

STATE OF CALIFORNIA  
ENERGY RESOURCES CONSERVATION  
AND DEVELOPMENT COMMISSION

BUSINESS MEETING

Wednesday, January 20, 1999

10:00 a.m.

Held at the:

California Energy Commission  
1516 Ninth Street, Hearing Room A  
Sacramento, California 95814  
<http://www.energy.ca.gov>

CALIFORNIA ENERGY COMMISSION  
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Reported by:

Susan Palmer

COMMISSIONERS

WILLIAM J. KEESE, Chairman

DAVID A. ROHY, Vice Chair (not present)

JANANNE SHARPLESS

MICHAL C. MOORE

ROBERT A. LAURIE

PARTICIPATING STAFF MEMBERS

LANA BECKSTROM

JONATHAN BLEES

BILL CHAMBERLAIN

DAN FONG

TOM GLAVIANO

BOB HARE

JACK JANES

LINDA KELLY

DARYL MILLS

TERENCE O'BRIEN

TIM SCHMELZER

KENT SMITH

TON TANTON

TIM TUTT

PARTICIPANTS from the PUBLIC

KAREN EDSON, Independent Energy Producers

PATRICIA FLEMING, Elk Hills Power Project

JANE LUCKHARDT, Elk Hills Power Project

I N D E X

<u>Agenda Items</u>	<u>Page</u>
Presentation of the 1998 Public Policy Leadership Award:	5
Consent Calendar:	7
Commission Cosponsorship, 1999 CABEC Conference Santa Barbara Air Pollution Control District Ventura county Air Pollution Control District Western Governors' Association Motion on all above:	8
Geothermal Program:	8
Motion:	11
Conference on Energy Cooperative Development:	11
Motion:	14
Saxon-Hamilton:	14
Motion:	15
Transportation-Energy Program Plan:	15
Motion:	25
Amendment to Integrated Assessment of Need and the Need Cap of <i>ER 96</i> :	25
Public Comment:	30
(Formal approval put over to a future date)	
(Errata Sheet included as last page of transcript)	
Approval of Minutes:	None
Commission Committee and Oversight:	49
Legislative Committee Proposal, motion:	51
Energy Efficiency Standards Committee:	54
Chief Counsel's Report:	56, 61
Executive Director's Report, Y2K:	60, 62
Public Advisor's Report:	None
Final Public Comment:	None
Adjournment:	90
Reporter's Certificate:	91

1 Wednesday, January 20, 1999

10:10 o'clock a.m.

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

3 **CHAIRMAN KEESE:** We'll call this meeting to order.

4 Commissioner Moore, would you like to lead us in the  
5 Pledge, please?

6 **COMMISSIONER MOORE:** I'd love to.

7 (Attendees participate in the Pledge of Allegiance.)

8 **CHAIRMAN KEESE:** Thank you. Just to tell you, we're  
9 working on a new microphone system this morning, so if we  
10 fumble a couple of times, please excuse us.

11 As we start this meeting, I would like to try to  
12 convey the thoughts that were expressed in Washington at the  
13 *Energy Daily Awards* ceremony in December. And I thought it  
14 was an interesting background because it was information that  
15 I was not aware of. And that basically goes back somewhat  
16 into the history of the California Energy Commission and the  
17 Energy Commission's work on technology and, in particular, gas  
18 turbines.

19 And I guess we're all familiar with the fact that the  
20 gas turbine engine used in electrical generation came out of  
21 the aerospace industry and the efforts to modernize and  
22 enhance the jet engine.

23 And then, as industry was starting to use  
24 aero-derivative engines, the Energy Commission in the early  
25 1990s took upon itself to call, to convene leaders in the

1 utility industry and the gas turbine industry and in a public  
2 forum, just to ask them when they were going to get to  
3 60-percent efficiency. The result of which was some of the  
4 manufacturers said it could not be achieved. But the issue  
5 became publicly known.

6 We are now on the verge of getting there. And the  
7 Energy Commission's work in that area was acknowledged by the  
8 *Energy Daily*, who attributes to the California Energy  
9 Commission the push forward that brought the current advances  
10 in the aero-derivative engine.

11 The Energy Commission continues to work in areas like  
12 this technology development, continues to work with CADER, as  
13 we have heard in a number of presentations, on advances in  
14 distributed energy generation.

15 And so it was my privilege to be in Washington and to  
16 accept on behalf of the Energy Commission an award for  
17 activities that I was not even aware had occurred. But in  
18 looking back at what the Energy Commission did in 1991, when  
19 they convened this meeting and just confronted, basically, the  
20 industry and said, "It's time to improve; when are you going  
21 to do it," I look forward to further activities of the Energy  
22 Commission in looking for opportunities to do similar things  
23 in the future.

24 And I think this is a good example of what can be  
25 done from a policy, a planning body such as the Energy

1 Commission is. This is what the Commissioners are looking at  
2 today as we go through our restructuring of the Energy  
3 Commission, how to make it a more vibrant, a more active  
4 organization.

5 So at this time I would like to acknowledge these two  
6 very heavy marble bookends, which I had to carry with me on  
7 three transcontinental flights in my carry bag, were given to  
8 the Energy Commission. I think we should all acknowledge that  
9 Jack Janes was the contributor.

10 (Applause.)

11 **CHAIRMAN KEESE:** Jack, I really think you should  
12 keep these in your possession, too. Would you like to say  
13 something?

14 **MR. JANES:** I don't have anything to say.

15 Well, we had lots of people working together here in  
16 those years to cause this thing to happen. David Abelson, the  
17 attorney here, had a lot to do with that hearing you were  
18 mentioning. So it was quite a bit of effort on a lot of  
19 people's part to make that work.

20 **CHAIRMAN KEESE:** Well, thank you. Thank you.

21 I just will say that Jack's name came up back in  
22 Washington for his contributions to this cause.

23 Thank you again.

24 Item 2 is our Consent Calendar. We have four items:  
25 Cosponsorship included.

1 Do I have a motion?

2 COMMISSIONER MOORE: Move consent.

3 COMMISSIONER SHARPLESS: Second.

4 CHAIRMAN KEESE: A motion, a second. All in favor?

5 COMMISSIONERS: Aye.

6 CHAIRMAN KEESE: Opposed?

7 (No response.)

8 CHAIRMAN KEESE: Adopted four to nothing.

9 (Motion unanimously carried to approve all four items of  
10 the Consent Calendar: CEC cosponsorship of the February 16,  
11 1999 CABEC Annual Conference; for the Zero Emission Vehicle  
12 Demonstration program: Approval of Contract 500-96-004  
13 Amendment 2 with the Santa Barbara Air Pollution Control  
14 District and approval of Contract 500-96-005 Amendment 2 with  
15 the Ventura County Air Pollution Control District; and  
16 approval of Contract 150-97-003 Amendment 3 with the Western  
17 Governors' Association.)

18 CHAIRMAN KEESE: Commissioner Rohy is in Washington  
19 and will not be joining us today.

20 Item 2, the Geothermal Program. Possible approval of  
21 an interest rate schedule for loans made through the  
22 Geothermal Program.

23 Good morning.

24 MR. HARE: Good morning, Chairman Keese.

25 Where the Geothermal Program has net positive

1 revenues from its funded projects, our program provides loans.  
2 The California Administrative Code requires the Energy  
3 Commission to approve the interest rate for loans in the  
4 beginning -- is this turned on?

5 (Comments off the record regarding the public address  
6 system.)

7 **MR. HARE:** Is that better?

8 **COMMISSIONER SHARPLESS:** Yes.

9 **CHAIRMAN KEESE:** Yes.

10 **MR. HARE:** Where the Geothermal Program expects  
11 positive net revenues from its funded projects, the program  
12 provides loans. The California Administrative Code requires  
13 the Energy Commission to approve the interest rates for loans  
14 at the beginning of the funding cycle and to publish it in the  
15 Program Opportunity Notice.

16 To open our project solicitation for fiscal year  
17 1998-99 we're releasing a Program Opportunity Notice on the  
18 28th of this month. Accordingly, we're requesting the  
19 Commission to approve the submitted interest rate schedules  
20 for the public and private sectors respectively.

21 The private sector schedule is based on the Primary  
22 Index. The public sector schedule is based on the  
23 Merrill-Lynch Muni Master Municipal Bond Index. As an  
24 incentive for early repayment, the proposed interest rates are  
25 scheduled on a sliding schedule with lower rates available for

1 shorter-termed loans.

2           The interest rate for any accrued project would be  
3 based on the appropriate index in the event on the day of the  
4 final application when that is due to the Commission or on the  
5 Pooled Money Investment Account, whichever is higher.

6           As an aside, currently the calculated rates for the  
7 public sector are lower than the Pooled Money Investment  
8 Account. So we're using the Pooled Money Investment Account  
9 rates for all repayment terms for the public sector.

10           These indices are recommended for the Geothermal  
11 Program because they are independently determine. They are  
12 widely recognized as reliable indicators of movement in these  
13 interest rate markets and they are easily located by  
14 applicants and the Commission.

15           The Merrill-Lynch Muni Master -- Municipal Bond --  
16 Index is suggested for the public sector loans. And this  
17 Index is based on major municipal issuers having bonds with  
18 amounts outstanding of at least 50 million, an investment  
19 grade rating and issuance within the last five years.

20           For private sector loans, the Prime Interest Rate  
21 Index is recommended because of its wide acceptance within the  
22 marketplace.

23           So, again, we're asking the Commission to approve  
24 this interest rate schedule for the Geothermal Program.

25           **CHAIRMAN KEESE:** Thank you.

1 Any comments from the Commissioners?

2 **COMMISSIONER MOORE:** No. Mr. Chairman, I would  
3 simply say it's well thought out, it's rational, and I'm  
4 pleased to move for approval.

5 **CHAIRMAN KEESE:** We have a motion.

6 **COMMISSIONER SHARPLESS:** Second.

7 **CHAIRMAN KEESE:** We have a second.

8 Any public comment?

9 (No response.)

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

11 **COMMISSIONERS:** Aye.

12 **CHAIRMAN KEESE:** Opposed?

13 (No response.)

14 **CHAIRMAN KEESE:** Adopted four to nothing.

15 (Motion unanimously carried to approve the interest rate  
16 schedule for loans made through the Geothermal Program.)

17 **CHAIRMAN KEESE:** Thank you.

18 Item 3, the Conference on Energy Cooperative  
19 Development. Possible approval of an Energy Commission  
20 sponsored Conference on Energy Cooperative Development to be  
21 held March 8th in Anaheim, California.

22 Good morning, Linda.

23 **MS. KELLY:** Good morning. We're looking for you to  
24 approve the sponsorship of the Conference on Energy  
25 Cooperatives in Anaheim on March 8th. We believe this

1 conference is a unique opportunity to jumpstart our new  
2 Cooperative Development Program.

3 NRECA is having a conference in Anaheim at the same  
4 time, and they bring 17,000 people there. So this allows us  
5 to have a conference and really save money, because a lot of  
6 the speakers and the prime people in cooperative development  
7 are going to be in the area at the time so we can take  
8 advantage of that, those economies basically; and have invited  
9 them to our conference.

10 We have put together an agenda that you all have had  
11 a chance to see. I think it's a broad range of people who  
12 will basically introduce consumer groups to the possible  
13 advantages of aggregations and cooperative development.

14 We put together a budget. The Conference will cost  
15 approximately \$4,245, which I think is a bargain. And  
16 concerning where that money will come from, because we will  
17 not have our money from the Department of Energy, right now  
18 we're in the process of a mid-year O&E preview, and we have  
19 talked to Kent and others, and we will ask this Conference be  
20 covered after that review is done. We will apply for that  
21 money to come out of mid-year funds.

22 So we would like your approval to sponsor this  
23 Conference.

24 **COMMISSIONER LAURIE:** Mr. Chairman.

25 **CHAIRMAN KEESE:** Thank you, Commissioner Laurie.

1           **COMMISSIONER LAURIE:** My microphone is not working,  
2 so --

3           (Comments off the record.)

4           **COMMISSIONER LAURIE:** In any case, this proposal, I  
5 believe, is consistent with the conceptual workplan earlier  
6 discussed by the Commission and comments related thereto.  
7 And, in light of that, I would move approval of the request.

8           **COMMISSIONER SHARPLESS:** I have been working with  
9 Commissioner Laurie on this issue, as well, since the  
10 discussion we had about a month ago on this issue revolving  
11 the workplan to expend moneys that came to us from the  
12 Department of Energy as a result of Congressional action.

13           There was a great deal of action about the focus of  
14 the program. I want to acknowledge Staff has taken that back,  
15 has modified both the pamphlets that are going out to the  
16 Conference and the workplan to adjust for the input by the  
17 Commissioners.

18           In particular, the Conference that we are being asked  
19 to sponsor by this item is being held, as Ms. Kelly said, in  
20 tandem with the National Rural Electric Cooperative  
21 Association. However, every effort has been made to assure  
22 the outreach goes well beyond the NRECA attendees. So I want  
23 to acknowledge Staff has taken the message from the  
24 Commissioners and carried them forward.

25           So I would like to support this proposal today and

1 second Commissioner Laurie's motion.

2 CHAIRMAN KEESE: Thank you.

3 Any further comments, Commissioners?

4 (No response.)

5 CHAIRMAN KEESE: Any public comment?

6 (No response.)

7 CHAIRMAN KEESE: All in favor?

8 COMMISSIONERS: Aye.

9 CHAIRMAN KEESE: Approved three to nothing or --

10 COMMISSIONER MOORE: Oh, no. I said "Aye." I'm  
11 sorry.

12 CHAIRMAN KEESE: Approved four to nothing.

13 Thank you.

14 (Motion unanimously carried to approve the Energy  
15 Commission sponsored Conference on Energy cooperative  
16 Development of March 8, 1999.)

17 CHAIRMAN KEESE: Item 4, Saxon-Hamilton. Possible  
18 approve of Contract 150-98-001 Amendment 1, to increase the  
19 budget by \$30,525 -- that's a corrected figure -- to complete  
20 all work on the Energy Commission reorganization and to add  
21 61 days to the length of the contract.

22 Good morning.

23 MR. O'BRIEN: Good morning, Commissioners.

24 I would just state, as the Chairman has indicated,  
25 the contract amendment would do two things. It would extend

1 the contract time by two months, to May 31 of this year, and  
2 it would augment the contract by \$30,525. This would enable  
3 the work on the reorganization project to be completed.

4 And I would request you approve these amendments to  
5 the contract.

6 **CHAIRMAN KEESE:** Thank you.

7 **COMMISSIONER SHARPLESS:** So move.

8 **COMMISSIONER MOORE:** Second.

9 **CHAIRMAN KEESE:** A motion and a second. I don't  
10 think we probably have much more comment up here.

11 Any comment from the public on this?

12 (No response.)

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

14 **COMMISSIONERS:** Aye.

15 **CHAIRMAN KEESE:** Opposed?

16 (No response.)

17 **CHAIRMAN KEESE:** Very easily done. Adopted four to  
18 nothing.

19 (Motion unanimously carried to approve Contract  
20 150-98-001 Amendment 1 with Saxon-Hamilton.)

21 **CHAIRMAN KEESE:** Item 5, the Transportation-Energy  
22 Program Plan. Possible approve of a resolution regarding the  
23 Staff Transportation-Energy Program Plan.

24 Mr. Fong.

25 **COMMISSIONER SHARPLESS:** I'd like to start before --

1           **CHAIRMAN KEESE:**   Commissioner Sharpless.

2           **COMMISSIONER SHARPLESS:**   -- Mr. Fong gives you an  
3 overview of the plan and remind the Commissioners that in  
4 early December we had a for-information briefing on the status  
5 of the Transportation-Energy Program Plan. We had a number of  
6 stakeholders testify as to the importance of the Commission's  
7 activities in these areas. This is just in way of recall.

8           What we are attempting to do here and what we would  
9 like to see from the Commission today is for the Commission to  
10 give whatever input it feels it would now like to propose in  
11 this Transportation-Energy Program and, as a result of  
12 discussion, to be able to finalize this plan as a plan that  
13 will drive our future transportation programs.

14           We have before us in order to do that a draft  
15 resolution that essentially puts together the whereas clauses  
16 leading up to the need for a transportation plan. I would  
17 like to emphasize the Transportation Plan itself is not the  
18 end. It is a working document. But there is still work to be  
19 done that goes beyond this Transportation Plan.

20           In the final resolve clause I will direct your  
21 attention to what that unfinished business is. It is develop  
22 reasonable and measurable transportation energy goals and to  
23 prepare Transportation Program funding proposals and  
24 legislative initiatives.

25           The Transportation Program here at the Energy

1 Commission has been one that has existed since the beginning  
2 of the CEC. I don't think I have to remind my colleagues as  
3 to the importance of transportation as a major energy user  
4 here in the state of California and why it should be a major  
5 focus of this Commission.

6 We have spent a fair amount of time reassessing our  
7 programs. I think this is an important thing to do regardless  
8 of where an organization and how successful their programs  
9 might be. Why we went through this reassessment was not that  
10 we felt we had unsuccessful programs, but we felt we needed to  
11 reassess because programs do move along. We wanted to make  
12 sure we could be as effective as possible as industries have  
13 changed, as technologies have changed, as new government  
14 stakeholders and new parties come into the overall picture of  
15 transportation.

16 There have been many, many changes in transportation  
17 planning that have taken place since we originated our  
18 transportation programs. These are going to be very important  
19 in the future because they do, in fact, direct how  
20 transportation, how energy will be used in the transportation  
21 system.

22 So, to highlight a couple of important, perhaps new  
23 nuances in the Transportation Plan, and I would like to  
24 recognize Commissioner Moore for highlighting this and making  
25 sure that we did, in fact, give the proper emphasis for this

1 issue, is the land-use planning aspect and the  
2 transportation-planning aspect. We are all well aware of how  
3 important that is going to be in the state of California.

4           There was an article on the front page of the  
5 Sacramento Bee today talking about congestion and  
6 transportation planning. There is a great deal of money that  
7 is going to be spent in the coming years. There is a great  
8 deal of growth. There is a great deal of economic outcomes  
9 that will result if, in fact, we do not have an adequate  
10 transportation system.

11           The other area is in the area of energy efficiency.  
12 We would like to highlight and refocus a lot of our programs  
13 to focus on energy efficiency in the transportation sector.  
14 The core functions will be very similar to the core functions  
15 we have had in the past, because we feel we have the expertise  
16 and that, in fact, is what the mandate, the vision and the  
17 mission of this Agency has indicated is of value. But we are  
18 going to be highlighting and refocusing within those areas.

19           So we bring you -- "we" meaning the Transportation  
20 and Fuels Committee -- bring you this Plan after months and  
21 months and months of working on the strategic and  
22 re-evaluation of the Transportation Program, going out to  
23 stakeholders, and coming back with the product you see before  
24 you today.

25           So what I'd like to do is to be able to finalize this

1 Transportation Plan as a working document that will guide the  
2 programs here at the Commission for the future and allow the  
3 Staff to go forward with this guidance to further develop the  
4 goals and objectives and financing proposals that will help  
5 continue the Transportation Programs.

6 I would like to turn it over to Dan right now who  
7 will be able to highlight the Transportation Plan before we  
8 have discussion.

9 **MR. FONG:** Thank you very much.

10 Before I get into this very short briefing on the  
11 draft plan, I would like to really acknowledge the very  
12 valuable contributions from the Staff throughout the Energy  
13 Commission in developing this program plan.

14 Notably they are: Kent Smith, in our Executive  
15 Office; individuals in the Energy Information and Analysis  
16 Division, Dan Nix, Thom Kelly, Gerry Bemis and Leigh Stamets;  
17 Greg Newhouse with the Facility Siting and Environmental  
18 Division; and of course those in my own division, the Energy  
19 Technology and Development Division, Nancy Deller, Susan  
20 Brown; and my associates in the Transportation Technology and  
21 Fuels Office.

22 The first slide. As Commissioner Sharpless reminded  
23 the Commission, about a month ago we brought before the  
24 Commission an early briefing on some of the initial results  
25 from the stakeholder feedback on the original draft of the

1 plan. That feedback has essentially been completed.

2 We have received responses from 32 individuals and  
3 organizations. Those individuals provided written or verbal  
4 comments on the plan. We received 20 responses to the simple  
5 questionnaire we also released along with that draft plan.

6 We have very strong agreement among those  
7 stakeholders on the Staff analysis of the key transportation  
8 issues and the recommended and proposed core functions of the  
9 Energy Commission. We have good agreement on the  
10 transportation system threats and barriers that we perceive.

11 We have very strong agreement on these core functions  
12 of performing analysis of energy market trends, being a  
13 clearing house and source of objective transportation energy  
14 information sponsoring and cost-sharing transportation  
15 technology, research, development and demonstration and also  
16 providing support for transportation energy infrastructure.

17 The key recommendations in this final Staff draft are  
18 as follows: The Staff needs to develop a specific criteria  
19 and performance targets for any future RD&D projects we choose  
20 to support. We need to establish a continuously appropriated  
21 account for a transportation technology development program  
22 that would support the different action plans we eventually  
23 will bring forth.

24 We need to partner more closely with the California  
25 Department of Transportation and regional transportation

1 planning agencies and land-use authorities.

2 We need to really work to incorporate specific energy  
3 criteria in transportation and land-use planning processes.

4 It's clear to us, after going through this very detailed and  
5 lengthy evaluation of what makes transportation systems work  
6 here in California, this Agency really needs to focus on those  
7 local authorities who now control over 75 percent of all  
8 future transportation funding.

9 We think this Agency can contribute to better  
10 thinking, better planning so the long-term energy requirements  
11 of the state's transportation energy system can be reduced.  
12 We can still meet our transportation needs, but we need to  
13 establish a transportation system that is more sustainable,  
14 less harmful to the environment and to public health.

15 Quite a number of the external stakeholders reminded  
16 us it is easy to forget the near panic times of oil embargoes  
17 and the assembly of vast military armadas in some far off  
18 desert. We now find ourselves with ample supplies of  
19 petroleum and very low, low transportation fuel prices.

20 Those stakeholders reminded us, though, this is not  
21 the time to become complacent. It is a time to continue to  
22 act with reason and to move forward with the benefit of  
23 lessons learned.

24 The Proposed Transportation Energy Program Plan  
25 reflects our experiences of the past and attempts to focus on

1 the longer-term problems and challenges that our  
2 transportation energy system faces. It stresses the  
3 development and application of more efficient technology and  
4 the use of energy criteria and land-use and transportation  
5 system planning.

6 Using energy more efficiently for transportation  
7 purposes and reducing future transportation energy demand  
8 leads to a more sustainable system and direct savings and cost  
9 and reduced environmental impact.

10 And so with the adoption of the plan and the proposed  
11 resolution, I think the Staff will be given clear direction to  
12 then move forward and develop the specific transportation  
13 energy goals that allow for measurable and a clear assessment  
14 of the progress of our actions. But we also need to prepare  
15 funding proposals for future Commission consideration.

16 And these funding proposals are, as I said in my last  
17 briefing, sort of the ante, that we need to participate in  
18 this very large game of how to go about establishing and  
19 sustaining our transportation energy system.

20 I would be pleased to take any questions from the  
21 Commission at this time.

22 **CHAIRMAN KEESE:** Thank you, Mr. Fong.

23 Any questions here?

24 **COMMISSIONER SHARPLESS:** I'll proceed without a  
25 microphone. I don't have questions, but I do look forward to

1 hearing any concerns or comments. I recognize this is a  
2 rather lengthy document, and it has been out for a while.

3 We have gotten some feedback, I think, from some of  
4 the Commissioners. But what I'm really asking for today, and  
5 I would like to re-emphasize to my colleagues, that we would  
6 like to go forward with this as a blueprint, with this as a  
7 plan, to further refine the goals and objectives within the  
8 core areas that Mr. Fong spoke to, and to also begin to  
9 develop some funding proposals.

10 I think we are well aware of the fact that the  
11 Transportation Program here at the Energy Commission has been  
12 largely dependent on the last couple of years, maybe 10 or so,  
13 on PVEA Account funding. And that funding is dwindling and  
14 will not be with us for many years into the future.

15 This program I think is too important to put on a  
16 back shelf, too important to have to serve as a lesser of the  
17 issues the Commission deals with. I would like to, as I think  
18 my colleagues are well aware, make transportation a priority  
19 issue here. But we cannot do that without clear vision and  
20 without all of us agreeing on what that vision is and then  
21 being able to go forward with funding proposals to help  
22 support those programs.

23 We will not get the support of the Legislature or the  
24 Administration on funding proposals unless we can clearly make  
25 a case of the value that we add. So that's what this plan is

1 really intended to do.

2           **COMMISSIONER LAURIE:** Mr. Chairman.

3           **CHAIRMAN KEESE:** Commissioner Laurie.

4           **COMMISSIONER LAURIE:** I share Commissioner  
5 Sharpless' comments and views that the program is important.  
6 And I think it is good. I think the effort by both the  
7 Committee and Staff is an excellent work product.

8           I would support a blueprint to go forward as  
9 presented with a "well done" and without further comment.

10           **CHAIRMAN KEESE:** Thank you.

11           As you're probably aware and the Commissioners are  
12 aware, we made an effort last year to achieve in the budget  
13 process funding we had hoped -- additional funding to the  
14 Commission -- would supplant the PVEA funding, which was aimed  
15 at transportation. We actually had concurrence from virtually  
16 every governmental entity that was required to make this  
17 budget adjustment of a major nature. It just didn't happen at  
18 the last minute.

19           I think this program will strengthen, as Commissioner  
20 Sharpless said, our ability to show we have a very strong  
21 program that could go forward if adequately funded. And that  
22 may assist us in our effort to convince the new Administration  
23 that it would be very appropriate to consider budgetary  
24 changes which would add to our ability to fund such programs.

25           So I can support this very strongly.

1           **COMMISSIONER SHARPLESS:**    I would therefore recommend  
2 or, rather, make a motion to approve the resolution.

3           **CHAIRMAN KEESE:**        We have a motion.

4           **COMMISSIONER MOORE:**    Second the motion and to  
5 clarify that this is the framework for the future. This is  
6 the beginning of the plan. It serves as a draft.

7           **CHAIRMAN KEESE:**    Motion and a second.

8                    Do we have any public comment?

9                    (No response.)

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

11           **COMMISSIONERS:**    Aye.

12           **CHAIRMAN KEESE:**    Opposed?

13                    (No response.)

14           **CHAIRMAN KEESE:**    Adopted four to nothing.

15                    Thank you.

16                    (Motion unanimously carried to approve the resolution on  
17 the Staff Transportation-Energy Program Plan.)

18           **CHAIRMAN KEESE:**    Item 6, Amendment to the Integrated  
19 Assessment of Need and the "Need Cap" of ER 96.

20           **COMMISSIONER SHARPLESS:**    Mr. Chair.

21           **CHAIRMAN KEESE:**    Commissioner Sharpless.

22           **COMMISSIONER SHARPLESS:**    In Commissioner Rohy's  
23 absence I, serving as the Second Member on the ER Standing  
24 Committee, bring back to you the proposed addendum to the ER  
25 96 affecting the criteria for evaluating the conformance of

1 proposed powerplants with the Integrated Assessment of Need.

2 As you recall, this issue was debated at the January  
3 6th Business Meeting, and the Commission adopted the  
4 principles underlying the Addendum and asked that the Standing  
5 Committee refine and clarify the document. I will acknowledge  
6 the input of all of the Commissioners that we used as a basis  
7 for refinement.

8 And you will note, I think the major revisions  
9 occurred in the section entitled, "Requirements of State and  
10 Service Area Growth and Development." This is one of the five  
11 criteria the Warren-Alquist Act requires the Commission to  
12 balance.

13 It recognized the input from Commissioner Moore, that  
14 Commissioner Moore correctly stated the current market  
15 conditions that created a situation earlier this year. And it  
16 also continues to acknowledge that, while competition will be  
17 good for the system, there are features in the developing  
18 market that will also provide for meeting future demands, such  
19 as demand-side bidding, which is not as developed as it might  
20 be in the future.

21 So I would suggest you might want to pay attention to  
22 the revisions. In that section there is an errata sheet, I  
23 believe Mr. Tanton will go over, that indicates some technical  
24 changes. And I believe they are technology. They're not  
25 substantive.

1           The other, I would say, major change that took place  
2           in the document had to do with the "Effective Date" section.  
3           We had received a number of comments both at the hearing and  
4           later written comments regarding this issue.

5           We considered a number of options and we felt the  
6           option we bring forward to you today is one that both  
7           recognizes the need, once an addendum is established, that  
8           should be the point at which the changes take place, but also  
9           that this is a revision. There have been a number of  
10          applicants and potential applicants in the pipeline. We did  
11          not want to create a situation where we were changing the  
12          rules on individuals that were currently in the system, so the  
13          language is crafted in such a way to be sensitive to the  
14          rules.

15          I guess at that point I will stop and I will let Mr.  
16          Tanton, if he would like to, give some summary.

17          **CHAIRMAN KEESE:** Yes. I believe the errata sheet is  
18          technical, editorial. Unless somebody on the Commission feels  
19          we have to take those up, I don't think you need to comment on  
20          those. Why don't you comment on the program in general, Mr.  
21          Tanton?

22          **MR. TANTON:** Yes. I just request that the record  
23          include those errata as if read.

24          Commissioner Sharpless has summarized the changes  
25          made in the description of the events of last summer in the

1 ancillary markets and Mr. Wolick (phonetic) and the ISO's  
2 characterization of that. The other substantive change  
3 indicated is in the "Effective Date." And if there are any  
4 questions at this point I would be glad to answer them.

5 **CHAIRMAN KEESE:** I don't believe there are.

6 **MR. TANTON:** Thank you.

7 **CHAIRMAN KEESE:** Commissioner Laurie.

8 **COMMISSIONER LAURIE:** Mr. Chairman, I supported the  
9 motion that approved the document in concept at the last  
10 hearing and I will not change my position.

11 I do, however, want to take an opportunity to perhaps  
12 take a deep breath and ask some questions and make sure this  
13 is what we want to do.

14 And I pose the question because I recall the reason  
15 this matter was brought before us in the first instance. And  
16 that was a sense that the 6737 number was creating an  
17 artificial market in applications, and there was some concern  
18 expressed about that. And therefore we determined it was in  
19 our best interests in the Commission, in the process' best  
20 interest to eliminate that theoretical, artificial number.  
21 That is what we sought to do.

22 I want to make sure, however, we are satisfied the  
23 cure is not more problematic than the problem was in the first  
24 instance. That is, we sought to address this need cap number.  
25 And in its place we are putting in a new analysis that, in

1 fact, imposes a test we didn't have before. I need to ask  
2 myself whether that is consistent with all of our policies in  
3 every other paragraph of ER 96. Certainly up to this point I  
4 have not voiced or even felt that such was not consistent. I  
5 just feel the need to again ask that question.

6 If we were concerned about the 6737 number, could we  
7 simply have said -- and, by the way, that number is the  
8 permitted number and thus far we have permitted zero megawatts  
9 -- could we simply have said, "And should we surpass 6737  
10 during the pendency of ER 96, that's okay, but at that point  
11 we will consider doing something different." And we could  
12 have said that in one sentence.

13 So I put those questions out, not because I intend to  
14 oppose the good hard work of the Committee but, rather, to ask  
15 the thought and the question be considered before we embark  
16 upon what is a fairly dramatic change in policy.

17 **CHAIRMAN KEESE:** Thank you.

18 I have cards from a number of witnesses in the  
19 audience so maybe it would be good to hear from them, find out  
20 what they are going to raise, and then we will continue our  
21 discussion.

22 Is that all right?

23 **COMMISSIONER SHARPLESS:** Fine.

24 **CHAIRMAN KEESE:** Ms. Edson, on behalf of the  
25 Independent Energy Producers Association.

1           MS. EDSON:   Mr. Chairman, Commissioners, thank you.  
2 I'm Karen Edson representing the Independent Energy Producers  
3 Association.

4           I'm here really to make a very simple request, and  
5 that's a request for more time to digest the proposal that is  
6 before you. There are really two reasons for that. One is we  
7 just got the revisions to the Addendum. I saw it for the  
8 first time yesterday. And I'm not sure, having downloaded it  
9 from the internet, my page numbers even correspond to the  
10 errata, so I may have a hard time even figuring out where the  
11 errata goes.

12           And I have done kind of an initial assessment of the  
13 changes from the Committee draft, but have had no opportunity  
14 to discuss that with the IEP members. I will have that  
15 opportunity later today with the board of directors and intend  
16 to present this material at that time. But in order for us to  
17 provide, I think, thoughtful comments to the Commission, it  
18 would be very helpful to have this matter put over.

19           And the second reason I would ask for this delay I  
20 think really echoes Commissioner Laurie's comments and that is  
21 there is really no reason to hurry. I mean you have permitted  
22 zero megawatts towards the need cap in place in the 1996  
23 *Electricity Report* and a delay to allow further consideration  
24 of this proposal, I think, does not in any way jeopardize the  
25 interests of any of the parties now before the Commission.

1           With regard to IEP's interest here, IEP's members  
2 include many of the companies with projects before the  
3 Commission which are, I think, probably relatively comfortable  
4 with this draft simply because it doesn't apply to them. But  
5 IEP has other members who will have these policies apply to  
6 them and are really not yet informed about what the  
7 implications are for their future powerplant siting interest.

8           So again I simply want to make a request that we put  
9 this over. I would be happy to get into more substantive  
10 discussion, if you wish, but a short deferral would actually  
11 serve my immediate interests very nicely.

12           **CHAIRMAN KEESE:** Thank you.

13           Why don't we hear from the other witnesses and then  
14 we'll call you back if we have questions.

15           Pat Fleming, the Elk Hills Project.

16           **MS. FLEMING:** Good morning, Mr. Chairman,  
17 Commissioners. This morning I'm representing the Elk Hills  
18 Project, a 500-megawatt project that Sempra Energy Resources  
19 and Occidental Petroleum, as joint venture partners, proposed  
20 to build 35 miles east of Bakersfield.

21           As a result, we are indeed interested in this change  
22 in the cap to the Integrated Assessment of Need. And I am  
23 here just to tell you we support what is written in the draft.  
24 The extended effective date would benefit us because we are  
25 right now working on the application for certification to file

1 later this month or early February, I was told. So this would  
2 impact us if this date could be extended. It would impact us  
3 positively because we don't want to see any rules change as  
4 we're in mid-stream of our filing.

5 Thank you very much.

6 **CHAIRMAN KEESE:** Thank you.

7 Do we have any other members of the audience who care  
8 to comment on this issue?

9 (No response.)

10 **CHAIRMAN KEESE:** Commissioners.

11 **COMMISSIONER LAURIE:** Mr. Chairman, just another  
12 quick comment. I want to note for the record I personally  
13 have not been at all restricted in my opportunity to comment  
14 on any further draft. Sometimes it happens that one may feel  
15 they have lacked the opportunity and therefore object on that  
16 basis. That is not my case. The Committee and the  
17 publication of its documents certainly gave me and my Office  
18 every chance to comment.

19 My problem, of course, is I was dealing with a  
20 document. Once you have a written document, you end up  
21 responding to that document rather than an idea.

22 Nevertheless, I reiterate I supported the concept and I will  
23 continue to support the concept.

24 I only ask that we think for a moment as to whether  
25 we are acting consistently with our policy that says we are

1 not going to make things -- excuse me -- as to need, we are  
2 not going to make the need test stand in the way of new  
3 powerplants. And I'm wondering if even some of my own  
4 thoughts were inconsistent with that. I would simply put that  
5 out on the table.

6 COMMISSIONER SHARPLESS: If I could.

7 CHAIRMAN KEESE: Commissioner Sharpless.

8 COMMISSIONER SHARPLESS: If I could. I guess it  
9 wasn't very helpful to adopt the Committee's recommendation in  
10 principle, because there appears to be some second thoughts on  
11 what that means or how it is going to affect the process.

12 The revisions in the needs test really is not  
13 establishing anything new from the former *ER 96*. *ER 96*  
14 recognized competition and said that competition would be  
15 important in terms of creating a robust marketplace and would  
16 be important for end-users to have an efficient and economic  
17 system.

18 The need test you might be referring to is one that  
19 includes a rebuttal presumption that would allow a party to  
20 come forward and say a plant, in fact, does not help  
21 competition, in fact it will not help competition.

22 In my view that was already assumed and perhaps there  
23 was some way that could have happened even without the  
24 Committee putting a rebuttable presumption in the document.

25 For instance, if we were to analyze a facility, in

1 fact, was going to create greater problems on the system than  
2 they were going to alleviate, without the rebuttable  
3 presumption would the Committee still have to recommend or  
4 still have to go forward in a permit that would permit such a  
5 product, even know that, in fact, it would create larger  
6 problems on the system.

7 I think what the *ER 96* Addendum actually was  
8 attempting to do was to recognize that competition, in fact,  
9 would be good. It doesn't go back on that, Commissioner  
10 Laurie. It states that very clearly. But it says in some  
11 cases there may be some facilities which, in fact, do not have  
12 that desired outcome. And if, in fact, that can be proven  
13 with evidence, then it gives this Commission an opportunity to  
14 do something about it.

15 Is that a barrier to competition?

16 That, I think, was the background as to why we put  
17 that addition language in. But as far as when this problem  
18 was given back to *ER 96*, it was given in the context that, in  
19 fact, the need cap limit was imposing a barrier on  
20 competition.

21 Now your opening statement said it was providing a  
22 rush on applications. Well, I don't know it was necessarily  
23 providing a rush on applications. Even if we took the cap  
24 off, I think we might still have a rush on applications. I  
25 think there are other factors that come into play on that.

1 But I think the debate that occurred in the ER 96 Committee  
2 was whether or not the limit itself was imposing a restriction  
3 on competition.

4 Now your earlier statement said why don't we just  
5 wait until we reach the magic number of 6737 and then come  
6 back and deal with this on what ought to be the next step.  
7 Well, I think that just gets us back to the original argument:  
8 Is the number itself a limit on competition. I mean certainly  
9 it's something we can discuss and debate, but I think we have  
10 discussed and debated that. I think we have considered those  
11 factors.

12 The Committee came out with, I think, the clearest  
13 solution it could think of at the time given the circumstances  
14 we have now. And it recognized that circumstances are going  
15 to change. So that is why there is language in this document  
16 says this policy shall be reviewed by -- help me out, Mr.  
17 Tanton -- by when? No later than?

18 **MR. TANTON:** No later than when the red light comes  
19 on. Yes, December 31st of 2000.

20 If I could add a bit of a technical aspect to the  
21 suggestion Commissioner Laurie has made. The approach of  
22 dealing with it, once we have permitted 6,737 megawatts, would  
23 work very smoothly if the AFC process were an instantaneous  
24 process.

25 One of the issues the Committee discussed and

1 considered was when we reach that magic number there will be  
2 some number of projects in the queue at some point in their  
3 AFC processing.

4           What happens to them in terms of the need test they  
5 would be faced with? Does it change three days before the  
6 Presiding Member's report? Does it change prior to data  
7 adequacy?

8           What happens to the test that is applied to them if  
9 they are, in fact, in the queue when we reach that point of  
10 6,737 megawatts of permitted projects? So there was a little  
11 bit of phasing issue that was considered in that regard.

12           **CHAIRMAN KEESE:** Thank you.

13           Commissioner Sharpless, --

14           **COMMISSIONER SHARPLESS:** I would just add one point  
15 to Ms. Edson's question or request to extend. I'm always  
16 sensitive to the fact that if the public does not have an  
17 opportunity to review the information that establishes a  
18 particular issue that we need to work on. And I apologize to  
19 the stakeholders that did not have more time to do this. We  
20 were working up against a short timeframe, to begin with, and  
21 we acknowledge that. And apparently we kind of missed the  
22 mark. So I apologize.

23           **CHAIRMAN KEESE:** Two comments. I guess your  
24 suggestion is you would like to see a vote today or --

25           **COMMISSIONER SHARPLESS:** No. I was merely

1 responding to what I thought was very legitimate on behalf of  
2 Commissioner Laurie. But he opened the question, then we took  
3 testimony, and I wanted to get back to his issues.

4 **CHAIRMAN KEESE:** Are you amenable to the request the  
5 put this over for two weeks?

6 **COMMISSIONER SHARPLESS:** I think that's really up to  
7 the Commission. I don't know that it does any damage to allow  
8 for the public to have more time to review this issue.

9 **CHAIRMAN KEESE:** Just to clarify.

10 May I ask a question? I gather it may have been the  
11 Committee's feeling that a powerplant that was going to be  
12 built under the current rule, which is the 6700-megawatt cap,  
13 which was going to be anti-competitive or some way or other,  
14 might even under today's rules have been found -- not be  
15 permitted one way or another under today's rules because it  
16 didn't meet muster. Is that --

17 **COMMISSIONER SHARPLESS:** No. I raise that as an  
18 issue in saying the Committee wanted to make it clear that we  
19 just didn't think open competition in and of itself would cure  
20 all the ills of the system; there are cases where facilities  
21 may be located in a place in a way that does not help  
22 competition.

23 Since the emphasis and the focus of the *ER 96* policy  
24 is to say that Integrated Assessment of Need is based on the  
25 fact that competition is good and can be balanced against all

1 of these criteria, we wanted to have a way to say that if in  
2 cases it wasn't good and could be found to not be good by  
3 presented evidence, then the Committee would have an  
4 opportunity to take an action other than just having to permit  
5 facilities on the basis that competition is good.

6 We wanted to recognize that in some cases facilities  
7 could be built in places and at locations and at times when it  
8 did not, in fact, help competition. And that is why the  
9 rebuttable presumption came into the policy Addendum.

10 My wondering out loud was if we don't have that in  
11 there, if we could still do that. I don't know. It raises  
12 the issue of whether or not that is an extra policy or whether  
13 or not we could have done that without being explicit. I  
14 think that was an issue that Commissioner Laurie -- because  
15 that is the only new test we have: If, in fact, it's new.

16 **CHAIRMAN KEESE:** Mr. Chamberlain is ready to give us  
17 some comments.

18 **MR. CHAMBERLAIN:** I would like to support much of  
19 what Commissioner Sharpless has said. I believe what we are  
20 facing is a situation where even today parties, intervenors in  
21 these cases, can come forward and they can say to you, "You  
22 assumed that every powerplant that came before you up to 6737  
23 megawatts would, in fact, enhance competition. We are here to  
24 prove to you this powerplant will not."

25 And, in essence, what this order is is to try and

1 place some parameters on how that kind of an intervention,  
2 that kind of litigation would have to proceed. If anything,  
3 this order helps the powerplant owner by making it very clear  
4 the burden would be on that intervenor to show the powerplant  
5 will not promote competition but, rather, will actually harm  
6 competition.

7 So I don't think this is a major departure from where  
8 you have been in *ER 96*. I think it simply clarifies the rules  
9 of the game for everyone, both intervenor and powerplant  
10 applicant.

11 **CHAIRMAN KEESE:** Thank you, Mr. Chamberlain.

12 **COMMISSIONER MOORE:** Mr. Chairman.

13 **CHAIRMAN KEESE:** Commissioner Moore.

14 **COMMISSIONER MOORE:** I have several comments on the  
15 document. As Commissioner Sharpless noted, I had extensive  
16 comments earlier. And I very much appreciate the Committee  
17 taking those into account and making changes where they saw  
18 fit. I think it is improved quite a bit.

19 I would simply say right now the point Mr.  
20 Chamberlain made about the current ability of an intervenor to  
21 suggest anti-competitive behavior is really crucial to what is  
22 happening in terms of revising the test.

23 Now what we have done is to formalize that with this  
24 document so that, in effect, the Presiding Member in issuing  
25 an opinion on behalf of the Committee, will have to

1 effectively make a finding that there is anti-competitive  
2 behavior, where it has been demonstrated, and take that into  
3 account.

4 I don't think that's different than what we would  
5 have done anyway, but it does formalize the process. So I  
6 think that, in a sense, clarifies it. But it really does not  
7 replace with a more workable standard the Integrated  
8 Assessment of Need, which is brought forward in the  
9 Warren-Alquist Act.

10 And, as a consequence, we end up meeting the test of  
11 the letter of the law but not the spirit of the law. And I  
12 think that spirit will probably not be met until after we have  
13 produced another newer generation ER, an energy report of some  
14 kind that takes into account competitive behavior, locational  
15 analysis, congestion relief, timing and operation, successful  
16 operation and efficiency of the ISO and the Power Exchange.

17 When all of those things are taken into account, I  
18 think we will have some new assessment of need. I don't know  
19 how integrated it will be, but I hope in taking all of those  
20 elements into account it is, in fact, integrated in its base.

21 I am not convinced the 6737 number is relevant in any  
22 case. Behavior in terms of demand within the electric markets  
23 is radically different one year out than it was. As a  
24 consequence, many of the assumptions that were made about  
25 demand, many of the assumptions that were made about supply

1 that underlie the good work of the last *ER*, it seems to me,  
2 are now antiquated and have to be replaced in any case.

3 So it seems to me it behooves us to use this effort  
4 to say this document meets the test, the letter of the law,  
5 but frankly doesn't meet the spirit of what was intended, and  
6 we're going to have to reinvent it. So I think this should  
7 give us some stimulus to do that.

8 I reject the conclusion there will be a rush on  
9 applications. It's hard to believe you would get a higher  
10 rush of intention than the 29 notices that were filed already.

11 Frankly, as I look at the bulk of those, I am  
12 convinced many of them are placemarkers, attempts to go out  
13 and simply get a place in line before the theater tickets run  
14 out. And as we begin to impose a clearer and a more  
15 consistent accounting standard in terms of the documents filed  
16 through data adequacy, I think we will begin to weed out  
17 people who simply want to claim a place in line and those who  
18 are serious about making an application.

19 I think the very act of requiring a frame reservation  
20 alone is going to weed the number down considerably.

21 I think, when we get serious about taking up with the  
22 new Administration, and I think they will be sympathetic to  
23 this, the issue of cost and who pays and when it becomes clear  
24 to people that in a new regime these costs of processing and  
25 analysis will not solely be borne by the public body, it may

1 make that list shrink even further.

2           We change rules every day. Every government does.  
3 Every government unit imposes some new rulemaking. It seems  
4 to me it's disingenuous in the extreme to say we would attempt  
5 right at the front end to try and grandfather people in  
6 through an extension of the time other than those who have  
7 actually filed, actually formally gone through the process of  
8 getting in the queue.

9           This is not a riskless enterprise. This is a  
10 capitalist economy. We are not in business to try and protect  
11 private interests. We are here to adjudicate in the public  
12 interest fairly, on behalf of the public, those interests  
13 which represent public health, safety and welfare.

14           We do not -- and I say this as strongly as I possibly  
15 can -- we do not have any business protecting someone's  
16 private investment decision, especially when it hasn't been  
17 made yet. You're in the queue, you have filed, you have gone  
18 through the application process. And, by God, I say we  
19 protect you, we protect the rule structure you entered into in  
20 good faith and we say, "You're exempt from the rules.

21           "You're not in yet. You have raised your hand in the  
22 back of the class. 'I'm thinking about getting in line and  
23 coming in.' Well, guess what, you're not in line. Your  
24 application isn't complete and you just lost in the risk  
25 enterprise." I'm not willing to protect that.

1           And, as a consequence, if the document is written in  
2           its final form -- and, by the way, I should add I support Ms.  
3           Edson's request for an extension. I think that's reasonable.  
4           And I know the IEP board is here meeting. I would certainly  
5           love to have their input.

6           And I respect Commissioner Sharpless' conclusion this  
7           will not harm the process to extend out a couple of weeks.  
8           That also gives the advantage of letting Commissioner Rohy  
9           have his say and his vote in this, which I think is the right  
10          thing to do. So in the sense it doesn't harm us, I would  
11          support the request for an extension.

12          But if the final document has something other than a  
13          date that says when we adopt this, it becomes operative, then  
14          I will oppose it. I don't think that's responsible  
15          government. And, frankly, I think that, in a lot of ways,  
16          muddles and confuses the role that we as public officials  
17          have.

18          I'm sympathetic to the competitive market and I want  
19          it to succeed. But I am not here representing private  
20          industry. I was appointed as a public official. When I leave  
21          this I will go back to some other role and perhaps it will be  
22          in private industry and I will change my tune. But right now  
23          I don't have any business trying to protect someone's future  
24          increment of gain that is not formally filed for.

25          So I will simply say upfront, as Commissioner Laurie

1 has indicated on his remarks, I am 99 percent in support. I  
2 think the Committee did the right work. But there is a point  
3 where I cannot go beyond. So in the end if there is an  
4 extended threshold, if you will, of adoption, then on that  
5 basis I won't be able to support it.

6 Thank you, Mr. Chair.

7 **CHAIRMAN KEESE:** Commissioner Moore, I think I  
8 concur with what you indicated, which is, I believe, were a  
9 plant being proposed today, that somebody could object to it  
10 on the basis it was anti-competitive, and that what we are  
11 doing is clarifying that in this language. I would hope that  
12 is one of the bases on which I made up my decision that I  
13 could support it.

14 I can go along with Ms. Edson's request and suggest  
15 that the IEP review that and that the rationale behind the  
16 adoption of it -- which is to set parameters.

17 Commissioner Laurie, are you comfortable with a  
18 two-week postponement?

19 **COMMISSIONER LAURIE:** Yes, I am, Mr. Chairman. I  
20 would like, again, finally to reiterate that I feel I gave my  
21 commitment to support the Committee's efforts the last time we  
22 voted on this. I deeply appreciate Commissioner Sharpless'  
23 comments and Mr. Chamberlain's comments, and I understand the  
24 rationale. I do not have a better answer, so I am looking  
25 forward to taking this issue up and supporting it unless the

1 Committee, for whatever reasons, chooses to amend its own  
2 proposal, period.

3           **COMMISSIONER SHARPLESS:** May I just suggest that  
4 before you specifically say two weeks that you check with  
5 Commissioner Rohy's schedule? I believe he is not scheduled  
6 to be here at the next Business Meeting, which would be -- is  
7 it February 3rd? Right. I may be wrong about that, but I  
8 believe I have information that says he won't be available.

9           If, in fact, you want Commissioner Rohy here then we  
10 should schedule it when he, in fact, is here.

11           I'd also just like to comment on Commissioner Moore's  
12 points because Commissioner Moore is always very clear and  
13 eloquent on his statement. I appreciate that fact.

14           I do think I come out -- I did sign the Committee  
15 Order -- I do come out differently on the effective date.  
16 Having been in the regulatory scheme for some years and having  
17 myself, hopefully, being put in a position of protecting the  
18 public interest, I feel it is in the public interest to assure  
19 that when government impacts industry that industry can count  
20 on rules being what they are at a time when financial  
21 decisions are being made.

22           That is the reason why I agreed to sign on to the  
23 "Effective Date" provision we have in the recommended  
24 Addendum, to recognize the fact businesses have spent money,  
25 have made plans based on the rules being established. I think

1 it is imperative, if government is going to operate well, that  
2 we give adequate notice when rules are going to change.

3           Given the fact the way this is, in fact, Commissioner  
4 Moore, an addendum that did not have extensive and long public  
5 hearings, it is imperative on us to provide for adequate time  
6 for businesses to make their decisions. I think the timeframe  
7 that is in this Addendum now does that precisely, but I  
8 certainly appreciate your position.

9           **COMMISSIONER MOORE:** Mr. Chairman, just one final  
10 comment. And that is that the nature of my comments really  
11 goes to eliminating the cap, which I think is a benefit for  
12 marketplayers. They don't have the uncertainty of that cap  
13 weighing in on their decisions.

14           But, frankly, it seems to me the practical effect of  
15 the rule is to add room for another finding, another area  
16 where we have to take testimony. I don't think that's  
17 onerous. I don't think that's so burdensome that it will  
18 impact financial decisions for anyone who has a responsible  
19 project or one that is not frivolous. And, of course, I don't  
20 have any evidence that any of them.

21           At this point my take is we are not imposing a burden  
22 that I think is not respected by the time the Committee has  
23 already accorded or the Commission has accorded.

24           Thank you.

25           **CHAIRMAN KEESE:** Thank you.

1 I guess I will find one final comment. That is I  
2 think the Committee, in looking at this, felt that unless we  
3 basically redo the ER 96 and get an ER 98 that the options  
4 available to the Committee to make recommendations were  
5 somewhat limited. So this is the proposal we have out in  
6 front of us.

7 With that, --

8 MR. TANTON: If I may make a suggestion?

9 CHAIRMAN KEESE: Yes, you can answer.

10 MR. TANTON: Yes.

11 CHAIRMAN KEESE: If Commissioner Rohy will be gone  
12 on the 3rd?

13 MR. TANTON: Yes. My calendar currently shows he  
14 will be out of town on official business.

15 I would suggest, however, that rather than scheduling  
16 a particular time like, say, the next Business Meeting on the  
17 17th, that the Committee, in consultation with the other  
18 stakeholders, in particular IEP, find out more precisely what  
19 their concerns are and recommend a new date at some point in  
20 the near future rather than scheduling today what that new  
21 date would be.

22 CHAIRMAN KEESE: Thank you.

23 I think that is what we will do. We will put this  
24 item over for adoption, recognizing we have adopted in  
25 principle what we have here at our previous meeting.

1 I didn't mean to cut you off. Did you...

2 **MS. LUCKHARDT:** I would just ask that in setting  
3 that date --

4 **CHAIRMAN KEESE:** Would you take the mic, please, so  
5 we get you on the record?

6 **MS. LUCKHARDT:** Jane Luckhardt for Elk Hills.

7 I would request that in setting the future date for  
8 analyzing this issue that you take into account other parties  
9 as well as IEP, a lot of us who are in the process who are not  
10 necessarily members of IEP as well.

11 But I also wish to take a moment to thank Ms.  
12 Sharpless for her comments and for respecting the investment  
13 that is put out by industry in developing an AFC.

14 I understand Commissioner Moore's comments and  
15 respect his opinion on that. I just feel this is not an  
16 insignificant investment for industry, to create an AFC, to  
17 file an AFC. And after it is filed we have approximately 45  
18 days before it is considered data adequate. We are simply  
19 asking the rules during that time period remain consistent for  
20 those of us who are on the verge of filing.

21 Thank you.

22 **COMMISSIONER MOORE:** And I think I took that into  
23 account in my remarks. You're in the process, you're in the  
24 queue. I --

25 **MS. LUCKHARDT:** But, see, "filing" is defined in the

1 Code as being data adequate, not simply docketing. And that  
2 is maybe where my confusion is coming from.

3 **CHAIRMAN KEESE:** Thank you.

4 This item is put over to a future date.

5 Item 7. We have no minutes.

6 Commission committee and oversight. Legislation.

7 **MR. SCHMELZER:** Good morning, Mr. Chairman and  
8 Commissioners.

9 **CHAIRMAN KEESE:** Mr. Schmelzer.

10 **MR. SCHMELZER:** I'm Tim Schmelzer with the Office of  
11 Governmental Affairs. We have a couple of items to report  
12 from the Legislative Committee.

13 The first item is a legislative proposal developed by  
14 the Energy Efficiency Division, and it has been approved by  
15 the Resource Conservation Committee and the Legislative  
16 Committee for approval by the Commission to seek legislation  
17 in the Legislature this year.

18 This proposal would extend the sunset date of the  
19 Energy Conservation Assistant Account and the Local  
20 Jurisdiction Account from the current expiration dates in  
21 January 2001 and 2002, respectively, to 2011.

22 In addition, the proposal also makes numerous  
23 technical changes to the accounts in order to bring them up to  
24 date.

25 That is the bulk of the proposal. It goes into

1 greater detail on page 2 of the proposal, if you care to  
2 peruse that. Daryl Mills is also available to take questions  
3 if you have more detailed questions on the proposal.

4           **COMMISSIONER MOORE:** I accept the recommendation of  
5 the Committee.

6           **CHAIRMAN KEESE:** May I ask, do we have a potential  
7 author located?

8           **MR. SCHMELZER:** At this point, no. So you are aware  
9 of what the legislative deadlines are, language needs to be  
10 given to legislative counsel by the end of the week, but we  
11 still have another month in which to secure an offer for  
12 formal introduction into the Legislature.

13           **CHAIRMAN KEESE:** Thank you.

14           **COMMISSIONER SHARPLESS:** Do we need a motion?

15           **CHAIRMAN KEESE:** Do we need a motion on this or did  
16 you want to bring up the other issue too, or are we doing them  
17 separately?

18           **MR. SCHMELZER:** I think you would probably want to  
19 do them separately. The second item I intend to bring up is a  
20 discussion item.

21           **CHAIRMAN KEESE:** Okay.

22           **COMMISSIONER SHARPLESS:** So we need a motion for  
23 this?

24           **CHAIRMAN KEESE:** A motion to support the  
25 introduction of this piece of legislation on behalf of the

1 Energy Commission?

2 COMMISSIONER SHARPLESS: Is that the motion? Did  
3 you make the motion?

4 CHAIRMAN KEESE: No. I will let you make the  
5 motion.

6 COMMISSIONER SHARPLESS: Oh, okay. So move.

7 CHAIRMAN KEESE: We have a motion.

8 COMMISSIONER MOORE: Second.

9 CHAIRMAN KEESE: A motion and a second.

10 Any public comment?

11 (No response.)

12 CHAIRMAN KEESE: All in favor?

13 COMMISSIONERS: Aye.

14 CHAIRMAN KEESE: Opposed?

15 (No response.)

16 CHAIRMAN KEESE: Adopted four to nothing.

17 (Motion unanimously carried to approve the legislative  
18 proposal developed by the Energy Efficiency Division, as  
19 approved by the Resource Conservation and Legislative  
20 Committees.)

21 CHAIRMAN KEESE: Mr. Schmelzer.

22 MR. SCHMELZER: The second item I'm bringing to the  
23 Commission at the request of the Legislative Committee to  
24 discuss the concept of sending a letter to Representative Bob  
25 Matsui to convey conceptual support of financial incentive

1 programs for energy efficiency projects. This would be for  
2 federal legislation.

3 The intent of what we are trying to do here is to  
4 both give this idea some momentum and to be players at the  
5 table when this legislation is being drafted so that should  
6 this be moved in Congress that we get good legislation out of  
7 it.

8 The reason this is being brought up is to solicit  
9 Commissioner input as to what would be appropriate to state in  
10 that letter.

11 **CHAIRMAN KEESE:** Thank you.

12 This topic was discussed at the Legislative  
13 Committee, who asked that this letter be drafted.

14 I have reviewed it myself. I thought it seemed to be  
15 fine.

16 **COMMISSIONER SHARPLESS:** I think it is going to be  
17 difficult. This was an information item, was it not?

18 **MR. SCHMELZER:** Yes, that's right.

19 **COMMISSIONER SHARPLESS:** I think it's difficult to  
20 sign off on a letter that some of us have not yet seen. I  
21 know I would like to be able to see the letter before. I  
22 can't even debate the issue because I don't know -- I mean in  
23 concept we obviously want to work on a federal legislation  
24 that might help, through financial incentives, to get us  
25 further to our policy objectives. In concept I don't know

1 that anybody up here at the dias would have a problem with  
2 that, but until we see more specifically, I guess what that  
3 entails.

4 We are talking about a letter that basically embraces  
5 the fact that we see multiple mechanisms to improve program  
6 objectives. We would like to work with the federal  
7 government.

8 Isn't that in essence what we are doing here?

9 I think, Commissioner Laurie, you are sort of the  
10 point on this, are you not?

11 **COMMISSIONER LAURIE:** Commissioner Sharpless, I  
12 consider the chairman to be the point on it. I am very  
13 supportive of the concept. I'm supportive of the draft  
14 letter, which I have seen. I think it was authored by  
15 somebody near and dear to me. So I have seen it and I am  
16 supportive of it.

17 I consider it to be in the hands of the Chairman to  
18 act with protocols consistent with those which we have adopted  
19 to determine where and when the document can be sent.

20 **CHAIRMAN KEESE:** The document is conceptual, but I  
21 think we will wait till everybody has had a chance to --

22 **COMMISSIONER MOORE:** I would like to see it.

23 **CHAIRMAN KEESE:** -- sign off on it.

24 **COMMISSIONER SHARPLESS:** Right.

25 **MR. SCHMELZER:** We will ensure as this letter gets

1 finalized that every Commissioner will have an opportunity to  
2 see it.

3           **CHAIRMAN KEESE:** I think I just got it this morning,  
4 didn't I?

5           **MR. SCHMELZER:** I haven't even seen what is the  
6 latest draft, so I'm sorry we are talking about it in such  
7 vague terms.

8           **CHAIRMAN KEESE:** Thank you.

9           **MR. SCHMELZER:** And that's all.

10           **CHAIRMAN KEESE:** Commissioner Laurie, you wish under  
11 Committee Reports to talk about appliances?

12           **COMMISSIONER LAURIE:** Yes, Mr. Chairman.

13           **CHAIRMAN KEESE:** I have a note here that says what  
14 you want to do.

15           **COMMISSIONER LAURIE:** I desire to do that. This is  
16 an issue that has been discussed at the Energy Efficiency  
17 Standards Committee when all Offices were present. The  
18 subject is given the very technical, generally nonpolicy-  
19 oriented nature of our comments on federal appliance  
20 standards.

21           The question is what mechanism do we want to utilize  
22 to respond. And the suggestion that came out of the  
23 Committee, and that is put forth in the memo you have before  
24 you which had been earlier transmitted to your Offices, is  
25 unless your Office has determined there is some policy

1 question involved or unless it is determined any Office has  
2 concerns or negative comments, then Staff will act to provide  
3 comments consistent with our policy. Should there be any  
4 disagreement, any concern expressed, then it would go through  
5 a normal committee and Commission format.

6 **CHAIRMAN KEESE:** Thank you.

7 **COMMISSIONER SHARPLESS:** Could I ask a question?

8 Is this sort of a derivation from the current  
9 protocol that we have for Intergovernmental? Typically things  
10 that are going to other agencies go through Intergovernmental.  
11 What you are suggesting is sort of a bypass of  
12 intergovernmental in this particular area due to the very  
13 technical and specific nature and fluidity of the process in  
14 trying to help us all balance our workload better,  
15 Commissioner Laurie? Is that what we have got?

16 **COMMISSIONER LAURIE:** Commissioner Sharpless, under  
17 no circumstance would I use the term "bypass" or  
18 "circumvention." However, I --

19 **COMMISSIONER MOORE:** A bypassable circumvention.

20 **COMMISSIONER LAURIE:** -- have heard that term  
21 expressed during the course of these discussions.

22 It is suggested and I agree that when we look at  
23 appliance standards and the sheer, very technical nature of  
24 them that they are different than other comments we would  
25 submit that contain more policy issues than anything else. So

1 it is suggested there is a differentiation between our  
2 comments on appliance standards and the technical nature of  
3 them and other matters that would normally go through the  
4 Intergovernmental Relations Committee.

5 (Commissioner Moore leaves the room at 11:35 a.m.)

6 **CHAIRMAN KEESE:** I think Commissioner Laurie has  
7 come up with a very fine proposal here that does not trouble  
8 me at all.

9 **COMMISSIONER LAURIE:** Again, it is noted if there is  
10 any concern, and I use that term liberally, then the matter  
11 would be sent through normal channels.

12 **CHAIRMAN KEESE:** Okay. Any other committee reports?  
13 The Chief Counsel's Report.

14 **MR. CHAMBERLAIN:** Mr. Chairman, two items.

15 First, apropos of your first item, I will note that  
16 last Tuesday we had a very interesting meeting here at the  
17 Commission that Chairman Keese was able to participate in and  
18 Vice Chair Rohy was also there for a portion of the meeting.  
19 The meeting was with General Electric Company and some other  
20 company representatives on the potential of advance gas  
21 turbines.

22 I am hoping to have minutes of that meeting to you in  
23 the near future to provide all the Commissioners the  
24 information that was presented there.

25 Second, continuing in the "Perils of Pauline" saga of

1 federal legislation on reliability, last week, as you may  
2 recall in our last episode, the matter was jerked away from  
3 the Government Interface Issues Task Group and given to the  
4 Future NERC Task Force.

5 (Commissioner Moore returns at 11:38 a.m.)

6 **MR. CHAMBERLAIN:** And it appeared that group was  
7 going to line up behind a greatly simplified version of the  
8 bill which would have eliminated all definitions, for example,  
9 and simply turned it over to FERC to define all the terms and  
10 do some other things, including basically eliminating all the  
11 language the West had worked for in terms of deference to an  
12 interconnection-wide organization.

13 Bonnie Suchman of the Department of Energy worked  
14 hard to get what she considered to be some of the key players,  
15 including the Western Interconnection Coordination Forum, to  
16 continue working on the draft that had been in play at the  
17 December GIITG meeting. And her efforts were successful in  
18 doing that in that they managed to propose to the Future NERC  
19 Task Group -- Task Committee, whatever they are -- a draft  
20 that she could contend was a consensus draft.

21 Now I have to tell you a portion of the Western  
22 Interconnection Coordination Forum, essentially a state  
23 regulatory portion of it, was not very happy with this draft  
24 because the proposal we made to create a regional  
25 interconnection commission was left out. It was very

1 specifically left out. And in its place there is simply a  
2 provision that says the regional reliability entities will  
3 have to show the NAERO and FERC how they are going to take  
4 into account any comments that come from states.

5 I consider that to be significantly less valuable,  
6 not to the legitimacy of state participation in this process  
7 than is really required. Nevertheless, the Western  
8 representatives on the NERC Board of Governors were able to  
9 support Bonnie Suchman's draft over the even worse draft being  
10 proposed by the Future NERC Team because it did at least go  
11 back to the deference language the West had been fighting for.

12 So now what we are faced with is there probably is no  
13 appetite for the creation of self-regulating reliability  
14 organization just for the Western Interconnection. And the  
15 Committee on Regional Electric Power is convening a meeting  
16 next Friday, not this coming Friday but the following Friday,  
17 on the 29th in Salt Lake City to discuss where we go from  
18 here.

19 **COMMISSIONER MOORE:** I have a question, Mr.  
20 Chairman.

21 Bill, is it possible there is enough power being  
22 exerted -- no pun intended -- enough influence being exerted  
23 than by the Eastern utilities, that that's what is knocking us  
24 out?

25 **MR. CHAMBERLAIN:** Well, my reading of the situation

1 is it is a combination of antagonism by Eastern reliability  
2 organizations who never liked the fact the West was being  
3 given what they considered to be a special deal. They never  
4 wanted to recognize the fact that we have organized as an  
5 interconnection. So they were putting a lot of pressure on --  
6 and plus I think the Eastern regulators, it's harder for them  
7 to organize into an interconnectionwide organization of  
8 regulators than it would be here in the West.

9           You have NAERO, the utility commissioners  
10 association, that is mainly concerned with trying to come up  
11 with a sort of savings clause that would limit the amount of  
12 preemption this bill would have, because currently it would  
13 just have a vast preemptive effect. And most of their  
14 proposals have been centered around trying to create a role  
15 for state utility commissioners, where we have been trying  
16 more broadly to say, "Look, let every state decide for itself.  
17 Its own governor can decide who to appoint to that  
18 interconnection commission," because in some states it might  
19 not be a utility commission.

20           **COMMISSIONER MOORE:** Right. Thank you.

21           **CHAIRMAN KEESE:** Commissioner Moore, the other  
22 specific problem is there are so many reliability --

23           **COMMISSIONER MOORE:** Oh, yes.

24           **CHAIRMAN KEESE:** -- organizations in the East that  
25 they outvote the West 12 to 1.

1           **COMMISSIONER MOORE:** Right. No, I understand the  
2 politics of it. I'm trying to understand the threat that we  
3 pose, the nature of the threat we pose.

4           **MR. CHAMBERLAIN:** Well, I should also say there are  
5 some powerful marketing forces, like Elcon (phonetic), Enron  
6 -- or I should say large customers and marketing people, who  
7 are more comfortable having only one forum, at FERC, that they  
8 have to deal with. And they are concerned if you create an  
9 regional interconnection commission, FERC may be tempted to  
10 start to defer to that organization and view it as an  
11 important stopping point for findings. And then these folks  
12 would feel the need to come to and participate in that forum,  
13 which is exactly of course what we are trying to do.

14           **COMMISSIONER SHARPLESS:** I got it.

15           **COMMISSIONER MOORE:** Yes, they got it.

16           **CHAIRMAN KEESE:** Thank you.

17           Mr. Smith, the Executive Director's Report.

18           **MR. SMITH:** Yes. At an earlier Business Meeting I  
19 indicated today we would provide you with a brief overview of  
20 energy related Y2K activities, and we are prepared to do that.  
21 Tom Glaviano, Manager of our Contingency Planning Function,  
22 will make that presentation.

23           As we are setting up to do that I would point out  
24 that typically the Y2K activities fall in to two areas. One  
25 of those being compliance with Y2K standards. That is a

1 reference to identifying the changes in software and hardware  
2 that need to be made in order to avoid the problems, and  
3 readiness, which is the preparation for the consequences of  
4 those areas which, in fact, are not resolved by the turn of  
5 the millennium.

6           **COMMISSIONER LAURIE:** Mr. Chairman, I apologize for  
7 being rude. I have been trying to get my microphone turned on  
8 for the last 18 and a half minutes, and I still can't do it.

9           I wanted to make sure we were finished with Mr.  
10 Chamberlain's report. Is there anything we need to follow up  
11 on? Should we have an agenda item at the next Business  
12 Meeting to discuss the whole interconnect issue?

13           There is not a good structure right now to get full  
14 input on that question. I would certainly like to have no  
15 limitation on the time we have to discuss the matter. It is  
16 obviously a critically important question for us and our  
17 policies.

18           Do you have sufficient direction, Mr. Chamberlain?  
19 Would it be helpful -- I know it would be helpful to me, I  
20 don't know if the other Commissioners want to spend more time  
21 on it at the next Business Meeting to have it as a regular  
22 educational, informational agenda item. What are your  
23 thoughts at this moment?

24           **MR. CHAMBERLAIN:** Well, I would be happy to make a  
25 presentation to you at that time, which could also include the

1 discussion that takes place on the 29th, bring you up to date  
2 on that.

3 I'm also reflecting on the fact that I do plan to be  
4 gone for a few weeks after that. So I don't know how much I  
5 could carry out direction you might give at that point.

6 **COMMISSIONER MOORE:** Well, it is possible other  
7 members will be at some of those meetings. I think Bob is on  
8 the right track, that it would help to have that discussion  
9 because various members will be at CREPC or at the Las Vegas  
10 meeting. I think it can only help to have a discussion among  
11 us so we are all clear on a consistent wedge.

12 And for those who have not been working in the area,  
13 it is timely, period. I agree.

14 **CHAIRMAN KEESE:** And this subject is also going to  
15 be taken up at a Electricity Committee meeting coming up. So  
16 I think that is a very good idea, to have a full report at the  
17 next Commission meeting.

18 **COMMISSIONER LAURIE:** And let's just have it as an  
19 agenda-ized item.

20 **MR. CHAMBERLAIN:** We will do that.

21 **COMMISSIONER MOORE:** Sorry, Mr. Smith.

22 **MR. SMITH:** Oh, that's fine. Thank you.

23 The presentation we will make will provide an  
24 overview of both the compliance and the readiness, but the  
25 emphasis will be on the readiness portion of that. And that

1 is anticipating potential problems that might result in some  
2 areas energy related from the Y2K problem.

3 The Commission's responsibility is laid out in  
4 Section 25700 of the Public Resources Code. And that simply  
5 says the Commission shall develop contingency plans to deal  
6 with possible shortages of electric energy and fuel supplies,  
7 to protect public health, safety and welfare.

8 We have exercised that responsibility in developing  
9 broad contingency plans and with specific responses to events,  
10 from earthquakes to the Exxon Valdez. In some respects the  
11 Y2K activities are different only in that we know that  
12 something is going to happen this time.

13 Tom.

14 **MR. GLAVIANO:** Thank you. Originally I was going to  
15 talk from the slide projector using the remote mic, but I'm  
16 going to try to do two things at once today, and I thought  
17 that would be too much. One is to use the remote mic and the  
18 other one was to try something new, and that is to be brief.

19 To that extent I have limited myself to a series of  
20 slides. We must hurry. Thank you. The next slide, please.

21 As to the Y2K problem, let me put it in a perspective  
22 of the Statewide Emergency Planning Committee meeting we had  
23 in December in which all state agencies including hazardous  
24 material, law enforcement, fire, search and rescue, National  
25 Guard, local agencies, belong to this committee.

1           We were broken up into groups to deal with potential  
2 Y2K issues. Of all the groups reporting, medical, haz mat,  
3 transportation, etc., all of them reported that electric was  
4 key to their ability to function. And that was kind of  
5 interesting. Even in normal responses for hospitals, fires,  
6 for ambulances, etc., second to electric was petroleum or  
7 diesel back-up fuel in case of electrical failure.

8           So in that sense the critical thing for the Y2K  
9 problem from our standpoint is that systems can be affected  
10 and they could hinder our response capabilities.

11           The uniqueness of the Y2K issue is one which I  
12 originally thought was just a January 1st, 2000. Apparently  
13 there are about 300,000 dates that are associated with that  
14 that can have an impact on the system. Those are April 9th,  
15 1999, which is a Julian calendar date; 9-9-99, which is some  
16 problem with the computer code; and, of course, the cycle 23  
17 which is the solar intensity, as it will occur early next year  
18 during the 2000 roll out which could impact our ability for  
19 communication systems, etc.

20           What was unique about this Y2K problem is it may  
21 affect many energy sectors at the same time and affect those  
22 who have performed the functions of checking their systems for  
23 completeness. For example, I know one oil company has checked  
24 their card readers, their electronic system to ensure it is  
25 functioning according to Y2K compliance. They have checked

1 with the utility to make sure the electricity that was being  
2 provided to them was Y2K compliant, yet both of those may be  
3 affected by a third party who for some reason is overlooked or  
4 has not planned for a Y2K problem that could cascade and  
5 affect their ability to deliver gasoline to the consumer.

6           The other uniqueness about this is for the first time  
7 we will have a preview of possible Y2K activities or problems  
8 as they cross the dateline. So we will know about 18 hours  
9 ahead of time whether other countries are experiencing the Y2K  
10 problem.

11           One of the things it does do is it requires overtime  
12 because a lot of people I have been related with in emergency  
13 planning are bummed because we were expecting to celebrate the  
14 year 2000 on New Year's Eve in some remote, exotic location  
15 and now that location may be the California Energy Commission,  
16 the ISO, the OES Re-Aux Centers. So we will probably be  
17 working late into the evening of December 31st, 1999.

18           Other agencies addressing the Y2K issue, I won't go  
19 into them, but they are at the federal level, state level,  
20 local, fire, police, ambulance, water, utilities, oil  
21 companies, pipeline operators, etc. One oil company is  
22 spending upwards of \$400 million to address this problem.  
23 There is a lot of money being spent. There is a seriousness  
24 in this response.

25           What I have been seeing in some of the petroleum

1 industry just-in-time delivery system. apparently there is  
2 just-in-time reaction to the Y2K problem. People are starting  
3 to get on this band wagon. It is becoming more of an issue as  
4 the time progresses and there are finding more and more things  
5 that may occur that could affect their operations. So people  
6 are taking this seriously.

7 Most of these agencies that I had mentioned before  
8 are focused on compliance issues. In other words, they are  
9 looking for ways to doublecheck to make sure people have  
10 complied by checking their systems for Y2K compliance.

11 Our focus is slightly different in that we are very  
12 interested in who is complying to see what the status of  
13 readiness is, but we also are interested in our being ready to  
14 respond to an emergency and to be proactive in our  
15 capabilities to respond.

16 Why are we involved in this activity? CEC's  
17 authority under 25216.5(b), we have to prepare a plan for  
18 responding to emergencies. This is one of the five missions  
19 of the Energy Commission. It was singled out as one of the  
20 five. So this is a very important aspect of the Energy  
21 Commission's roles and responsibilities.

22 25700, we last adopted our Contingency Plan Update  
23 was on December 1996, and at that time we made it compatible  
24 with the Office of Emergency Services and the Governor's  
25 Directive for a Statewide Emergency Management System Response

1 Plan, which we all talked on the same page, where we identify  
2 ourselves in the same order, structure, so we can easily  
3 communicate during disasters.

4           25702, which directs the Energy Commission to review  
5 Utility Emergency Load Curtailment Plans, among other things.  
6 And what we have done here in the past is we have actually  
7 just looked to see if there is a communication function within  
8 there, that we are in the contact list and so we can have the  
9 flow of information during a disaster. Most notable is San  
10 Diego, SoCal Gas and SoCal Edison have been very proactive in  
11 this regard and have provided us with contact people, that  
12 during emergencies we have good relationships with those  
13 groups.

14           The CEC role. We provide situation reports on the  
15 nature, extent and duration of a shortage. In that sense we  
16 serve as a central source of credible information. And to  
17 this extent, this is an area where we may want to be more  
18 proactive in this area to quell unnecessary panic or  
19 overreaction to a perceived problem rather than a real  
20 problem. The Energy Commission in the past, most notably the  
21 RFG roll-out in 1996, where we stated there was not a shortage  
22 and we went forward with that information to quell any  
23 unnecessary reaction on the part of the public or government  
24 to respond to that.

25           We think we still have a role to do that at this

1 particular time, and we will probably be very proactive in  
2 that area.

3 We are also to assure adequate fuel supplies. On  
4 December 15th, the Governor's Emergency Council adopted  
5 Emergency Order Number 6 -- or reaffirmed it, which is our  
6 authority to allocate fuel during a disaster through the  
7 Office of Emergency Services Disaster Allocation Program, and  
8 for our Set Aside Program, which is to deal with essential  
9 services, protecting life and property during a prolonged  
10 shortage. Those two events could occur simultaneously, so our  
11 plans are in place for that.

12 As we talked earlier, our job is to assess the  
13 adequacy of supplies for electricity, natural gas and, of  
14 course, for petroleum. I left that off so we could focus on  
15 the fact that we do have responsibility in electricity and  
16 natural gas. That was the first time we have used that in a  
17 long time, and evidently this building doesn't -- I haven't  
18 said electricity in so long, I think the building reacted to  
19 it.

20 In addition, we have prepared -- we are prepared to  
21 implement voluntary and mandatory conservation measures, which  
22 we have in place, which the Warren-Alquist Act requested we  
23 put together and have ready. Those plans and those  
24 conservation measures and programs are based upon the severity  
25 of the incident. To the extent the market can take care of

1 the supply and demand situation, we stay out of the  
2 marketplace. But to the extent that government intervention  
3 is required because as the severity of the crisis increases,  
4 we have plans that ratchet up our response to that, noting  
5 that the best response is to allow the market or allow the  
6 players to make the decisions to help mitigate the problem.

7 That brings us to our recommended approach for this  
8 Y2K which is to expand our current Emergency Outreach Program.  
9 The Office of Emergency Services has tapped us to take a look  
10 at our local Energy Handbook that we had developed for local  
11 governments. They are going to use that as the vehicle in  
12 which to conduct Y2K training with the local governments, the  
13 counties and the police departments.

14 We are going to participate in that process. We are  
15 going to meet with the counties, county governments. OES has  
16 tentatively scheduled six to eight workshops for us to attend  
17 to present our particular side of the program and to develop  
18 that outreach program in context with the local governments.

19 **COMMISSIONER SHARPLESS:** Tom, could I stop you there  
20 for a second? The bullet actually says expand? You have  
21 talked about OES activities and how we are going to cooperate  
22 and collaborate with them, but what does it really mean? I  
23 mean expand our current emergency contact and outreach  
24 program, does this mean we want to add more people to the list  
25 of those whom we would be able to contact in an emergency?

1 What do you really mean by that first bullet, expand? Expand  
2 to include more people?

3 **MR. GLAVIANO:** Yes. To back up, in the late 1980s  
4 and the early 1990, 1991 to be exact, we presented a series of  
5 outreach energy annexes for our handbooks for the local  
6 governments, in which we had a million dollar grant program in  
7 which we provided plans for 14 counties. We had intended to  
8 extend that to all the county governments. Resources and  
9 timing did not allow us to do that. There was a sense that  
10 this wasn't the timing for it.

11 With the Office of Emergency Services asking us to  
12 provide our handbook for the outreach program for Y2K, with  
13 the local governments, very interested in participating in  
14 this type of a situation, it became clear to us --

15 **COMMISSIONER SHARPLESS:** So we are going to expand  
16 from 14 to all counties?

17 **MR. GLAVIANO:** To all counties, if possible, or  
18 those who wish to participate.

19 **COMMISSIONER SHARPLESS:** Dollars permitting, right?

20 **MR. GLAVIANO:** Yes. Well, actually we are hoping  
21 this one will be -- we won't have to go out with grants for  
22 these. This will be just the handbook. We are hoping there  
23 is some incentive on the part of the counties and the local  
24 governments to participate in this because it is in their own  
25 self-interest and therefore we think this may be relatively

1 inexpensive.

2 Second, we want to --

3 **CHAIRMAN KEESE:** Commissioner Laurie.

4 **COMMISSIONER LAURIE:** Thank you, Mr. Chairman.

5 Mr. Glaviano, two questions. One, is it your sense  
6 the Governor's Office and the Secretary of Resources is  
7 looking to this Agency for response and information regarding  
8 Y2K? Do you have any understanding in that regard?

9 **MR. GLAVIANO:** Yes. And this is -- the last  
10 information we had was that the Department of Information  
11 Technology was tapped by the Governor's Office to develop a  
12 preparedness plan for response to the Y2K issue. They tapped  
13 OES as the lead. OES, because of our expertise in the energy  
14 field and petroleum and electricity and natural gas, tapped us  
15 to participate in this along with the California Public  
16 Utilities Commission to develop a response plan, as well.

17 **COMMISSIONER LAURIE:** Do you have enough authority,  
18 legal authority to get the information you need to provide  
19 adequate information to those seeking it?

20 **MR. GLAVIANO:** I didn't have a problem turning on  
21 the mic; it's answering the question that's going to get me in  
22 trouble here. We believe we have the authority in terms of  
23 developing an informational system.

24 Our response plan is unique in that we are not here  
25 to enforce compliance, nor to assist in repairs or emergency

1 responses in that nature. Our position is to develop a  
2 comprehensive energy impact picture for the state of  
3 California, for the Governor's Office and the Legislature  
4 which affects not only electricity but natural gas but  
5 petroleum and other sectors of that economy. So to that  
6 extent we believe we have the authority to do that.

7 Now what we rely on is information from the  
8 participants. We have had in the past a good relationship  
9 with most on that. That relationship in the electricity  
10 sector has been relatively vague in the last three years. We  
11 are hoping this process will allow us to enhance that system  
12 so we can get the information we require for our program.

13 We are not in the business of a tremendous amount of  
14 detail, but more of a systemwide impact analysis from the  
15 industry. So to that extent, and with the relationships we  
16 have had in the past with the ones, some of the companies I  
17 have just mentioned, we think we have the ability to provide  
18 that information and hopefully make some recommendations as to  
19 the course of action or no action.

20 **MR. SMITH:** I would also add with regard to the  
21 first part of your question, we have not had the opportunity  
22 to brief the Secretary of Resources. We will be doing that,  
23 but that has not been done yet.

24 **COMMISSIONER SHARPLESS:** But, Tom you do acknowledge  
25 this is a sensitive issue? It has been for the last couple of

1 years and it will continue to be a sensitive issue. There may  
2 be some -- I don't know what steps we have taken in the past  
3 to try to get this information. I believe we have taken steps  
4 to try to get this information, and we have not been totally  
5 successful.

6 Is that not right?

7 **MR. GLAVIANO:** That's correct. Also, to be fair,  
8 the changing nature of the industry, the deregulation has some  
9 impact on that, our ability to collect that information. We  
10 expect that as time evolves we will be working with the ISO,  
11 Oversight Board, other entities that relate to this.

12 Our function is not to step in and take over what the  
13 responsibilities are. We are a very limited staff. What our  
14 job is to find the working relationships, those people with  
15 the knowledge, get a management structure or a contact system  
16 in place with the ability to access those people during an  
17 emergency, to get the types of information we need to create  
18 the large picture.

19 **COMMISSIONER SHARPLESS:** That is slightly different  
20 than getting utility communication emergency response plans.  
21 Part of your response was: All we need to do is get the names  
22 of the people who know so we can call them when issues arise.

23 What I would gather from the second bullet goes  
24 further than that, that we are actually looking for the  
25 utility to provide us with their communication emergency

1 response plans, which have some level of detail in them.

2 MR. GLAVIANO: Yes. What we want to do is ensure we  
3 are part of that communication system, and that is the extent  
4 we are looking at that particular part, to make sure we are  
5 getting the right level of detail we need.

6 For example, with oil companies, we have refinery  
7 managers on our list that we found for the most part are not  
8 the people we want to talk because they have a limited  
9 viewpoint in terms of what is happening to refineries. We  
10 need a systemwide impact which looks at the ability to import  
11 product, storage, inventories and marketing decisions. So  
12 that required us to have a little higher level contact.

13 We will be talking to people, doing the same thing  
14 here. This is not a prescriptive approach. What we want to  
15 do is to express our needs and find the best way to meet those  
16 needs, which are the least intrusive into the existing  
17 structures.

18 CHAIRMAN KEESE: Commissioner Laurie.

19 COMMISSIONER LAURIE: Tom, Y2K is on the cover of  
20 *Time* magazine this week, and this is January. And the  
21 discussion is going to be enhanced over the next many months.

22 The Governor of the State of California is going to  
23 be asked the question, more than once, "Will the lights turn  
24 on on 1 January." Is the Governor going to look to the  
25 Chairman of this organization for a response as opposed to

1 OES, ISO? Is it your understanding, given the conversations  
2 you have had with other agencies or their individuals, that  
3 the answer to that question, to the best of one's ability,  
4 needs to come from the Energy Commission or is it somebody  
5 else?

6 MR. GLAVIANO: That is, I think, a policy call on  
7 your behalf. Our plan is, of course, to gage the readiness of  
8 the industry, but our main focus is to be able to respond to a  
9 shortage or to a potential shortage or possible shortage of  
10 energy, whether it be electricity, natural gas or petroleum.

11 There is a lot of agencies that are involved in the  
12 compliance business. That is, they are saying they are going  
13 to certify that everything is Y2K compatible. We are taking  
14 approach that is a worthwhile endeavor and it should be done.  
15 But we are looking at it from the standpoint of what happens  
16 if something goes wrong. We are hoping for the best, but  
17 planning for the worst.

18 Ours is more of a response in terms of information  
19 and to the extent that it flows into our responsibilities  
20 under Set Aside and to the emergency services organizations,  
21 we are more of a response and informational agency.

22 Right now the compliance thing is a policy call for  
23 the Commission. I leave it to your discretion.

24 MR. SMITH: This could be very much like the  
25 Governor's Office response with regard to MTBE, any number of

1 issues where there are several agencies with responsibilities.  
2 And there could very well be questions put to a team of people  
3 who can provide the Governor with the answer to that question.

4 He's right, we will be asked.

5 At present, the PUC has information and the ISO has  
6 information. We have information.

7 **CHAIRMAN KEESE:** Commissioner Laurie, I have been  
8 pondering this for six months. And I have been signing  
9 documents that have gone in on the degree of compliance here  
10 working with Staff. It has always been my feeling that  
11 probably around mid-year somebody in California government  
12 will be called on to make a formal statement that they believe  
13 the California energy system will adequately get through Y2K  
14 issues.

15 The problem is that even in California, as we get  
16 into Y2K issues, I think you are going to hear later, the  
17 further we get into Y2K issues the more Y2K issues there are  
18 and the further we have to go. So it probably will be  
19 mid-year before anybody feels we are getting close to being  
20 able to say anything.

21 I don't know whether the *Time* magazine article you  
22 referred to is going to point it out, but in the industry  
23 articles I have seen there are five states, I believe, who  
24 have yet to begin to look at Y2K problems because while they  
25 have been raised by staff, funding has been denied by their

1 legislatures. They have just decided not to look at those  
2 issues. And these are not all down in the South,  
3 unfortunately.

4 If states with energy-producing facilities are not  
5 prepared to handle it, it can have this cascading effect.

6 I know NERC is looking very diligently at all major  
7 energy providers and requiring them to report regularly on how  
8 they are getting into compliance with Y2K. So I think your  
9 point is, when you say are we going to be called upon at the  
10 Energy Commission, I think it well could be that mid-year the  
11 Energy Commission is called upon to make some kind of a  
12 statement. We are not there yet. I don't think we could be  
13 there yet, but one of the things we are going to have to look  
14 at is how do we get into that situation.

15 Mr. Glaviano is talking about our emergency response.  
16 I think that is going to be an absolute responsibility we are  
17 going to have to have. That's on the one hand.

18 On the other hand is what you are talking about, the  
19 policy standpoint. And I would think the Commission will  
20 probably be called upon to make some statement.

21 **COMMISSIONER LAURIE:** Mr. Chairman, can we share  
22 some conversation with other Commissioners to ensure there is  
23 a consensus or there is no consensus as to how today we view  
24 our role in the question anticipating the question by the  
25 Governor, and certainly the Legislature is going to want to

1 know the status of energy-supply systems; is that something as  
2 a matter of policy that we today want to say, "That is our  
3 responsibility to address and respond to today. We should be  
4 expect to be asked and we should be prepared for that"?

5 Or is there some larger question and perhaps is  
6 authority or responsibility not so clear? Because if is not  
7 responsibility it could very well be the most important thing  
8 this Agency has to do over the course of the next year.

9 **CHAIRMAN KEESE:** I think that is a good topic for  
10 discussion. It would be my feeling, my recommendation that by  
11 July 1st, June 30th, it is incumbent upon us to do everything  
12 we can to answer that question. It is probably important that  
13 about that time the Governor's Office decide whether that is  
14 for us to say or the PUC to say or the Office of Emergency  
15 Services, or whether the Governor wants to take it upon  
16 himself and make a proclamation myself.

17 But I don't think we can dilly-dally and wait to be  
18 asked to make the statement. I think we absolutely,  
19 categorically should attempt to be prepared to make a  
20 statement at that time.

21 **COMMISSIONER SHARPLESS:** If I could. This certainly  
22 goes way beyond where Mr. Glaviano's report was headed. I  
23 think it is very clear statutorily that what he brings to us  
24 is in our mandate.

25 I guess the issue I would have on the other policy

1 issue would be whether or not we have the capability to do  
2 that and what we would have to do in order to be in a position  
3 to be that spokesperson. I don't know what is involved in  
4 that. Certainly if that is of interest, I think we need a  
5 little more information internally about our capability and  
6 what would be required. Making a statement like that in June  
7 I think is kind of risky because I don't know we would know  
8 everything there would be to know in June.

9 I think instead of the question coming to us "Will  
10 the lights be on" or "Will the gas come out of the pumps," it  
11 is more our response is, "We are prepared to deal with an  
12 event if something should happen," not the question of it  
13 won't happen, but in the event something happens we, the  
14 Energy Commission, are prepared to deal with that eventuality.  
15 We have plans, we have contingency plans. We have planned for  
16 that.

17 I think that is what Tom is bringing to us, not the  
18 other issue. I don't think we are prepared, at least I don't  
19 feel prepared to deal with the other issue without a little  
20 bit more information on what it would take and what the  
21 caveats would be mid-year to make such a statement.

22 We don't have a crystal ball, I don't think, here.

23 **MR. SMITH:** I would just add we have been ordered to  
24 answer the other question, would need to exercise regulatory  
25 authority to require compliance. This is a new area. We have

1 not reviewed that.

2           Based simply on interviews with Y2K compliance people  
3 in the City of Oakland, Berkeley, the Berkeley chief of  
4 police, there seems to be an indication that because of  
5 liability concerns many industry, many members of industry are  
6 not being as forthcoming as they might.

7           There would not be an easy answer to that question,  
8 Commissioner Sharpless, to correctly define what our intention  
9 was today, to say that we are dealing with information to  
10 provide a reasonable response to fire chiefs, local government  
11 officials, other people who are looking to the State for some  
12 information about what is reasonable and what isn't  
13 reasonable.

14           As you mentioned, there is a lot of press, a lot of  
15 media. Particular constructing scenarios of disasters. What  
16 we want to do is get the best information we can, put that  
17 into the contingency planning process that is proven here, and  
18 get that information out to as many local officials, special  
19 districts as we can. So we are trying to provide that sort of  
20 service. It's very different from the question that was  
21 asked.

22           **CHAIRMAN KEESE:** Thank you.

23           Mr. Glaviano, would you like to continue?

24           **MR. GLAVIANO:** Yes. We are down to plan and conduct  
25 energy emergency exercises. We would like to schedule three

1 regional exercises. Those regions coincide with the Office of  
2 Emergency Services Regional Disaster Services: The inland,  
3 coastal and the southern. Each one has a unique  
4 characteristic to it in terms of its reporting local  
5 government participation.

6 We want to work with both OES and the local  
7 governments to ensure we receive information from the local  
8 governments up through the proper channels, not duplicating  
9 anything that is already existing, get the information into  
10 the Energy Commission around for analysis, back out to the  
11 local governments for their use in an emergency or a shortage.  
12 That communication flow is what we would test in these three  
13 exercises.

14 OES, as to the last phone call, has agreed to  
15 participate with us in this particular event, or these events.  
16 We feel these would give us pretty much a test-run of our  
17 programs, their programs and try to work out some of the bugs  
18 that may be there so we could be well prepared on the event,  
19 whenever that should be.

20 In addition, the Y2K problem presents some internal  
21 problems with us. And this is worked out with OES. The OES  
22 regional inland region did not have a back-up generator until  
23 just recently. I understand they have the ability now to have  
24 power during a blackout. And this is a Y2K complement.

25 This problem is a problem consistent with responders.

1 We all assumed there would be power for us to do our job, that  
2 everybody else is interrupted but us. We found that not to be  
3 the case. San Francisco, for example, their emergency centers  
4 or evacuations centers where back-up generation was natural  
5 gas, and during Loma Prieta that became virtually black caves  
6 because they were cold, damp, because the gas pipelines had  
7 ruptured. Their communication systems were down to a large  
8 extent.

9 We feel we need to develop back-up strategies in  
10 terms of locating, maybe ideas of co-locating with the ISO or  
11 the Office of Emergency Services, should the need arise to  
12 link up to the satellite system or to the RACE's (phonetic)  
13 HAM operator networks to get across our concerns to the  
14 utilities, et cetera, and to the oil companies to provide and  
15 get information back and forth.

16 We will be looking into those. And those include  
17 equipment, software and of course some data requirements. We  
18 are trying to develop a comprehensive database for all the  
19 gasoline stations, all the terminal pipelines, etc., that may  
20 be affected.

21 In this presentation I hope we stressed  
22 communication. The information flow, getting the correct  
23 information. And why did we do that? It says our plan  
24 provides a management structure which identifies working  
25 relationships among people and a process to make that

1 relationship work in a crisis. Communication is a key to our  
2 success. It has been the key to our success in the previous  
3 disasters we have worked with and dealt with.

4 We need to have that communication structure to  
5 determine what types of information we require. We don't have  
6 a spreadsheet of predetermined information needs because we  
7 are not sure what they will be. Our plan is flexible because  
8 we look at each individual crisis differently. There are  
9 different spins on it.

10 We need and we rely on the expertise in the various  
11 elements of the energy industry to help us put together the  
12 picture. While they do not have the complete picture, our  
13 ability to obtain confidential data provides us with the  
14 ability to provide a comprehensive and a pretty accurate  
15 assessment of the events that have occurred in the past. And  
16 we are relying on that as anybody does in a disaster. We rely  
17 on what we do well, and that is to make an accurate assessment  
18 of the situation and provide information for the Governor's  
19 Office and Legislature and policymakers for appropriate  
20 decisions.

21 **CHAIRMAN KEESE:** Thank you, Mr. Glaviano.

22 Do we have any questions here?

23 That was quite a thorough report.

24 Commissioner Sharpless.

25 **COMMISSIONER SHARPLESS:** I guess the one question

1 is, as usual, Tom is on top of things and ahead of things.  
2 But will this plan he is laying out, there are resources that  
3 will be needed to carry them out. I assume at some point in  
4 time we will be presented with a proposal on what we might be  
5 talking about in terms of resource need. We don't need to do  
6 it today, but there is a process talking about resource needs  
7 and how we juggle them against other resource needs.

8           **MR. SMITH:** We have had a preliminary identification  
9 of what is required, and that will be part of our mid-year  
10 review. We have some funds to be allocated from savings so  
11 far in the year. And from what I have seen, we should be able  
12 to accommodate those additional needs without too much  
13 difficulty.

14           That will be presented in the Budget and Management  
15 Committee probably the first week of February.

16           **CHAIRMAN KEESE:** Mr. Smith, were you going to report  
17 during this report or were you going to hold it for the next  
18 meeting to report on any internal Commission Y2K issues?

19           **MR. SMITH:** I can very briefly. The Commission's  
20 efforts, along with other state agencies, began in 1996, late  
21 in that year with surveys of applications and software. For  
22 the last several years the State has required any new  
23 acquisitions be certified as Y2K compliant. So the software  
24 that is being acquired, the hardware that is being acquired  
25 meets those compliance requests.

1           Because of our upgrades we are reasonably comfortable  
2 we will be in at least the same situation as other businesses  
3 and state agencies. I believe there are no guarantees. The  
4 certifications are the best judgments of the people issuing  
5 the certifications.

6           I also would comment that one of the first steps we  
7 took along with other agencies is to review applications.  
8 There are almost 30 different applications. These range from  
9 spreadsheet models to DOS-based systems.

10           At the time we did the surveys those we had concerns  
11 about were systems that had been developed in, well, as late  
12 as the 1970s, some in the 1980s. Many of those were going to  
13 be replaced and set aside, so our first reports and our first  
14 assessment was we did not have major difficulties with Y2K.

15           I think, and I think our consultants concur, we know  
16 more about what to look for and what questions to ask now than  
17 we did in 1996. We are going to expand the scope of our Peat  
18 Marwick strategic planning contract a bit and include  
19 additional survey information we will be gathering in the next  
20 couple of months.

21           With regard to the current applications, did we in  
22 fact set aside some of those older applications. What about  
23 applications that include spreadsheet components that were  
24 developed with earlier versions of Excel, which might very  
25 well have Y2K problems. These aren't necessarily mission

1 critical, but it is part of our preparation here.

2 We are going to continue to be looking at those,  
3 based on the information that is developed. We are going to  
4 ask our consultants to look at those as we move through this  
5 year. We have done the things that are required to this  
6 point. We are not satisfied we are done.

7 **CHAIRMAN KEESE:** I would comment that as was  
8 commented earlier, DOIT, the Department of Information  
9 Technology, is master-minding this for the State and requiring  
10 regular reports from the Executive Office on the steps being  
11 taken at the Commission and at all other entities in the  
12 State.

13 **MR. SMITH:** Yes, that's right.

14 **CHAIRMAN KEESE:** I think we have received your  
15 report, Mr. Glaviano. I believe at our last exercise we felt  
16 there were some internal changes that had to be made in the  
17 structure of the Commission's response to emergencies. So I  
18 would hope we could move diligently on those so they are in  
19 place well before we start the exercises with the external  
20 stakeholders. Okay.

21 Anything else?

22 **COMMISSIONER LAURIE:** Mr. Chairman, before we move  
23 off that, and I anticipate we will be discussing it again, my  
24 own personal view is people have certain expectations of  
25 government, right or wrong, that there be a fire engine

1 available if there is a fire, there will be an ambulance  
2 available if somebody gets hurt. And I think they consider  
3 government's responsibility to ensure the lights come on.  
4 That is their expectation. Whether they understand market  
5 conditions or other market factors is not the point.

6 Certainly government officials will want to know,  
7 will want a risk assessment as to this critical question of  
8 energy. I understand the Office of Information Technology has  
9 the lead on it. We have got to assume they are going to ask  
10 the question of what is the risk.

11 I would put the question out again: Do we think  
12 somebody else out there has the answer? I would hate to be in  
13 a position of them looking to us and us saying in July or  
14 August or February or March, "We don't have a clue" because we  
15 are not asking ourselves that question. Because I think there  
16 is an expectation that somebody knows, and it is not going to  
17 be us.

18 So I'm not going to put the specific question out on  
19 the table. I just anticipate it is something we are going to  
20 have to revisit and make a major policy decision on, is: Do  
21 we believe that somewhere in government that answer could be  
22 made available with proper investigation, and is that our  
23 responsibility in planning for the emergency.

24 **COMMISSIONER MOORE:** Mr. Chairman, just one follow  
25 up on what Bob said. I think it is inherent in what Mr.

1 Glaviano is bringing out, the further comments of Mr. Smith.  
2 And that is we will, through this whole process, be subject to  
3 what we used to call in beginning economics, the LCD, the  
4 lowest common denominator. That group of states, that group  
5 of nonparticipants who don't play, screw it up, make an honest  
6 mistake or in some other way invalidate the consistent  
7 application of any of the solutions that are out there. And  
8 therein really is the biggest problem.

9 We can take all the steps we want to take, but we  
10 won't be able to be responsible for the outliers that have the  
11 potential to disrupt the system. And really the best we can  
12 do in those circumstances is to make the best decisions we  
13 can, clean up our own system, and then get our contingency  
14 planning set up so we can respond to the inevitable glitch  
15 from the lowest common denominator.

16 Thank you.

17 **CHAIRMAN KEESE:** We are moving forward on Y2K and we  
18 have been making advances at the Staff level. Mr. Glaviano  
19 has been making advances since, I believe, it was early  
20 December or late November, when the previous Administration  
21 Governor's Office asked us to work with OES on getting  
22 something started. And now we have heard what has been  
23 accomplished to date.

24 I would think the overarching question you're asking,  
25 Commissioner Laurie, is a question that will have to be

1 answered by the new Administration. I think it is up to us to  
2 propound it. And I think it is up to us to do everything we  
3 can to be prepared, as I said, by I would think July 1st.  
4 Because even though we suggest to them they should figure out  
5 who is going to step in here, it may be July before they  
6 decide to do that.

7 I think I agree with you. We cannot sit here and  
8 say, "Well, we have no idea." Somebody is going to be charged  
9 with doing something in this area and it well could be the  
10 Energy Commission.

11 **MR. SMITH:** I would just add there is a great deal  
12 of information right now. If we were asked the question  
13 today, we would have an answer to the question. But the  
14 answer is going to be framed in terms of the degree of  
15 compliance, the things people have certified. It cannot go to  
16 the bottom line, which is will there be disruptions or will  
17 there not be disruptions. I don't believe that will be  
18 answerable.

19 But what we can do is we can take the information we  
20 have and frame it in an appropriate context so it would be  
21 possible for ourselves or the Governor to answer the question  
22 responsibly.

23 **CHAIRMAN KEESE:** The answer from the Governor is  
24 going to have to be -- I mean this Governor, just as this  
25 president, is not going to be able to go through Y2K and let a

1 disaster occur. So the answer is going to be "We have done  
2 everything we can to make the system Y2K compliant." And that  
3 is going to have to be the answer.

4 But when that answer comes out, whoever does the  
5 answering is going to have to know with reasonable certitude  
6 that that's the correct answer or else they are going to have  
7 to throw more money at it to make sure it is politically. The  
8 politician cannot afford any other answer.

9 **COMMISSIONER LAURIE:** I feel like I'm a contestant  
10 on *Jeopardy* here. I would suggest the answer is it cannot be.  
11 I don't know, but we are going to prepare. I would anticipate  
12 the answer must be "I have every confidence your lights are  
13 going to come on." But then the Governor has to know the  
14 extent of his own discomfort in making that statement.

15 **CHAIRMAN KEESE:** Okay. At this point is there any  
16 member of the public who wishes to make a public comment?

17 (No response.)

18 **CHAIRMAN KEESE:** Seeing none we are going to recess  
19 into a brief executive session and then we will adjourn this  
20 meeting. Thank you.

21 (The Business Meeting adjourned into Executive Session at  
22 12:35 p.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 **20th day of January 1999**.

I also declare and certify under penalty of perjury that the aforementioned transcript was transcribed by me, a Certified Reporter and Transcriber by the American Association of Electronic Reporters and Transcribers, Number 00124; and that same was proofed by Nancy Palmer, AAERT Certificate Number 00121; and that the foregoing pages constitute a true and accurate transcription of the aforementioned meeting.

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

Dated this **30th day of January 1999** at Manteca, California.

  
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**SUSAN PALMER**

**ELECTRONIC REPORTER**