BUSINESS MEETING

BEFORE THE

CALIFORNIA ENERGY RESOURCES CONSERVATION

AND DEVELOPMENT COMMISSION

In the Matter of:)
)
Business Meeting)
)
_____)

CALIFORNIA ENERGY COMMISSION

HEARING ROOM A

1516 NINTH STREET

SACRAMENTO, CALIFORNIA

WEDNESDAY, JULY 5, 2006

10:02 A.M.

Reported by:
Peter Petty
Contract Number: 150-04-001

COMMISSIONERS PRESENT

Jackalyne Pfannenstiel, Chairperson

Arthur Rosenfeld

John L. Geesman

Jeffrey D. Byron

STAFF and CONSULTANTS PRESENT

Terry O'Brien, for Executive Director

William Chamberlain, Chief Counsel

Jamie Patterson

Haile Bucaneg

Gary Flamm

Martha Brook

Cheri Davis

Robert Worl

Christopher Meyer

Paul Kramer

David Ashuckian

Tom Gorin

PUBLIC ADVISER

Nicholas Bartsch

ALSO PRESENT

Merwin Brown
University of California Office of the President

Scott A. Galati, Attorney
Galati & Blek, LLP

ALSO PRESENT

Jeff Russell
Mirant California, LLC

Fong Wan
Pacific Gas and Electric Company

Ben Eichenberg
San Francisco Baykeeper
California Coastkeeper Alliance

Bradley Daniels
San Francisco Baykeeper
Stanford Environmental Law Clinic

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P R O C E E D I N G S

10:02 a.m.

CHAIRPERSON PFANNENSTIEL: Welcome to the Energy Commission business meeting. Please join me in the Pledge of Allegiance.

(Whereupon, the Pledge of Allegiance was recited in unison.)

CHAIRPERSON PFANNENSTIEL: I have no changes to the agenda as it was posted, so we'll begin with the consent calendar. Is there a motion for the consent calendar?

COMMISSIONER ROSENFELD: I move the consent calendar.

COMMISSIONER GEESMAN: Second.

CHAIRPERSON PFANNENSTIEL: In favor?

(Ayes.)

CHAIRPERSON PFANNENSTIEL: Thank you. Item number 2, possible approval of PIER work authorization UC-MR-050 for $300,000 with the Electric Power Research Institute under UC master research agreement number 500-02-004 with the Regents of the University of California.

MR. PATTERSON: Good morning, Commissioners.

CHAIRPERSON PFANNENSTIEL: Good morning.

MR. PATTERSON: I'm Jamie Patterson with the transmission research program, a program under our Public Interest Energy Research program, the PIER program.

Today we are bringing forward an item for $300,000. It's a 24-hour transmission forecasting tool for the California ISO operators.

This project has been -- is part of our overall portfolio projects which we anticipate you will be having many more -- be seeing much more of in the next business meeting.

To present this project today I'd like to introduce our Director of the transmission research program, Dr. Merwin Brown. He will be presenting this item.

DR. BROWN: Thank you, Jamie. Currently the operators of the grid in California do a pretty good job of being able to determine the state of the grid at the moment by using data they collect.

They can also anticipate certain happenings in the future and take action, put things in, contingencies in place to see whether to be prepared to handle anything that may happen down the road or attempt to do so, such as losing

a transmission line or a power plant or something like that.

But currently the operator, as far as anticipating knowing what's going to happen in the future, in the next 24 hours or so, is operating pretty much blindly.

So what this project is attempting to go is to use some probablistic techniques that were developed by Steven Lee, who currently now is working at the Electric Power Research Institute, to develop the prototype of a code, a model that would allow the operator to get some idea of the probability of something that might happen in the next 24 hours or so.

This particular model, if it works the way it's supposed to work, would also be able to allow the operator to do what-ifs, particularly with regard to the import of power. This project would, by the end of this summer, or near this -- sometime this summer we hope to have the prototype done and be able to have it tested at Cal-ISO.

And then roughly over the next year we would put together the functional specifications, get the report written that would allow Cal-ISO then to look for a commercial developer of this

particular model.

CHAIRPERSON PFANNENSTIEL: Thank you. Any questions from the Commissioners? Discussion?

COMMISSIONER GEESMAN: I'll move the item.

COMMISSIONER ROSENFELD: Second.

COMMISSIONER GEESMAN: As Jamie indicated, this is one in a series of projects that we're likely to be seeing in the months ahead.

And I want to compliment the staff in doing such a good job of incorporating a group of pretty diverse stakeholders in the western transmission system to help provide policy input to the program.

A few years ago it wasn't clear that we and the utilities, BPA, Cal-ISO, some of the environmental organizations were all on the same page in terms of how to go forward with the transmission R&D program. But the staff has done a very good job of marshaling a group of individuals that are leaders in their area. And then sitting down with them on a regular basis to elicit their input.

And I've attended the once-every-three-

to-four-month meetings of the formal policy advisory committee. Been quite impressed by the quality of input that we get, and the degree to which our program appears to be well-centered in meeting the needs identified for California's transmission system.

So, I move the item.

CHAIRPERSON PFANNENSTIEL: Thank you. Other discussion?

COMMISSIONER BYRON: May I --

CHAIRPERSON PFANNENSTIEL: Certainly.

COMMISSIONER BYRON: Yes, thank you, Madam Chairman. The pace for new Commissioners here, I mean what have we had, three working days since the last one, and a holiday in between.

(Laughter.)

COMMISSIONER BYRON: Commissioner Geesman's comments were very helpful for me in understanding this a little bit better. I'd like to just ask Dr. Brown if you wouldn't mind addressing a little bit more with regard to the coordination with the ISO.

I just wanted to get a better sense of indeed their need and desire for this model.

DR. BROWN: I guess I would say, first

of all, it was Jim Detmers, the Vice President of Operations at Cal-ISO, that made an announcement that he would like to have this kind of capability for his operators. As you might imagine, the stress is pretty high and the risk is quite high, given the great uncertainty in which now the grid has to be operated, with all the unknowns being thrown at them.

So he asked could such a thing be developed. And there was reason to believe so, based upon some previous work that Steven Lee has done through his EPRI, you know, -- he currently works at EPRI now.

And so they called in EPRI, Steven Lee in particular, and asked if he thought such a model could be put together in a fairly quick timeframe. He said he thought it could.

And then they had to look for funding to do this. And asked us if we would look into that. We investigated it. It looked like it definitely met the needs of public interest R&D because of the importance of keeping the grid up and operating, particularly during these hot summers.

And looked into the background. Steven Lee has done a lot of publications in IEEE on the

probablistic techniques that are the foundation for this work.

Under an earlier project that was a technical scoping project the EPRI people have met with the Cal-ISO people to see if the right data is available; to get that data in the right kind of format; and have talked to the operators and other planners at Cal-ISO to again make sure that this code is being developed along the right lines.

And so I guess the bottomline is that the principal investigator and other developers in this project are meeting with Cal-ISO on a regular basis and will continue to do so.

The first test, prototype, will be done somewhat outside the actual operating environment because if something goes wrong we don't want to mess it up. But then in the subsequent months, which would be after September, October of this year, they would again then integrate it more into the system.

COMMISSIONER BYRON: Okay, thank you. This is coming together for me now. I do recall meeting Dr. Lee down at the Frontier Line summit in San Diego a couple of months ago, and seeing

his presentation.

I guess the ISO also had a pretty tough day on Monday, is that right?

DR. BROWN: I don't know.

COMMISSIONER BYRON: They could have used this model, perhaps, on Monday.

DR. BROWN: I was on vacation and wasn't worried about it.

COMMISSIONER BYRON: Okay, thank you very much.

DR. BROWN: Okay. Thank you.

CHAIRPERSON PFANNENSTIEL: Merwin, one other question. Remind me again, I think you said earlier when this should be available and operational and useful to the ISO.

DR. BROWN: We're hoping to get something, a prototype done by say the September timeframe. We'd hoped to do it earlier, but as you know, things take time in putting these together.

But we hope to at least have something before we get out of this current, you know, stressful problem -- area, timeframe. So that's what we're shooting for.

CHAIRPERSON PFANNENSTIEL: Thank you.

Mr. Chamberlain.

MR. CHAMBERLAIN: Yes, just for the Commission's information, the Western Electricity Coordinating Council is also working on the development of something that they call the westwide system model, which is designed to be sure that all of the reliability coordinators have the same tools, the same data upon which to watch the entire interconnection.

And Merwin is generously providing the WECC Board some time at the end of this month to present this matter to them so that the staff and the committee people, who will be watching that contract as it develops, can incorporate anything that is developed in this R&D into that westwide system model.

CHAIRPERSON PFANNENSTIEL: Thank you. Any further discussion. The item has been moved and seconded.

All in favor?

(Ayes.)

CHAIRPERSON PFANNENSTIEL: Thank you, Merwin.

DR. BROWN: Thank you.

CHAIRPERSON PFANNENSTIEL: Item number

3, possible approval of $50,000 loan to the Scotts Valley Unified School District to retrofit the lighting system at Scotts Valley High School. These projects will save the school district an estimated 81,612 kilowatt hours or $5,284.74 in reduced annual energy costs. Good morning.

MR. BUCANEG: Good morning, Commissioners. My name is Haile Bucaneg and I'm the Project Manager for this loan. Before I begin my presentation I would like to draw your attention to the estimated energy savings, estimated cost savings and estimated payback period that were just referenced by Chairman Pfannenstiel.

These values are incorrect; and the correct annual savings should be 54,866 kilowatt hours; annual cost savings should be $7,121. And the simple payback should be 8.1 years.

These corrected values are the ones in your agenda memo and ones approved by the Efficiency Committee. I apologize for that mix-up.

The Scotts Valley Unified School District is a small school district located in the County of Santa Cruz. The school district wanted

to reduce the electricity use at Scotts Valley High School, which is the school district's largest school.

The school district's goal was to identify energy efficiency measures that could be completed in the summer to minimize the disturbance to the student body.

With the assistance of its local energy auditor, RightLights, several cost effective lighting projects were identified. These retrofits included delamping, installing energy efficient fluorescent lamps and ballasts, and installing photocell controls.

When these projects are implemented by the district RightLights will provide the district with rebates estimated at $5000.

Energy Commission Staff has evaluated the project recommendations and reviewed the project saving calculations. Staff estimated the school could cut its energy use by 54,866 kilowatt hours, resulting in annual savings of $7,121. This results in an estimated simple payback of 8.1 years for a $58,000 loan.

These lighting projects meet the requirements for a loan under the Energy

Conservation Assistance and bond fund program. The program requires repayment of the loan, interest and principal, within 15 years. This is equivalent to the project having a simple payback of 9.8 years or less. The loan to Scotts Valley Unified School District meets this criterion with a simple payback of 8.1 years.

As I mentioned earlier the Efficiency Committee has reviewed and approved the $58,000 loan to Scotts Valley Unified School District. Therefore, staff recommends approval of this item. Thank you.

CHAIRPERSON PFANNENSTIEL: Thank you. Discussion, questions?

COMMISSIONER ROSENFELD: I move item 3.

COMMISSIONER GEESMAN: Second.

CHAIRPERSON PFANNENSTIEL: Moved and seconded.

All in favor?

(Ayes.)

CHAIRPERSON PFANNENSTIEL: The item is approved; thank you.

MR. BUCANEG: Thanks.

CHAIRPERSON PFANNENSTIEL: Item 4, possible adoption of the amendments to appliance

efficiency regulations published as express terms of proposed regulations 15-day language, dated June 19, 2006. Mr. Flamm.

MR. FLAMM: Good morning. On April 26th the Commission adopted amendments to the appliance efficiency regulations Title 20. And in that adoption hearing -- adoption order, it states that this rulemaking proceeding shall remain in effect for continuation of other issues the Committee finds appropriate; and specifically calls out issues related to testing of metal halide luminaires or lighting fixtures.

These amendments that are proposed today address only those issues related to metal halide luminaires. The testing protocol, a reference code, and adding the word "only" in the definition of vertical-mounted lamps.

So that is what's being proposed.

CHAIRPERSON PFANNENSTIEL: Thank you. Any discussion?

COMMISSIONER ROSENFELD: I think this is pretty much just cleanup language, right, Gary?

MR. FLAMM: Yes, it is.

COMMISSIONER ROSENFELD: So, I move the item.

COMMISSIONER BYRON: And I'll second it.

CHAIRPERSON PFANNENSTIEL: All in favor?

(Ayes.)

CHAIRPERSON PFANNENSTIEL: Thank you, Gary.

MR. FLAMM: Thank you.

CHAIRPERSON PFANNENSTIEL: Item 5, possible approval of contract RMB500-500-06-001, an agreement to receive $145,000 from NASEO for Energy Commission participation in a gas water heating research and development program. Ms. Brook.

MS. BROOK: Good morning, I'm Martha Brook with the PIER buildings program.

In 2005 the National Association of State Energy Officials ran a solicitation called STAC, the state technology advancement collaborative.

The primary objective of STAC is to support joint energy research, development, demonstration and deployment of technologies where common federal and state objectives exist.

The Commission participated in a multistate research proposal with the New York State Energy Research and Development Authority,

and the Energy Center of Wisconsin in the area of gas water heating.

The federal funds that the Commission will receive through this agreement will be included in a future contract amendment with Lawrence Berkeley National Laboratory, and will be used to test promising gas storage water heating technologies.

Cofunding from the PIER buildings program of over $500,000 will be contributed from two active water heating research contracts.

At this time I'd like to answer any questions that you might have.

CHAIRPERSON PFANNENSTIEL: Thank you. Are there any questions? No questions.

COMMISSIONER ROSENFELD: I move item 5.

COMMISSIONER GEESMAN: Second.

CHAIRPERSON PFANNENSTIEL: Moved and seconded.

All in favor?

(Ayes.)

MS. BROOK: Thank you.

CHAIRPERSON PFANNENSTIEL: Approved, thank you, Ms. Brook.

Item 6, possible approval of contract

500-06-004 for $380,000, San Diego State University's research foundation to develop and evaluate tools for creating communities that are energy efficient and environmentally friendly. Ms. Davis.

MS. DAVIS: Hi, good morning, Commissioners. My name is Cheri Davis and I work in the building efficiency program for PIER.

We are seeking approval of a $380,000 contract with the San Diego State University research foundation to support research on the design of more energy efficient and environmentally friendly communities.

This is the first project to be undertaken by the new National Energy Center for Sustainable Communities, a partnership of San Diego State University, the Gas Technology Institute, the City of Chula Vista, and U.S. Department of Energy.

This contract will provide support to a DOE-funded project already underway, the overall purpose of which is to resolve outstanding technical and market barriers to development of more energy- and resource-efficient communities in California.

The specific methodology involves employing four separate models to evaluate and optimize energy and environmental parameters at the community level. Energy and environmental parameters include building energy use, urban heat island effects, water quality and urban runoff, transportation energy and land use, and greenhouse gas emissions.

The models have not been used in this way before. And one of the objectives of this research is to test the ability of these models when used together to effectively evaluate and optimize designs at the community scale.

We will be developing optimize designs for three Chula Vista communities that are actually in the planning phases. So this is something that we hope will actually come to fruition. But this project in particular is just to do the modeling work.

In addition, the contract will be analyzing the institutional and market barriers to the creation of energy- and resource-efficient communities in California. This effort will draw from the knowledge of investors, developers, builders, brokers, environmental organizations and

government institutions.

The will be developing case studies and guidelines for use by planning, design and building professionals and government entities. And they will be developing an outreach plan for these guidelines.

The City of Chula Vista is very committed to implementing these community designs and developing further research.

CHAIRPERSON PFANNENSTIEL: Thank you, Cheri. I know that I've been involved in discussions on this for some time, maybe a year now, talking with both DOE and GTI about their interest in looking at smart growth and community development. And I'm aware that this is one of only a couple projects that are available to do this kind of analysis on. So I'm glad that we got involved in it.

Are there questions from the dais?

COMMISSIONER GEESMAN: I have a question.

CHAIRPERSON PFANNENSTIEL: Commissioner Geesman.

COMMISSIONER GEESMAN: How does our previous effort on the PLACES model fit into this?

MS. DAVIS: I anticipated that question. The PLACES model is looking at modeling for more regional levels. So this is a slightly more focused microscopic level.

CHAIRPERSON PFANNENSTIEL: I also understand, Commissioner Geesman, that when the Chula Vista project organizers were looking they did consider the PLACES model and ended up with one that was, I think as Ms. Davis said, much more focused on specifically their needs.

MS. DAVIS: If possible they might be testing the PLACES model for the same development as a way of just kind of comparing how the two methods work.

CHAIRPERSON PFANNENSTIEL: Further discussion?

COMMISSIONER ROSENFELD: I'm very happy, I move the item.

COMMISSIONER GEESMAN: Second.

CHAIRPERSON PFANNENSTIEL: All in favor?

(Ayes.)

CHAIRPERSON PFANNENSTIEL: The item is approved, thank you.

MS. DAVIS: Thank you.

CHAIRPERSON PFANNENSTIEL: Item 7,

possible adoption of the Executive Director's data adequacy recommendation for the AES Highgrove Power Plant project application for certification, and possible Committee assignment. Mr. Worl.

MR. WORL: Good morning, Chairman Pfannenstiel and Commissioners. My name is Bob Worl; I'm the Project Manager for the AES Highgrove project.

On May 25th AES Highgrove LLC filed an application with the Commission to get a permit to build, own and construct the AES Highgrove 300 megawatt peaking power plant on the site of an old SCE hydro power plant in Grand Terrace, which is in San Bernardino County, just north of the Riverside County line.

The Executive Director approved the staff's recommendation on June 23rd that the project application at this time is data inadequate. We did receive supplemental information from the applicant on June 28th, which is still missing one piece from the air district that's quite vital.

And at this time we're going forward with the recommendation originally made by the Executive Director that the project is not

adequate at this time. We're hoping to resolve that issue by the business meeting on the 19th.

CHAIRPERSON PFANNENSTIEL: Thank you.

COMMISSIONER GEESMAN: What's the one piece that remains outstanding?

MR. WORL: The air district has just received the application from the applicant for an authority to construct. And they have not had adequate time to review that to determine whether or not the application to the district is complete.

CHAIRPERSON PFANNENSTIEL: Comments from the applicant?

MR. GALATI: Madam Chair, Members of the Commission, my name is Scott Galati, representing AES Highgrove LLC, a wholly owned subsidiary of AES Corporation.

We agree with the staff recommendation. We're waiting for communication from the air district that the application that they received meets all of their needs so that they can begin their PDOC process.

I would like to say one thing, congratulate staff and thank you very much for helping us. Bob Worl facilitated good

communication between the applicant and our team and his team. And particularly Sudath from the transmission group, made a phone call and was able to get power flow diagrams electronically delivered that we weren't able to get. So, I thank that very much. And I'd like to make sure staff is recognized.

Thank you. We look forward to seeing you on the 19th.

CHAIRPERSON PFANNENSTIEL: Thank you. That's very good to hear. I guess given that we have in front of us a adoption of the staff recommendation.

COMMISSIONER GEESMAN: I'll move that.

COMMISSIONER ROSENFELD: Second.

CHAIRPERSON PFANNENSTIEL: In favor?

(Ayes.)

CHAIRPERSON PFANNENSTIEL: It's approved, thank you.

MR. WORL: Thank you very much.

MR. GALATI: Thank you.

CHAIRPERSON PFANNENSTIEL: Item 8, possible approval of a petition to amend the Energy Commission's decision to add Pacific Gas and Electric Company as an owner, extend the

construction timeframe and conduct four facility enhancements to the 530 megawatt project. I didn't give the name of the project, it's Contra Costa Power Plant Unit 8.

MR. MEYER: Good morning, Commissioners.

CHAIRPERSON PFANNENSTIEL: Good morning.

MR. MEYER: Christopher Meyer; I'm the Compliance Project Manager for the Contra Costa Unit 8 Power Plant.

The petition before us, as you say, is for the addition of PG&E as an owner, extension of the construction mileposts, and four facility enhancements at the Contra Costa Unit 8 Power Plant.

The power plant is a 530 megawatt combined cycle plant in Antioch, in Contra Costa County. The facility is currently owned by Mirant Delta LLC, and was certified back on May 30, 2001.

Construction did start on the facility. They were started in August of 2001. But have been suspended since February of 2002, with about 7 percent of the project completed at this point.

Another little piece of background. The power plant that's there currently, the Contra Costa Power Plant, is outside of our jurisdiction,

but the power plant that was approved by the Commission is on that same facility. There's a lot of shared facilities there between the two, the existing and the proposed -- excuse me, the soon-to-be-constructed power plant.

The pending project modification is to change the ownership to add PG&E as an owner, along with Mirant. Because of the links between the two facilities Mirant will also remain as a part owner, and they will also be responsible for compliance with the conditions of certification for the project.

The only difference in that, PG&E will be solely responsible for the air quality permits for unit 8.

The extension of the construction mileposts is going to reflect resuming construction three months after the closing of the asset transfer agreement between Mirant and PG&E. So that would be three months after they're talking about beginning commercial operation 24 months after that date.

This date, it is sort of a floating date depending on when the asset transfer agreement does close, but staff has been informed by PG&E

that they intend to close the asset transfer agreement, start construction, you know, very soon after the Commission hears this petition. Hopefully they'll start --

COMMISSIONER GEESMAN: Let me interrupt.

MR. MEYER: Yes.

COMMISSIONER GEESMAN: So the asset transfer agreement has not closed?

MR. MEYER: No.

COMMISSIONER GEESMAN: And I believe in the back of the materials there's an indication that PG&E intends to commence construction in September?

MR. MEYER: Yes.

COMMISSIONER GEESMAN: And you said that they would commence construction 90 days after the asset transfer agreement closed?

MR. MEYER: Yes, that was the information they provided in their petition, that they would be starting it within three months of the close of the asset transfer agreement. So --

COMMISSIONER GEESMAN: And then you seemed to infer that our approval of this change of ownership is a critical path item?

MR. MEYER: That's what we were told

early in the process, that they wanted -- that PG&E wanted to make sure that this was approved before they went forward.

COMMISSIONER GEESMAN: Thank you.

MR. MEYER: And we were also informed that the intent is to close the asset transfer agreement no later than June 30, 2008. But, as they've said again, that they anticipate closing it much sooner than that.

The third part of the petition is to make four facility enhancements on the project. The first one would be to install a water treatment facility that would serve unit 8's water processing needs.

The second would be to enhance the cooling tower blowdown treatment system by adding sand filters to remove suspended solids and a dechlorination system to remove residual chlorine.

They would also be installing an oil/water separator that would handle unit 8's needs. And the last change would be to enlarge the administration building for unit 8 so that it has a footprint of 100 by 140 feet.

And staff, in looking at these changes, we've identified that there will be no conditions

that need to be changed.

COMMISSIONER GEESMAN: Could you address how the existing conditions in the license have been complied with or met to date?

MR. MEYER: Yeah, that would be my next item here. One of the concerns that staff had is that the aquatic filter barrier that you're most likely aware of that was designed to address possible impingement and entrainment issues with the intake for units 6 and 7. And then unit 8 would be using the effluent of that.

We understand that PG&E and Mirant, they do not intend to install that aquatic filter barrier as required by several of the conditions of certification.

So, this amendment doesn't directly impact that, but it did bring up the fact that before they start operation that that's something that would have to be addressed. And in our staff analysis, in our recommendations, we addressed ways of treating that compliance, so that we can make sure that the project is either in compliance or as we recommend, that they would come back with an amendment to address the mitigation that was intended by the aquatic filter barrier prior to

operation.

COMMISSIONER GEESMAN: I think you also recommend some type of statement by PG&E of their intention to comply?

MR. MEYER: Paul, do you want to --

MR. KRAMER: Yes. In the staff analysis we indicated that because of the approach we were recommending that we needed a revised statement from PG&E. That's a general requirement of a change of ownership. They, of course, filed one with their original application.

They did, last week, give us a revised statement that indicates their agreement with what we're calling understandings 1 and 2. But, we decided it was appropriate to add a third understanding. And those two crossed in the mail.

So today we wanted to make sure that PG&E has an opportunity to indicate whether or not they agree with the third understanding, as well. And --

CHAIRPERSON PFANNENSTIEL: I'm sorry, would you explain what the third understanding is. I don't see it in my notes.

MR. KRAMER: It's in the errata that was made and given tot he Commissioners Monday. And

it says that -- it's really a clarification. It says, until the Resource Agency permits are obtained, unit 8 will be designed and constructed in such a manner that will not preclude the switch to an alternative cooling technology.

And what it's referring to in terms of Resource Agency permits are basically that's one of the two alternative approaches that staff's recommending to do. Either that they resolve the outstanding uncertainty about mitigation for the use of once-through cooling by negotiating with the federal and state resource agencies new mitigation program. And come back with an amendment to build that into the Commission's decision.

Or, as an alternative, they find some other method of cooling that does not involve the use of delta water in a once-through cooling way. And the likely alternative there would be reclaimed water.

Staff did some preliminary, kind of a fatal flaws analysis of the use of reclaimed water, and decided that that appears to be a very viable option for this project. For unit 8, that is.

COMMISSIONER GEESMAN: Well, I think we're just being handed the errata now, so --

CHAIRPERSON PFANNENSTIEL: Right, I had not seen it.

COMMISSIONER GEESMAN: -- I'd have to say I have a bit of resistance to dealing with this too much on the fly. I was responding to the paragraph in your June 16th memo that said staff makes this recommendation subject to PG&E's filing of a revised statement confirming its intention to continue to participate in the ongoing efforts to develop alternate mitigation methods and to abide by the above understanding in addition to the conditions of certification.

That, frankly, strikes me as a bit too loose for at least my view of the way in which we're supposed to enforce the conditions of our licenses.

This is a project that has not really proceeded very rapidly under construction. Based on the staff materials filed with us, circumstances surrounding the cooling water situation have changed a fair amount since we issued our decision in 2002. And at least by my count I think Commissioner Rosenfeld is probably

the only Member of this Commission that was here when we rendered that decision.

The Commission has taken several steps in articulating a cooling water policy. The most significant, I believe, was in our 2003 IEPR. And, frankly, although I think bankruptcy excuses a lot of things, in the four years I've been on the Commission I can't say that I've been overwhelmed by Mirant's enthusiasm for meeting the various requirements the State of California applies to a generator.

And I would hope that PG&E brings with it a different attitude as it joins this project. This particular juncture would seem to me to be a good time to get a better written affirmation of PG&E's intent to do that. And I'm not certain what the time pressure of us taking action on this item today is.

CHAIRPERSON PFANNENSTIEL: Well, could we hear from the applicant, I think, and are there comments on that?

MR. RUSSELL: Good morning, Madam Chair and Commissioners. My name is Jeff Russell; I'm President of Mirant California LLC, and its subsidiaries, Mirant Delta LLC and Mirant Potrero

LLC. I'm responsible for all of Mirant's generation assets in the State of California.

I'd like to start out by saying that Mirant supports the staff recommendation and appreciates all the time, effort and high quality work that the staff put into it. Also, available to answer any other questions that you may have.

I'd like to start out by saying that we believe that in order to further the commercial deal between Mirant and PG&E it's imperative per our commercial arrangements that we get this step accomplished with the modifications to the AFC and the permission for the addition of PG&E to the AFC.

Once that commercial arrangement is concluded and the ATA is closed, then PG&E will own the project and proceed as outlined here. And they are prepared to answer your concerns. They have signed several affidavits stating that. And I don't want to go any further speaking for PG&E because we've got Fong Wan here to do that.

But if you have any other questions, I'd be happy to answer them.

CHAIRPERSON PFANNENSTIEL: Thank you. Mr. Wan.

MR. WAN: Madam Chair and Commissioners, I am Fong Wan, Vice President of Energy Procurement with Pacific Gas and Electric. I am responsible for PG&E's electric procurement business, which includes the purchase and development of the Contra Costa 8 unit.

And I'd like to say that this plant arose out of the settlement that we have with Mirant dating back to January of 2005. And we structured the settlement as an option for PG&E to resume the completion of the plant.

And the reason we structured this as an option was to make sure that all the stakeholders would agree that this is the right step for the State of California and our customers.

We have received all the necessary approval from FERC and the CPUC at this point. So it's taken a little while. The CPUC provided its approval about a couple weeks ago.

And we support the staff's recommendation today. It will allow us to move expeditiously to close on the ATA, the asset transfer agreement. We believe this is the last step that we would need to move on to closure of this agreement.

And I have submitted a written letter committing myself and PG&E to meeting the requirements, and a statement of understanding for statement number one, and statement number two. And I'll be glad to submit another letter of understanding for statement number three, in writing, if you prefer.

PG&E's committed to construct this plant in a responsible way. And we will not proceed without the approval of the Commission or the resource agencies.

COMMISSIONER GEESMAN: Statement number one and number two refers to the errata that we were handed a couple minutes ago?

MR. WAN: I have the errata in front of me.

COMMISSIONER GEESMAN: And, Fong, when you say one and two, you mean the numbered paragraph at the bottom of page one, and the numbered paragraph at the top of page two?

MR. WAN: That's --

CHAIRPERSON PFANNENSTIEL: Those are the affidavits you have already submitted?

MR. WAN: Yes, it is.

CHAIRPERSON PFANNENSTIEL: And you have

not yet, but are willing and intend to submit an affidavit under item number three?

MR. WAN: Yes, I am.

COMMISSIONER GEESMAN: I apologize, I'm just not comfortable dealing with it on the fly like this. I like to have a document like this in front of me, and the ability to read it somewhere outside a public meeting where I'm being asked to take a vote on it.

And although I certainly believe we ought to deal with the matter expeditiously, I'm not prepared to do so today.

CHAIRPERSON PFANNENSTIEL: And, first, is there a consequence of delaying this until our next business meeting?

MR. WAN: There is a consequence in delay. And the delay is roughly about $1 million per month; that's per the contract that Mirant had with Black and Veatch. So there is a consequence to delay. But I'm not aware of when the next Commission's meeting is, I'm sorry.

CHAIRPERSON PFANNENSTIEL: Two weeks.

MR. WAN: Okay.

CHAIRPERSON PFANNENSTIEL: Thank you. We have some others who have asked to speak on

this item. So why don't we hear from them. The San Francisco Baykeepers. Ben Eichenben?

MR. EICHENBERG: Thank you, yeah, I'm Ben Eichenberg, representing, speaking on behalf of San Francisco Baykeeper and the California Coastkeeper Alliance.

We're also supporting the staff recommendations. Just wanted to point out this is a good time this Commission has the authority and perhaps the responsibility under CEQA to take --

COMMISSIONER ROSENFELD: Could you speak a little closer to the mike?

MR. EICHENBERG: I'm sorry. Has authority and perhaps the responsibility under CEQA to take a look at once-through cooling again. There's been some significant changes to the plan for the construction of unit 8. And this makes that a good juncture to review those changes and to take, maybe do a subsequent environmental impact report on it.

COMMISSIONER GEESMAN: Do you read this errata as putting us on that course?

MR. EICHENBERG: I'm not sure I'm familiar with the errata you're referring to.

COMMISSIONER GEESMAN: Well, that's one

of my problems. This is not the way we do business on large, significant power plants. And I would caution all of the parties to this. Don't put us in this position again. You know, these need to be considered judgments. They ought not to be dealt with on a rush basis with large dollar amounts associated with our delay. Sorry.

MR. EICHENBERG: Understood. No problem. I'm sure the holiday weekend interfered with some people's --

COMMISSIONER GEESMAN: Well, I'd like to see if you contemplate a new CEQA process, I'd like to see the prospective new owner acknowledge that in whatever written statement the new owner delivers to us. I'd like to see the staff address that a bit more directly in whatever document the staff agrees to.

It would seem to me we're at an important juncture point here and ought not to deal with it with words calculated in their ambiguity.

MR. EICHENBERG: I don't see a problem in that case with delaying for two weeks. I know it sounds like there's a lot of money involved in it for PG&E, but as you pointed out earlier, it

also seems as though the project has been delayed quite a bit through -- not through this Commission's process, but through, you know, market forces or whatever it is that's slowing it down.

CHAIRPERSON PFANNENSTIEL: Thank you. There's Bradley Daniels with San Francisco Baykeepers, also would like to speak.

MR. DANIELS: Hi, I'm Brad Daniels. I'm also here on behalf of San Francisco Baykeeper and with the Stanford Environmental Law Clinic.

I'm just kind of here to talk about the Endangered Species Act and kind of the impact this plant will have on that law.

This plant with its once-through cooling process, right now the Fish and Wildlife Service basically says that 7000 delta smelt ar to be taken up through this plant. This will not change if you guys don't change it.

This is old technology. Once-through cooling technology is old. Federal Congress has already said through Clean Water Act section 316(b) that this is old technology.

And as you might be aware of this once-through cooling process, as well, this is old

technology. The Congress has already specified to that extent.

Each of these power plants, they're going to be coming up through up and down the coast. All these are going to have the same issue. The Clean Water Act specifically is based, you know, is there to protect these endangered species.

Now, the delta smelt is also an indicator species for the whole Delta. When the delta smelt go down it shows that the whole ecology is very messed up. In the past couple years the delta smelt have basically been very hard to find. The past two trawlings, as the Fish and Wildlife Service have said, they've basically found almost none delta smelt. Which means basically that the whole ecology of the Delta is about to collapse.

Basically we're just here to say, you know, these kind of things should be taken into account. As Ben mentioned, the CEQA process would also account for this, would look at the environmental impacts.

And also there's just obviously different technology out there. You have the

reclaimed water aspect. You have different mitigation factors that can be taken into account here.

So we support the staff in that any certification should be conditioned on an amendment to make sure that PG&E and Mirant comply with the Fish and Wildlife Service and the National Marine Fisheries Service.

I'd also like to say that as a state agency, you also have a duty under the public trust doctrine, to protect these species. They are public trust resources. And if you were to grant the certification without these conditions you would basically be undercutting other state agencies such as the Fish and Wildlife Service, the California DFG and also the State Water Resources Control Board and the Regional Water Control Board, in that you would also place this burden more on them, as well, through their NPDES permits.

Is there any questions?

CHAIRPERSON PFANNENSTIEL: Thank you. I note that Baykeeper has also submitted a letter to the Commission which I just received this morning, so I have not had a chance to look at it yet.

MR. DANIELS: Okay.

CHAIRPERSON PFANNENSTIEL: Thank you --

MR. DANIELS: Thanks.

CHAIRPERSON PFANNENSTIEL: -- for your participation.

Mr. Wan.

MR. WAN: Thank you. I just wanted to offer a couple other facts for your consideration. The first one is even though the power plant is written as 7 percent complete, I wanted to mention that with all the turbines and all the equipment that Mirant has agreed to provide to PG&E under this option agreement, it essentially amounts to approximately 40 percent off in terms of the cost of a new construction. And we believe that's a fantastic deal for our customers.

It's an excellent opportunity for us to meet our resource needs which identify in our long-term plan before the CPUC. We will need new resources in the year 2008 and 2010, and this fits in very well with that.

And the second item I wanted to ask for your consideration, yes, I do understand, Commissioner Geesman, your concern about last-minute errata changes. I ask you to please look

at number three. Number three is actually a commitment that PG&E will design and construct a plant that, if we take ownership, that can go either way. And we would not preclude the dry cooling.

And another way to say this is that we will only proceed under bullet number one if we have received everyone's approval on the mitigation plan, the Commission, and you see the last line of page 1, all the resource agencies, and require all the -- acquire all the required permits.

We think this commitment binds us to meet everyone's satisfaction. And it was not meant to play with words; it just further put conditions on us that we will construct it in a way that could go either way.

COMMISSIONER GEESMAN: Well, I would like to see you address the cooling water policy adopted by this Commission in its 2003 IEPR, in the written statement that you file with us.

And I certainly agree with your characterization of your resource needs, and the potential attractiveness of this project. I'd remind you, though, that when we, our staff in I

believe the cost of generation report done for the 2003 IEPR, reviewed the life cycle cost of a combined cycle facility, it attributed -- and we updated these numbers in our 2005 IEPR -- it determined that between 70 and 90 percent of the lifecycle cost of the electricity coming from such a combined cycle would be attributed to fuel costs.

So, while I do think we certainly ought to strive for the most cost effective construction of the capital facilities, we ought not to lose sight of the fact that that's between 10 and 30 percent of the lifecycle cost of the electricity that will be generated at this site.

MR. WAN: I understand that.

CHAIRPERSON PFANNENSTIEL: Do we have further comments?

Well, I would like to suggest that given where we are in terms of information being received, that I know Commissioner Geesman and I would prefer to hold this item over until our next business meeting, by which time we'll have had a chance to look at the new information that has come in. So, we'll be back on the 19th of July.

Approval of minutes of the June 29th

business meeting.

COMMISSIONER ROSENFELD: I'd move the minutes but I wasn't here, so I also abstain.

COMMISSIONER GEESMAN: I'll move the minutes, I was here.

COMMISSIONER BYRON: And I'll second them.

CHAIRPERSON PFANNENSTIEL: In favor?

(Ayes.)

CHAIRPERSON PFANNENSTIEL: Commission Committee discussion. Any discussion?

Chief Counsel report, Mr. Chamberlain.

MR. CHAMBERLAIN: Yes, Madam Chairman. Last meeting we discussed a memo that Commissioner Geesman asked me to write about the question what kinds of documents require five signatures and what kinds only require one.

I anticipate providing that memo for you to review, and then perhaps discuss on the 19th. I should provide that either today or tomorrow.

CHAIRPERSON PFANNENSTIEL: Thank you. Executive Director report.

MR. O'BRIEN: Madam Chairman, at the last business meeting on June 29th, Executive Director Blevins indicated that the staff would

come back per the request of the Commission and discuss the implications of the Commission's adoption of the 2007 demand numbers in terms of what that meant for the 2006 summer outlook.

And Dave Ashuckian is here. We have provided you with some updated charts, and Dave can go through that and answer any questions you might have.

CHAIRPERSON PFANNENSTIEL: Fine. David.

MR. ASHUCKIAN: Good morning, Chairman Pfannenstiel, Commissioners. I'm here again, as Terry indicated, to address the request to look at the impact of the revised demand forecast on 2006 summer outlook. And, as you have before you, our revised tables.

What we have done is incorporated the revised forecast that was adopted on the 29th using what was the last supply outlook. We have made a couple of modifications to the supply. There's been a couple of small peaker plants that were approved over the last few weeks, so those have been added into this.

In addition to that, we have added 110 megawatts of demand respond into the demand response option as a result of the MWD pumping

load that was, in the past, considered one of the action items available to the state under adverse conditions. We're now including that as part of demand response.

COMMISSIONER GEESMAN: Is there any change in the contractual or operational status of that pumping load?

MR. ASHUCKIAN: No, no. We just --

COMMISSIONER GEESMAN: It's just a question of how we count it?

MR. ASHUCKIAN: Yeah, it wasn't included as part of the traditional programs under demand response because it was more of a separate activity. And so now we just included that to keep -- so it's more ubiquitous with the supply outlook.

In addition to that, in the past we actually used the demand forecast high case because of the expected demand. We wanted to be more conservative. But given the adjustment to the demand forecast we're now going back and using the basecase. So we are now using the basecase forecast from the revised.

COMMISSIONER GEESMAN: And how much of a difference was there in southern California

between the high and the base?

MR. ASHUCKIAN: In the past there was only about 74 megawatts. I don't have the number now off the top of my head. The difference in southern California between what was the last forecast versus today's is about 933 megawatts. So it has gone up 933 megawatts from the last forecast.

As you can see statewide, as well as ISO-wide, under expected conditions we don't see any anticipated problems this summer. And including south of Path 26 under expected conditions.

COMMISSIONER GEESMAN: That's your one-in-two?

MR. ASHUCKIAN: That's the one-in-two. And, in fact, under this summer's monthly, even under adverse conditions, we should have adequate resource to meet the demand with the use of interruptibles and demand response, in the case of adverse conditions only.

So, this additional 933 megawatts does essentially lower our potential reserve under adverse conditions, but we still should have adequate resources to meet load.

COMMISSIONER GEESMAN: But you're characterizing 5.3 as adequate when the ISO shoots for 7?

MR. ASHUCKIAN: Under, yeah, this is not a potential loss of firm load. This is using -- it would require interruptibles and demand response under the adverse scenarios of all temperature, outages and zone congestion occurring simultaneously.

COMMISSIONER GEESMAN: And even then we wouldn't hit 7?

MR. ASHUCKIAN: We wouldn't hit 7, but it's not a stage 2. It's essentially we're calling on these programs, but essentially no loss of load, firm load.

CHAIRPERSON PFANNENSTIEL: Have we made any changes recently in demand response besides what you just talked about, adding the --

MR. ASHUCKIAN: Well, in the previous outlook we actually made some adjustments based on last year's experience. And so some of the demand -- actually the interruptible programs have gone up a little bit, the demand response programs went down based on deployment of those, you know, implementation of those.

So there has been a slight adjustment. That was presented to the EAP at the last meeting, I think it was in April.

CHAIRPERSON PFANNENSTIEL: And nothing since then that's been --

MR. ASHUCKIAN: Nothing has changed as far as we're aware of.

COMMISSIONER GEESMAN: So, programmatically, despite the fact that since that April 28th briefing, we've now bumped the demand forecast in southern California upward by nearly 1000 megawatts. Programmatically there have been no adjustments in the demand response programs?

MR. ASHUCKIAN: Not that I'm aware of. If you move on to the package, we do have a preliminary outlook at the five-year outlook. And again, if you move again to the SP-26 area, which is again the most critical in the state, you'll see that as soon as 2007 under adverse conditions we will potentially have problems even with the use of interruptibles and demand response.

So in that case we do anticipate the need for additional resources by next summer.

CHAIRPERSON PFANNENSTIEL: That's the 3.4 percent?

MR. ASHUCKIAN: Correct. So in that case, even with demand response and interruptibles, there would potentially be the need to drop firm load.

CHAIRPERSON PFANNENSTIEL: Again, I'm looking at demand response above line 7 there, showing that you assume no additional demand response throughout this entire five-year period.

MR. ASHUCKIAN: That's correct. We assume no additional demand response. We --

CHAIRPERSON PFANNENSTIEL: And no additional interruptible.

MR. ASHUCKIAN: And no additional interruptibles, as well as no additional resources, new additions to the system. And, again, this is just based on a most conservative outlook for the future.

COMMISSIONER GEESMAN: And is that using our base forecast or our high forecast?

MR. ASHUCKIAN: This is the base forecast.

COMMISSIONER GEESMAN: So it's not a most conservative, it's a conservative.

MR. ASHUCKIAN: Yeah. We also re-ran the probability of meeting reserves, and as you

can see, the last two pages of that package does have the new probability run.

And as you can see, we do have a 95.6 percent chance of not going below 1.5 percent, meeting a stage 3. That has dropped about 3 percent from what was using the old forecast.

CHAIRPERSON PFANNENSTIEL: Dave, I just want to make sure that when you talk about using the old forecast, it was the old demand forecast, but it was the high end?

MR. ASHUCKIAN: That's correct.

CHAIRPERSON PFANNENSTIEL: And now we're using the new demand forecast, but basecase?

MR. ASHUCKIAN: That's correct.

CHAIRPERSON PFANNENSTIEL: So we're adjusting it somewhat, making it look a little better.

MR. ASHUCKIAN: Yeah, and again, the difference between the high case and the basecase using the previous forecast was very small difference.

CHAIRPERSON PFANNENSTIEL: Okay.

COMMISSIONER GEESMAN: Do you have any assessment as to what last year's weather actually was on the probability table? Were we a one-in-

ten? Were we a --

MR. ASHUCKIAN: Actually, Tom might be better able to answer that. I'm pretty sure that we did not go over -- we did not hit the one-in-ten I know for sure. I'm not sure if we were above one-in-two or not.

MR. GORIN: Hi, I'm Tom Gorin from the demand office. Southern California hasn't hit one-in-two since 1998. So, we've been on the low end of the temperature spectrum, by the way I calculate it, which uses the last 56 years worth of history.

COMMISSIONER GEESMAN: So, our 1000 or thereabout megawatt addition to the demand forecast based on last summer's experience, something more than just a weather-driven adjustment?

MR. GORIN: No, it would take last year's weather and increase the load back to temperatures that were seen in 1998, basically.

COMMISSIONER GEESMAN: Okay.

CHAIRPERSON PFANNENSTIEL: Any other questions? Commissioners?

COMMISSIONER GEESMAN: I think this is quite valuable. And I thank the staff and the

Executive Director for providing it to us. I think the prospects that we face this summer, though, are I guess what I'd call enervating because, frankly, I don't think that we had anticipated that the situation would be quite that stark.

CHAIRPERSON PFANNENSTIEL: Thank you for doing this.

Leg Director report. I see nobody from Leg. Public Adviser's report. Nick.

MR. BARTSCH: Madam Chair, Members, Nick Bartsch for Margret Kim. We do not have anything new to report. Thank you.

CHAIRPERSON PFANNENSTIEL: Thank you. Public comment. Anybody here wishing to address the Commission?

Thank you, we'll be adjourned.

(Whereupon, at 11:05 a.m., the business meeting was adjourned.)

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CERTIFICATE OF REPORTER

I, PETER PETTY, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Energy Commission Business Meeting; that it was thereafter transcribed into typewriting.

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

IN WITNESS WHEREOF, I have hereunto set my hand this 18th day of July, 2006.