solar credits from Mr. Keeley. And I'm  
13 hoping that that will come before the Renewables Committee.  
14 It's got very wide-reaching ramifications. I know the wind  
15 industry is trying to get themselves on to the bill.

16 So I just want to make sure that we follow -- that's  
17 1755 Keeley -- and make sure that we do stay on top of it  
18 because it would, if implemented, seriously impact a lot of  
19 what we do, not just in Renewables but in anything concerning  
20 the CTCs.

21 **MS. STEVENS:** Thank you.

22 **CHAIRMAN ROHY:** Thank you for your report.

23 Are there any public comments?

24 (No response.)

25 **CHAIRMAN ROHY:** Commissioner Laurie, do you have

1 anything?

2           **COMMISSIONER LAURIE:** A couple of announcements, Mr.  
3 Chairman.

4           We received notice that on February 20th -- I believe  
5 the afternoon of February 20th -- there's going to be a  
6 demonstration at the Capitol promoted by some antinuclear  
7 organizations, referring specifically to the shipment of spent  
8 nuclear fuels. There had been a request from some of these  
9 organizations for participation from the Energy Commission. I  
10 have not encouraged that participation.

11           In my view, it is not the forum to properly express  
12 the views of either the administration, the Legislature, nor  
13 of this Commission. So I will not be attending that  
14 demonstration, despite the invitation, nor do I believe any of  
15 our Staff will be attending.

16           And, number two, there will be a briefing by  
17 Assemblywoman Poole, on Monday afternoon, the 23rd, on the  
18 nuclear transportation issues. She will be promoting some  
19 legislation dealing with that issue.

20           Three, there is a presentation to the Assembly  
21 Committee on International Trade. And our Export Program has  
22 been asked to participate. And we will be doing so.

23           Thank you.

24           **CHAIRMAN ROHY:** Thank you, Commissioner.

25           I'm taking last calls for announcements.

1 (No response.)

2 **CHAIRMAN ROHY:** I hear none.

3 Any public comments?

4 (No response.)

5 **CHAIRMAN ROHY:** Hearing none, the meeting is  
6 adjourned.

7 **COMMISSIONER MOORE:** Thank you.

8 (Whereupon, the meeting was adjourned at 11:29 o'clock  
9 a.m.)

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CERTIFICATE OF REPORTER

I, **SUSAN PALMER**, a duly-commissioned Electronic Reporter of **Palmer Reporting Services**, do hereby declare and certify under penalty of perjury that I have recorded the foregoing **BUSINESS MEETING**, which was held and taken at the **STATE of CALIFORNIA, CALIFORNIA ENERGY COMMISSION**, in Sacramento, California on the **18th day of February 1998**.

I also declare and certify under penalty of perjury that I caused the aforementioned transcript to be transcribed by Steven Palmer and that same was proofed by Nancy Palmer, a Certified Reporter and Transcriber, Number 00121; and that the foregoing pages constitute a true and accurate transcription of the aforementioned meeting.

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

Dated this **23rd day of February 1998** at Manteca, California.



**SUSAN PALMER**

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