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BUSINESS MEETING

BEFORE THE

CALIFORNIA ENERGY RESOURCES CONSERVATION

AND DEVELOPMENT COMMISSION

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

CALIFORNIA ENERGY COMMISSION

HEARING ROOM A

1516 NINTH STREET

SACRAMENTO, CALIFORNIA

WEDNESDAY, MARCH 14, 2007

10:04 A.M.

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

COMMISSIONERS PRESENT

Jackalyne Pfannenstiel, Chairperson

Arthur H. Rosenfeld

John L. Geesman

Jeffrey D. Byron

STAFF and CONTRACTORS PRESENT

B.B. Blevins, Executive Director

William Chamberlain, Chief Counsel

Michael Smith, Legislative Director

Harriet Kallymeyn, Secretariat

Michael Seaman

Jerry Wiens

Rob Hudler

Rajesh Kapoor

Barbara Byron (via teleconference)

Heather Raitt

Gabriel Herrera

Jason Orta

Bill Knox

PUBLIC ADVISER

Nick Bartsch

ALSO PRESENT

Anders Glader (via teleconference)
PPM Energy

ALSO PRESENT

Les Guliasi
Pacific Gas and Electric Company

Manuel Alvarez
Southern California Edison Company

Brenda LeMay
Horizon Wind Energy

Mike Deangelis
Sacramento Municipal Utility District

Peter Blood (via teleconference)
TransAlta Energy Marketing

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P R O C E E D I N G S

10:04 a.m.

CHAIRPERSON PFANNENSTIEL: We'll begin the meeting with the Pledge of Allegiance.

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

CHAIRPERSON PFANNENSTIEL: Before we go on to the business agenda this morning, I was going to ask my colleague, Art Rosenfeld, to say some words about the former Energy Commission Staff person who died over the weekend. Art.

COMMISSIONER ROSENFELD: I'm very sad to report the completely unexpected death of Don Aumann who went from perfectly healthy ten days ago to dead of autoimmune hemolytic anemia at age 47 last Friday.

Don was a mechanical engineer who got his bachelors degree from Wisconsin in 1982 during the high-priced days when we had an energy crisis and everybody was working hard. Came out here; worked for PG&E; and then at Lawrence Berkeley Lab. And then for the Energy Commission.

And then was so successful here he was hired by Michael Siminovich to become the Director of Programs for the new California Lighting

Technology Center at Davis.

I personally worked with him in all four of those roles. He was a wonderful team leader; extremely well respected by all his friends. One of the recent awards that he got in 2006; there is a biennial champion of energy efficiency award by the American Council for Energy Efficiency, for an energy efficient economy. And Don got that award in 2006, as I said. His citation noted that he had invented technical skills, innovation and persistence and outstanding record of accomplishment.

And we will all miss him deeply. The memorial service is at 11:00 this morning in Davis, so we certainly won't do that. And if anybody is interested in donations in his name, see me after the meeting. The family has suggested some charities.

Thank you, Jackie.

CHAIRPERSON PFANNENSTIEL: Thank you, Commissioner Rosenfeld. We appreciate that.

On the business meeting agenda there are a couple of changes. Item number 3 is going to be taken up first. And item number 5 is off the agenda for this week.

So we'll start with what is listed as item number 3, possible approval of contract 500-06-035 for $2,502,779 with Architectural Energy Corporation for a coordinated research program with nine energy efficient lighting projects. Good morning, Mr. Seaman.

MR. SEAMAN: Good morning, Commissioners. I'm Michael Seaman from the PIER buildings program. I'd first like to thank the Commission for its kindness in respecting the memory of Don Aumann who guided the PIER buildings program lighting research before I arrived, and supported me with professional insights, high quality research contracting and invaluable friendship.

This proposed $2.5 million contract with Architectural Energy Corporation will enable the PIER buildings program to capture energy savings from new advanced lighting products and systems. Architectural Energy Corporation is one of two successful bidders that responded to a request for proposals in 2006.

If this proposed contract is approved Architectural Energy Corporation will conduct a program of energy efficient lighting research

consisting of nine individual research projects.

The proposed program, with its nine projects, has been approved by the RD&D Commission.

This proposed contract will commit 70 percent of the 2005/2006 PIER lighting initiative budget of 3.6 million. The remaining balance of the initiative's budget is proposed for a contract with the other successful bidder, an item scheduled to be brought before you at your next business meeting.

The proposed contract supports the loading order of efficiency and demand response, the Governor's executive orders to reduce overall electrical consumption, and to promote green buildings; and the demand response goals of the Energy Action Plan by developing new energy efficient lighting systems and controls.

This contract has direct benefits to California. In partnership with lighting manufacturers and utilities the program will develop lighting products that will save significant energy. The nine research projects have potential to collectively deliver electrical load savings of 569 gigawatt hours per year and

reduce peak load by 179 megawatts.

The nine proposed research projects will be developed in coordination with a program-wide market connections element intended to bring forth commercially viable lighting solutions that will provide California utilities with a stream of useful products for their emerging technology programs, while also informing Title 24 and other code processes.

The California IOUs and the participating lighting manufacturers have committed $1.2 million of matching funds to this program.

Staff requests that the Commission approve this proposed contract. I would be happy to answer your questions.

CHAIRPERSON PFANNENSTIEL: Thank you, Mr. Seaman. Are there questions, discussion?

COMMISSIONER ROSENFELD: This went through the R&D Committee, of course, and I move the item.

CHAIRPERSON PFANNENSTIEL: Is there a second?

COMMISSIONER GEESMAN: I'll second it.

CHAIRPERSON PFANNENSTIEL: All in favor?

(Ayes.)

CHAIRPERSON PFANNENSTIEL: It's approved, thank you.

MR. SEAMAN: Thank you.

CHAIRPERSON PFANNENSTIEL: Now to item number 1 on the agenda, possible approval of $200,000 U.S. Department of Energy clean cities grant to the Los Angeles County Sanitation District to co-fund the purchase of five LNG trucks. Good morning.

MR. WIENS: Good morning, Chairman Pfannenstiel and Commissioners. I'm Jerry Wiens with the transportation technology and fuels office in the fuels and transportation division.

This is to request approval to proceed with a grant to the Los Angeles County Sanitation District of $200,000 to co-fund the purchase of five LNG trucks.

The funding comes from a USDOE clean cities award, and is co-funded with the South Coast Air Quality Management District and the Gas Research Institute -- Gas Technology Institute.

The engines for the five LNG refuse transfer trucks is to be the Westport ISXG high-pressure, direct-injection engine. That's the

only natural gas engine with over 400 horsepower and 1500 poundfeet of torque. It's also the only natural gas heavy duty engine that burns natural gas in a diesel combustion system, and provides power and fuel efficiency equal to the base Cummins 15 liter diesel engine.

This engine has been identified in the San Pedro Bay Ports clean air action plan for acquisition of over 5000 trucks in the next four fiscal years. And I've been working with the PIER program to support further development of this engine to provide even lower emissions and higher fuel efficiency for the ports and other potential markets.

Can I answer any questions you may have.

CHAIRPERSON PFANNENSTIEL: Are there questions, or is there a discussion? I do have one person who'd like to speak to this, but before that are there Commissioner questions, discussion?

Somebody on the phone, Anders Glader from PPM Energy.

MR. GLADER: Yes, this is Anders Glader. That's a mistake; I'm supposed to be providing comment to item agenda 8, item 8.

CHAIRPERSON PFANNENSTIEL: Okay, thank

you.

No questions. Is there a motion on this item?

COMMISSIONER ROSENFELD: I'll move it.

COMMISSIONER GEESMAN: Second.

CHAIRPERSON PFANNENSTIEL: All in favor?

(Ayes.)

CHAIRPERSON PFANNENSTIEL: It's approved, thank you.

Item 2, possible approval of the City of Rohnert Park's adoption and enforcement of a local ordinance for residential buildings requiring energy efficiency standards more stringent than the 2005 building energy efficiency standards. Good morning.

MR. HUDLER: Good morning, Commissioners. My name is Rob Hudler; I'm with the building and appliance standards office.

Per the requirements of 10106 of the building standards local ordinances or local jurisdictions have the ability to apply for ordinances that are more efficient than Title 24. Within those requirements staff is required to do a detailed analysis of the technical components of those applications. And the city or county is

also required to provide a cost analysis.

Staff has done that review, and has received the cost analysis and found that in fact the local ordinance that the City of Rohnert Park is applying meets all the technical requirements.

We have also asked the City approve the language prior to bringing it before the Commission, which they did last month.

So, at this point in time we'd like to request the Commission's consideration and possible approval of the local ordinance.

CHAIRPERSON PFANNENSTIEL: Thank you. This is another one of those good news stories --

MR. HUDLER: Yes.

CHAIRPERSON PFANNENSTIEL: -- where a local municipality takes on a more stringent set of building standards than even ours. And has met its set criteria for approving, demonstrating to us that these are cost effective for their community.

Comments, discussion, questions? Yes, Commissioner Byron.

COMMISSIONER BYRON: Thank you. Mr. Hudler, quick question, I think. Is this a trend? Are we going to see more of these coming forward?

MR. HUDLER: Well, you know, again in the past we've typically had one or two a year. And we've already had six --

COMMISSIONER BYRON: Right.

MR. HUDLER: -- in this cycle. We have two more lined up. And we also understand that Southern California Gas and Electric is in the process of creating a template for all of their jurisdictions to consider for adoption.

COMMISSIONER BYRON: Thank you.

COMMISSIONER GEESMAN: If I could follow up on Commissioner Byron, this effort on the part of local jurisdictions is one of the most valuable resources that the State of California actually has. Because particularly in the efficiency areas, but also in renewables, as well, the spirit of innovation and experimentation within California jurisdictions is pretty robust.

Now at some point the burden shifts back to us to learn from the experience in these local jurisdictions, and to tighten up our statewide standards, as well. And I think given the volume of interest that we're starting to see come in from local jurisdictions, the burden is going to be pretty heavy on us in the next go-round of

Title 24 tightening.

But these local initiatives are one of the strongest resources that our efficiency program a the state level actually has.

MR. HUDLER: Yeah, and just as an added point, a lot of these that we're seeing and a lot of the discussion, while there's definitely a great interest in energy efficiency, a lot of the action is related to greenhouse gas reductions.

CHAIRPERSON PFANNENSTIEL: I find it really interesting that while we encourage local jurisdictions to come in with more stringent standards, and then we go through a process and we help them and we then approve their standards, when we do it the other way to the Department of Energy, and come in with standards more stringent than the national standards, we usually don't receive a very open reception there. We haven't in the past.

Questions, discussion?

COMMISSIONER ROSENFELD: I also want to add my joy. Also, I do want to say in dealing with the Department of Energy that since the midterm elections it's been more open than it used to be.

I'm very happy to move this item.

COMMISSIONER GEESMAN: I will second the item, and hope that Commissioner Rosenfeld is accurate in his assessment. I actually think that it's about time to pick up the litigative cudgel again with respect to the Department of Energy and their treatment of some of these standard-setting activities.

CHAIRPERSON PFANNENSTIEL: Looking at Mr. Chamberlain.

The item has been moved and seconded. Is there a vote?

All in favor?

(Ayes.)

CHAIRPERSON PFANNENSTIEL: Thank you.

MR. HUDLER: Thank you very much.

CHAIRPERSON PFANNENSTIEL: Item 4, possible approval of PIER work authorization MR-062 for $242,999 with the University of California in Merced under the UC Master Research Agreement 500-02-004 with the Regents of the University of California Office of the President/CIEE. Good morning.

MR. KAPOOR: Good morning, Commissioners. My name is Rajesh Kapoor and I am

a member of PIER staff in energy at the -- research office.

Staff requests your approval of this $242,999 work authorization with University of California Merced, under UC Master Research Agreement 500-02-004 with CIEE.

This work authorization is one of the two projects selected as (inaudible) RD&D Committee approved solicitation issued in April 2006.

California has about 246 refrigerated warehouses with approximately 475 million cubic feet of cold storage volume. The total refrigeration load in these warehouses is estimated about 120,000 tons. The electric power requirement estimated at 3 kilowatts per ton is about 360 megawatts. And the total annual power consumption, based upon 5000 hours per year, is 18 hundred million kilowatt hours.

This sector is responsible for about 20 percent of that total electric energy consumption of full industry.

Therefore energy conservation in refrigerated warehouses can produce significant benefits to the electric ratepayers.

This project will develop the technology to remove humidity from air in the refrigerated warehouse using liquid -- heat exchangers. The desiccant will be regenerated using waste heat from the refrigeration system. The project will be conducted at Del Monte Food refrigerated warehouse by UC Merced School of Engineering.

The proposed technology's expected to reduce California power needs by around 400 million kilowatt hours annually.

In addition, the reduction of temperature cycling during the storage will improve the quality of frozen foods. The contractor is negotiating 92,000 for this project. The RD&D Committee approved this PIER-funded work authorization at its meeting on October 17, 2006.

Staff requests your approval of this work authorization. I will be happy to answer any questions that you have.

CHAIRPERSON PFANNENSTIEL: Thank you. Questions or discussion?

COMMISSIONER ROSENFELD: Again, the Committee was pleased with this report, so I move it.

COMMISSIONER GEESMAN: Second.

CHAIRPERSON PFANNENSTIEL: All in favor?

(Ayes.)

MR. KAPOOR: Thank you.

CHAIRPERSON PFANNENSTIEL: It's approved, thank you.

The next two items, 6 and 7, I'll read but will be presented by Barbara Byron over the phone.

Item 6, possible approval of modification 1 to contract 150-05-005R with the Office of Emergency Services to add $77,250 continuing state emergency response preparation for federal and nuclear waste shipments to the waste isolation pilot project in New Mexico. Ms. Byron is on the phone?

MS. BYRON: Yes, I am, Chairman Pfannenstiel. Good morning.

CHAIRPERSON PFANNENSTIEL: Good morning.

MS. BYRON: Can you hear me all right?

CHAIRPERSON PFANNENSTIEL: Just fine, thanks.

MS. BYRON: Thank you. I apologize I'm unable to be there in person to present these two items. I will be presenting items 6 and 7 together, since they're related.

CHAIRPERSON PFANNENSTIEL: Barbara, let me read then item 7 into the record, and then you can discuss both.

MS. BYRON: All right, thank you.

CHAIRPERSON PFANNENSTIEL: Item 7 is possible approval of modification 3 to contract RMB 150-05-004 with the Western Governors Association to one, acknowledge authorization of next quarterly funding increment of $63,250 to the Energy Commission; two, redirect funds from personnel to equipment to allow the Office of Emergency Services to purchase and calibrate radiation detection equipment; and three, continue to authorize the Executive Director to execute modifications of this agreement through June 30, 2007, to receive additional quarterly funding increments.

Barbara, why don't you go ahead and discuss the two items.

MS. BYRON: The Western Governors Association provides funding to the State of California through a contract with the California Energy Commission. And to date, under this contract, they've passed through to the Energy Commission, $295,500. Most of these funds, we,

the Energy Commission, in turn passes through to the Office of Emergency Services for training and equipment, and to the California Highway Patrol for inspections and officer training.

These two items are -- has provided the next quarterly increment and these two items are to modify the current contracts so these funds can be provided to the OES.

And I request approval of these two contract modifications, and would be happy to answer any questions that you may have.

CHAIRPERSON PFANNENSTIEL: Thank you, Barbara. Are there questions? Commissioner Geesman.

COMMISSIONER GEESMAN: Barbara, the Western Governors Association gets the money from DOE, do they not?

MS. BYRON: Yes, that's correct.

COMMISSIONER GEESMAN: Thank you. I'm prepared to move -- I think you probably want two separate motions?

CHAIRPERSON PFANNENSTIEL: Yes, please.

COMMISSIONER GEESMAN: I'll move item 6.

COMMISSIONER BYRON: I'll second it.

CHAIRPERSON PFANNENSTIEL: All in favor

of item 6?

(Ayes.)

CHAIRPERSON PFANNENSTIEL: Item 7, is there a motion?

COMMISSIONER GEESMAN: I'll move item 7.

COMMISSIONER BYRON: And second.

CHAIRPERSON PFANNENSTIEL: All in favor?

(Ayes.)

CHAIRPERSON PFANNENSTIEL: They have been approved; thank you, Barbara.

MS. BYRON: Thank you.

CHAIRPERSON PFANNENSTIEL: Item 8, possible adoption of Committee draft renewable portfolio standard eligibility guidebook. The guidebook describes the eligibility requirements and process for certifying renewable resources as eligible for California's renewable portfolio standard and supplemental energy payments, and describes how the Energy Commission is designing and implementing an accounting system to verify compliance with the RPS.

And I should mention we have a number of the public who wish to speak on this item. But, to start with, Ms. Raitt.

MS. RAITT: Good morning, Commissioners.

I didn't know if you wanted to take all the guidebooks in one, or should I just go over the --

CHAIRPERSON PFANNENSTIEL: I think we'd better do them individually. We have different discussions on them.

MS. RAITT: Okay, great. We are bringing to you today five guidebooks that are -- we are asking for revisions to guidelines to implement the renewable energy program which provides incentives to new, existing and emerging renewable facilities in the goal of developing a self-sustaining market for renewables in California.

And the first guidebook is the renewable portfolio standard eligibility guidebook. But, I will go over the public process that we use to develop all five of the guidebooks, or to propose the -- develop the revisions that we're proposing today.

The changes are needed to reflect statutory changes in the law from SB-107, Senate Bill 1250, Assembly Bill 2189 and to address regulatory and market developments.

The changes to the RPS eligibility guidebook were developed with extensive public

input and also collaboratively with the CPUC. The changes are to the December 2006 draft. And we initially held a public workshop on January 10th to receive comment on a staff draft of the guidebook.

And following that we received comments from 27 parties. And after careful review of the oral and written comments the guidebooks were revised to develop the Committee draft that's before you today.

The changes to the guidebook include removal of the certification category for incremental geothermal; and removal of references to municipal solid waste, geothermal and small hydro electric being restricted to baseline.

There's also removal of provisions that we had previously to register a facility as renewable only. There's also changes to the eligibility for out-of-state facilities such that they would only be eligible if they come online or repowered after January 1, 2005, with exceptions for incremental generation from project expansion or repowering, or if they're part of a retail -- baseline.

We added provisions to incorporate

electric service providers and community choice aggregators and multiple jurisdictional utilities. We modified the edibility requirements for delivery into California to allow delivery from any control area in the Western Electric Coordinating Council.

We modified the eligibility criteria for biomass, distributed generation, hybrid facilities and a mix of fuels including fossil fuel, small hydro electric, hydroelectric conduit and municipal solid waste conversion facilities.

We revised the online, the date for eligibility for supplemental energy payments is online or repowered after January 1, 2005, with exceptions for small hydro.

We described new requirements for publicly owned utilities. And we added new provisions for biogas injected into the transmission natural gas transportation pipeline to be eligible for the RPS.

And in the process of having developed these guidebooks we have found some clarifying changes or edits that needed to be made. And so we have developed an errata which is available to you. I don't know that I need to go through all

the details of that errata.

MR. HERRERA: This is Gabe Herrera with the Commission's legal office. With your permission we'd like to go through each of the errata and get them on the record since they were not disclosed with part of the public filing that was circulated on March 2nd. So, I think it is important to go through each one of them, although somewhat time consuming.

COMMISSIONER BYRON: Thanks for the try there, Ms. Raitt.

MS. RAITT: Okay.

(Laughter.)

MS. RAITT: So, in the biogas section we referred to transmission pipeline that's changed to transportation pipeline. And we made that conforming throughout the guidebook.

On page 10 there's a very minor edit to the discussion of the eligibility of renewable portfolio standard to recognize that there are requirements for -- well, it's just a very minor typo to add "and other" to this sentence. I don't know how to describe it more than that.

For biomass on page 13, table 1, the description is revised. It says solid waste

materials rather than such as, we say, including waste pallets, crates, dunnage, so forth.

On page 13, again, table 1, municipal solid waste conversion. We clarify that a two-step process to create energy whereby the first step, gasification conversion, is a noncombustion thermal process that consumes no excess oxygen is used to convert solid waste into a clean burning fuel. And then in the second step, this clean burning fuel is used to generate electricity, is eligible for the RPS and is located in the state where it satisfies RPS requirements and meets all the following criteria and so forth.

Page 18, there is an edit to the date for small hydro to say, rather than on or after January 2006, it says before January 1, 2006. Similarly on page 20, rather than saying on or after January 1, 2007, we say before January 1, 2007.

On page 23 regarding new and repowered small hydro and conduit hydroelectric, there's an edit to say, rather than a new or revised permit, we strike out "or revised". And then further down it says we add, it says, an increase in the volume or rate of water diverted, that the increase would

require a new permit. And we add or approval of a time extension petition from the State Water Resources Control Board.

On further on the small hydroelectric, we strike one of the examples of possibly eligible hydro project and clarify that no increase -- that there must not be any increase or diversion under the permit or license to be eligible for RPS.

On page 28 we strike out the word annually because it's redundant. Page 29, I had already mentioned this as a gas transportation. Further on page 30 on the biogas section, rather than saying that the gas has to be injected at a point within the WECC region, we say the natural gas pipeline system that is either within the WECC region or is interconnected to a natural gas pipeline system in the WECC region.

Page 31, we clarify solar/thermal/ electric, we insert the word electric. Page 34, on the eligibility of out-of-state facilities. We clarify that there is an exception for small hydro for the date, the online date for delivery requirements.

Page 36, number 3, we clarify that it could be any balancing authority located within

WECC. On number 4 we clarify that it could be delivered from one facility, or multiple facilities. And we also clarify that this can also be satisfied by a publicly owned utility if it so chooses to follow the standard.

And then on page 39 we also clarify that the Energy Commission also, quote, "certifies facilities as RPS eligible if they serve a local, publicly owned electric utility." And clarify that also, the Energy Commission will pre-certify small hydroelectric facilities that intend to sell to local publicly owned electric utility, or that would be otherwise eligible for certification except that the facility was owned by or under contract to publicly owned utility.

On page 39 and 40 we clarify that certification can be done not only by the facility operator, but also its agent on the facility's behalf. And we clarify a publicly owned utility for purposes of its RPS program may certify a facility on the operator's behalf using the CEC RPS 2 form for facilities under contract with the publicly owned utility, and subject to requirements applicable to retail sellers. And similar conforming changes are made on page 42.

And then on the certification forms the forms to apply for certification or precertification for RPS eligibility, have been revised to conform to the body of the text. And there are a number of changes there that I will spare you.

And I think I have read through them all.

CHAIRPERSON PFANNENSTIEL: A valiant job. Commissioner Geesman.

COMMISSIONER GEESMAN: Two questions on the errata. Heather, first one appears on page 2 of your errata. The footnote 5 to table 1.

MS. RAITT: Yes.

COMMISSIONER GEESMAN: If I go down three lines from the bottom of the paragraph that says, second step, this clean burning fuel is used to generate electricity. Is there supposed to be a comma after the word electricity?

MR. HERRERA: We're not sure. We'll take a look at that, Commissioner Geesman.

COMMISSIONER GEESMAN: Okay.

MR. HERRERA: Just to give Heather a break and jump in real quick.

COMMISSIONER GEESMAN: Okay. Then the

second one is easier, page 6, the top paragraph at the top of the page which has to do with a change to page 39 of the guidebook. Second line from the bottom, I believe you're got a redundant "that".

MR. HERRERA: With your permission we'll go ahead and fix that when we incorporate these changes.

COMMISSIONER GEESMAN: Thank you.

MR. HERRERA: And also oftentimes when we make changes and track changes mode underline/strikeout, when we accept those we often find that there are small typos, a couple spaces, perhaps unclosed parentheticals, et cetera. And so we would clean those up once we finalize the guidebook revisions.

COMMISSIONER GEESMAN: Excellent.

MR. CHAMBERLAIN: Commissioner Geesman, if I might suggest, with respect to your first comment, that whole sentence would be a lot clearer if you simply put the whereby clause, which is about three or four lines, all the way from there, from whereby down to the point where you were identifying a possible comma, put the whole thing in parentheses. And then it'll be clear that what you're saying is a noncombustion,

I'm sorry -- create a two-step energy process -- a two-step process to create energy is eligible for the RPS. And the description of what that two-step process is would all be within that paren.

COMMISSIONER GEESMAN: I just want to make certain that it's within the ambit of the errata that we ultimately adopt here. So that we don't have to come back later to a Commission business meeting to make what are, in essence, grammatical changes.

MR. HERRERA: Thank you.

CHAIRPERSON PFANNENSTIEL: Are there questions of staff at this point, or should be listen to the comments from the public. And then do questions?

COMMISSIONER GEESMAN: I have one question.

CHAIRPERSON PFANNENSTIEL: Yes.

COMMISSIONER GEESMAN: And it's my impression from reading the comments submitted by the various stakeholders, that in particular the PG&E comments relating to small hydro run up against some conflicting interpretation from the State Water Resources Control Board.

And I just want to -- do I have that

correct?

MR. HERRERA: That's correct. The changes to the small hydro section and in the law, as a result of SB-1250, change the defining date for which small hydro and conduit and hydroelectric facilities become eligible for the RPS. If it's before a certain date, which is 12/31/05 for small hydro, the eligibility criteria is one set. If it's after that date there's a different set.

The same is true with conduit and hydroelectric facility. The defining date there 1/1/07. Again, different criteria if the facility comes online before that date versus if the facility comes online after that date.

And staff did discuss PG&E's comments with the State Water Resources Control Board to get their feedback on whether PG&E's comments were appropriate or reasonable under the amendments to the law. And according to the legal office there, and the folks we talked to, they felt that the guidebook provisions -- excuse me, revisions, as drafted were adequate. And did address the changes in the law. And recommended that we not accept PG&E's suggested changes.

COMMISSIONER GEESMAN: Thank you.

CHAIRPERSON PFANNENSTIEL: With that, why don't I ask Les Guliasi from PG&E for comments.

MR. GULIASI: Thank you. Good morning, Commissioners and everyone else. Les Guliasi with PG&E.

I want to first of all just thank you and thank the staff for the incredible work that everyone did to change these guidebooks. It was an enormous effort and I think they did beyond a yeoman's job to do the best they could.

As you know, PG&E is very active in the renewables market. Renewable energy procurement is one of our highest priorities as we go forward to meet and exceed the 20 percent statutory requirement. So, again, this is of utmost importance to us.

We have been very active in this discussion since you opened the proceeding last fall. We've worked tirelessly with the staff and with other parties to try to make improvements to the guidebook.

We're very active in the northwest; we're very active in other markets. And the

comments that we've given you throughout this proceeding reflect the concerns expressed to us by market participants.

What we're trying to achieve here is some regulatory certainty so that we can have a well-functioning market and opportunity to get access to the largest pool of renewable resources available to us, both from the Pacific Northwest and throughout the region. So it's important that these guidelines continue to be revised and updated to reflect market conditions.

We submitted a letter to you late yesterday; I apologize for how late we submitted that letter to you. But we wanted to put before you some additional changes that we think need to be considered. If not today, then certainly in the near future. To add further regulatory certainty and reflect some additional changes that we think are necessary for a smooth functioning market.

There are four issues that we addressed. One is biogas; the second is small hydro; the third is banked and shaped deliveries; and we also discuss a little bit the requirement for resources outside the United States.

I'm only go through each of these, some of them are very brief. I believe Heather addressed some of these in the errata that you have before you and the changes that the staff is recommending to incorporate some, but not all, of the changes that we've recommended.

Why don't I just start first with the issue that you, Commissioner Geesman, raised a moment ago about small hydro. We find that the whole section on small hydro is confusing. We think there's a lot of redundant language. And I'm not sure if we entirely agree with the opinion rendered by counsel here, Mr. Herrera, about running up against the limits of the statute.

Be that as it may, we would like the opportunity to continue to address this issue in whatever way you think is most appropriate.

COMMISSIONER GEESMAN: Well, I guess without jumping too far into the substance of it, the one thing that did catch my attention and set off a bit of an alarm bell is if, in fact, the legal staff at the State Water Resources Control Board has concerns with your suggested language.

And I would recommend that we try to work out whatever those concerns may be so that we

can satisfy the State Board's requirements. If that takes some tweaking in the statute, itself, I think we ought to be open to doing that.

But I don't want to dismiss the issue today. I think it merits ongoing pursuit. We need, in my judgment, to derive more of a contribution from the small hydro sector than we've been able to thus far. If I look on the map, your footprint in what I think that market is, is larger than anybody else's. So, obviously we should be dealing with your company in terms of how best to harvest that potential.

But I do think we need to get the State Board in accord with where we want to go on this. And unfortunately, we're not able to do that this morning.

MR. GULIASI: I understand that. I agree with you. We do need to engage the State Board. And if we believe that there is a problem with the existing statute then we would just like to enlist your support in addressing this issue at the appropriate time. And I think we're going to probably put something forward, some proposal forward during this legislative session.

But, you're right, there is an

opportunity there. And the proposal that we made, without plunging, you know, too deeply into this, we think would address some of the concern and tap into that existing resource.

Just as an anecdote, in December, I believe it was, I spent a little time, a full day, touring some of our hydro facilities. And one of the facilities is up near Auburn. And I saw a perfect example of an opportunity that we have before us that would enable us to tap into a renewable resource without diverting or appropriating water in a way that we believe would be disruptive to the environment. This is a, I think it's called a conduit, or whatever the structure is called.

And I know I'm a little bit out of my league because there are very specific legal definitions to some of these terms, but from a lay perspective, this was, you know, water flowing down by gravity to a reservoir where one could simply put in a small generating unit, making use of the existing water flow, without disrupting the environment. It's not diverting water; it's not appropriating the water; it's simply using the existing flow.

We could get, you know, a couple kilowatts or something of new renewable generation. And there are lots of opportunities like that.

So, that's my anecdotal experience. And again, if we can work with you further in wherever this may take us, if it's to the Legislature, then fine, let's go there and see what we can do to tap into that resource.

The second issue, I believe Heather has addressed completely to our satisfaction with respect to the biogas resources. It was a good improvement to remove the word "transmission" and substitute the word "transportation" which modifies the pipeline system.

What that means simply is that we're able to take gas in a smaller pipe at the distribution level instead of more restrictive interpretation at a larger pipe at the transmission level. So this will allow for the injection at other places along the pipeline system.

The other change that I believe Heather is proposing, also to our satisfaction, deals with the injection point into the natural gas pipeline

system, as long as it's connected somehow into the western region.

So, thank you, staff, for accommodating those changes. That's important to us. As you know, we've signed several contracts with dairies for biogas and there's a great potential. And we expect to sign some more contracts. So, this, again, will help us increase the amount of renewable energy that we can procure for our customers.

The next area is somewhat complicated. And I don't really know how much to delve into this. Again, I think the staff did about the best it could with the small amount of time we had to incorporate some of the late wording changes that we're proposing to the Commission.

And, again, the reason that we're proposing these changes is because we're hearing from market participants that they need some greater regulatory certainty. And we are simply attempting to make changes that will clarify. Not necessarily changes to substance, but simply clarify the meaning that you have in the guidebooks so that we can have an orderly market; we can have more, you know, smoother and quicker

contract negotiations to get important renewable energy into California for the benefit of our customers.

So I guess my request here is that we find some way to continue to work with you to incorporate further changes. I'm not sure what that process would be. I don't know when the next opportunity would be to make further changes to the guidebook. But if you can direct us somehow to continue to work on this issue, we would be happy to do so. And we're ready to engage now.

COMMISSIONER GEESMAN: Well, I guess my reaction would be if you can isolate areas where you believe there's a substantive difference between what you would like to see in the guidelines and what the staff has recommended, that would be helpful for Commissioners to be able to try and resolve or reconcile.

If it's a question really of legal draftsmanship, that gets awfully close to being a beauty contest of your lawyers versus Mr. Herrera. And we've kind of chosen, in the past, that Mr. Herrera is the gatekeeper of the draftsmanship questions in our guidebooks.

And I think you need to, if we're

talking simply about wordsmithing, you need to satisfy him because he's the one that advises us what the guidelines actually mean.

And I think in order to have a set of guidelines that can provide some meaningful direction to you and other stakeholders, you really need to rely on the words that he chooses to use in order to have a workable system from the Commission's perspective.

So, I'd divide things into those two categories, Les. And if there are substantive points of difference, I'd really encourage you to bring those to our attention. The guidebook is designed to be a living document, so we do periodically change it. And we can change it either at the initiative of a particular stakeholder, or, you know, on a period basis we generically address the entire thing.

MR. GULIASI: Okay, I think I understand. So what we'll do is, if I understood your correctly, we'll work with the winner of the beauty contest, or the gatekeeper, Mr. Herrera, and the staff to identify those things which we can agree are merely clarification --

COMMISSIONER GEESMAN: Yeah.

MR. GULIASI: -- minor wording changes. And isolate the other things which they may consider to be more substantive changes.

And then once we have clarification about which items fall into which bucket, we'll come before you --

COMMISSIONER GEESMAN: Yeah.

MR. GULIASI: -- perhaps we'll, on our motion ask for you to open the thing up again and consider some changes that we'd like to see.

COMMISSIONER GEESMAN: I think that would be entirely appropriate.

MR. GULIASI: Thank you, that's --

CHAIRPERSON PFANNENSTIEL: And you know and understand that we share your objective of increasing the amount of renewable power. And if you have ways of doing that that require modifications to the guidebook, we'll consider what you're suggesting. So bring them to our attention.

MR. GULIASI: Thank you, I appreciate that. So we'll do that. And, again, I really do appreciate the effort that's been put into this and your willingness to consider further changes. We all have the same goal here.

The final point has to do with the requirements for resources located out of the state. The letter that we submitted to you yesterday contains a very brief paragraph on that issue.

But I guess just to sum it up, you know, in a couple of sentences, we just want to make sure that we keep an open mind to what's intended here. We're early in this game. We're not quite sure exactly how the guidelines are going to be implemented. We understand the intent. But we just want to make sure that as we move forward we're not placing too many restrictions on out-of-state or out-of-country resources.

Again, the goal here is to expand or increase the amount of supply, and allow the utilities, PG&E in this case, to procure renewable resources for the benefit of our customers.

So, there's nothing specific we ask of you beyond keeping an open mind to how this process might work, and think about applying this notion flexibly so as not to be too restrictive.

COMMISSIONER GEESMAN: Well, I think that as your letter indicates, that you're aware that the statutory language in this regard, I

think, as you understand, this Commission most recently made clear in the SB-1368 rulemaking process, and our 2005 IEPR process that predated that, we have no intention at all of an extra-territorial enforcement of California environmental standards.

It's our belief that that would be unconstitutional. And that will, I believe, continue to be our policy. So I think you've got a pretty clear understanding of what the Commission's legal perspective is.

The same time, as your letter makes clear, you're also aware of statutory language which may lead other people to different conclusions.

MR. GULIASI: Okay. Anyway, thank you very much. I really appreciate the work that everyone's put into this. And we'll continue to work with you as this unfolds.

CHAIRPERSON PFANNENSTIEL: Thank you, Les. Manuel Alvarez from Edison.

MR. ALVAREZ: Good morning, Commissioners. I just have a couple of items. First of all, just let me thank the staff and the Committee for considering our comments and

incorporating many of them into this proposal here.

I believe one of the items was resolved, and that was the hydroelectric issue. As I understand the errata, the dates were changed to reflect the concerns that we had and what we were really expressing was a sense that certain projects that were eligible currently would become ineligible. So we wanted to make sure that that was clarified.

The second item I want to bring to your attention is the out-of-state issue. In our letter to you we suggested that the staff be directed to form a working group to figure out how we're going to actually certify and commit to these projects and verify these projects.

So that's the request we're having of you today, that that be done. There's a long way, as the old saying goes, from the cup to the lip. And we understand the direction the Commission's given us here. But to actually meet the compliance requirements and feel that everyone's comfortable that they're meeting those requirements, we think the actual practitioners who will be certifying activities to you meet and

understand the requirements here.

Thank you.

CHAIRPERSON PFANNENSTIEL: Thank you. Brenda LeMay from Horizon Wind Energy.

MS. LeMAY: Good morning, Commissioners.

CHAIRPERSON PFANNENSTIEL: Good morning.

MS. LeMAY: My name is Brenda LeMay; I'm with Horizon Wind Energy, responsible for wind energy development for Horizon in the State of California.

I just wanted to commend the staff and the CEC and Heather for all her work that she put into the diverse stakeholder comments on the previous draft. And we do appreciate the flexibility that's been provided in section 2(d) and (e) for out-of-state delivery, even though it isn't my area. I do believe it will work to your objective of increasing the amount of renewable power.

I do have one minor comment that wasn't addressed in the errata, and it doesn't, to your point, Commissioner Geesman, it doesn't fall under substantive nor draftsmanship. It's more just a consistency with the previous section. If I may just mention it.

Actually there's two. One is to add the word facility representative on page 36, item 5, after seller or retail seller. And all that that is is a consistency with item number 1. I'm just using your words as to all the parties that --

CHAIRPERSON PFANNENSTIEL: I'm sorry, Ms. LeMay, I'm looking for it. Page 36, item --

MS. LeMAY: Item 5.

CHAIRPERSON PFANNENSTIEL: -- item new 5?

MS. LeMAY: New 5, old 5. Doesn't matter.

CHAIRPERSON PFANNENSTIEL: Well, they've changed.

MS. LeMAY: Just add the word facility representative to the parties that can receive an ERC tag. If you look in your item 1 --

CHAIRPERSON PFANNENSTIEL: Okay, yeah, I see it. I got it.

MS. LeMAY: If you look at item 1 above, I'm just using the same words that you're using above.

CHAIRPERSON PFANNENSTIEL: Okay.

COMMISSIONER GEESMAN: Does staff have a reaction?

MR. HERRERA: That appears to be reasonable, Commissioner. And it is consistent with the changes we made to item number 1.

CHAIRPERSON PFANNENSTIEL: Above, right.

MS. LeMAY: And then the other is just for my own purposes, but on section 2(d) item (c) where it lists the -- also page -- hold on --

CHAIRPERSON PFANNENSTIEL: What page?

MS. LeMAY: -- one second. Sorry. Page 34, not of the errata, but of the --

CHAIRPERSON PFANNENSTIEL: Um-hum.

MS. LeMAY: --guidelines. Item (c) and item (g) to me are linked. And I just wanted to draw that link. And so either in item (c) put a parenthetical that says, see delivery requirements set forth below. Or just combine the two. I'm indifferent. I just want to make sure that item (c) addresses, you know, links to the next section.

CHAIRPERSON PFANNENSTIEL: Heather and Gabe, do you have that?

MS. RAITT: That's reasonable. That doesn't change the meaning or it's a nonsubstantive change. We can do that.

MS. LeMAY: It would help; and I

apologize for the late comments, but --

CHAIRPERSON PFANNENSTIEL: Thank you for your comments.

MS. LeMAY: -- I was able to spend some time on it later. I just want to thank you for the opportunity to comment.

CHAIRPERSON PFANNENSTIEL: Thank you.

MS. LeMAY: You're welcome.

CHAIRPERSON PFANNENSTIEL: We have on the phone Anders Glader from PPM Energy.

MR. GLADER: This is Anders Glader, can you hear me?

CHAIRPERSON PFANNENSTIEL: Yes.

MR. GLADER: Okay. Good morning; my name's Anders Glader. I am the Director of Renewable Generation with PPM Energy. I also very much appreciate the effort that has been made here by the Commission and its staff and would like to -- commend you all for your very great effort on revising these eligibility guidelines.

PPM very strongly support the revisions that you've made. Also -- what was primarily on section 2(e) the delivery requirement section. We applaud the effort and the direction that the Commission has taken here in tackling the issue.

And we believe that the flexibility that you're proposing will lead to hopefully a more robust RPS eligible energy market which will facilitate the California retail sellers efforts to procure this energy and meet their targets. And also help in keeping costs down in that effort.

I think that we did submit some very brief written comments, and I apologize for the lateness with which we did that. That's kind of the nature of the business right now. There's a lot of things going on.

In those comments we really had two relatively minor clarification edits; and then a couple different comments. I'll leave the comments in my written comments, but I would like to address the two edits because I think one of them is very consistent with what Brenda has just identified. The other one is another that I think is probably a good clarification.

And for the first one that Brenda was just identifying, also in that section 5, we had suggested to add retail seller for procurement and -- as the entities that could -- that must request (inaudible) acceptance of an ERC tag. And, again, to be consistent with what's on page 35.

MS. RAITT: This is Heather Raitt. That actually is in the errata; so we actually have incorporated that requested change in the errata.

MR. GLADER: Okay, I didn't hear that. The second one, and I hope I didn't miss this one, as well, is in item 1 on page 35, there are two references. One is actually to the facility's generation, and then there's a second reference that references generation. We would suggest replacing both of those references with the word energy. Again, to be consistent with the language on page 35 that identifies that it is an energy from WECC that has to be delivered into Cal-ISO and not the actual generation from the facility.

CHAIRPERSON PFANNENSTIEL: We're considering that. Heather, do you have a comment now, or if it is nonsubstantive then we can think about it --

MS. RAITT: Yeah, I don't believe it changes the meaning of what the intent was.

CHAIRPERSON PFANNENSTIEL: All right, we'll take a look at that.

MR. GLADER: Right, I agree that I don't believe it changes the meaning, but it just creates an issue because almost implies that you

have to take the generation into the California.

CHAIRPERSON PFANNENSTIEL: All right, thank you. Further comments?

MR. GLADER: No, just that's the extent of my comments. I'll leave the other two comments in my written comments. And just would like to conclude by saying that we're extremely supportive of the direction taken by the Commission with revising the guidebook. And we strongly encourage you to move quickly to adopt the revisions.

CHAIRPERSON PFANNENSTIEL: Thank you.

MR. GLADER: Thank you. Congratulations on your great work.

CHAIRPERSON PFANNENSTIEL: Thank you. Mike Deangelis of SMUD.

MR. DEANGELIS: Thank you, Commissioners, for the opportunity to comment. My name is Mike Deangelis and I manage the advanced renewables and distributed technologies program at Sacramento Municipal Utility District.

And as the prior speakers have mentioned, I want to thank the Commission for the opportunity to provide comments and for your openness regarding considering the comments on the eligibility guidebook. And also want to thank the

hard work of staff. I think it's very difficult with the statute, which is an extremely complex statute, to try to interpret that in a more meaningful way through the eligibility guidebook.

We filed fairly extensive comments on the draft, the December draft. And I think we had a couple of major areas that we were most concerned about.

I think we have a situation that we're all aware of where publicly owned utilities, by statute, are not required to abide by the eligibility requirements. But on the other hand there are some publicly owned utilities, such as SMUD, that is trying to abide by the eligibility requirements.

And we have some conflicts in the statute. And I guess the best example of that is in the small hydro provisions where really a small hydro facility that is serving a publicly owned utility, and meets all the requirements of the statute except for one, that if that same small hydro facility were providing power to an investor-owned utility would get full certification from the Commission as eligible.

But because it supplied power for a

publicly owned utility, it does not. And it's the same small hydro facility. So I think that is one issue that needs a fix in the statute. And I think we agree to work to move forward to fix that in the statute.

But in the meantime there are still some items that I think need to be clarified in the guidebook. They're very small, and I want to call to your attention on the errata sheet, page 5. If you go to the middle of the page on delivery requirements, this is for out-of-state delivery requirements, first of all I think there's a typo there. Those are misnumbered; 3 should be 2, 4 should be 3, and then it's fine after that.

But if you go to what is now number 4 that should be 3, the RPS certification number, we would like to see added "or precertification number." So it would read: RPS certification or precertification number of the facility.

And, again the reason for that is that the small hydro facilities for publicly owned utilities cannot get full certification. So we'd like to see the precertification is added there.

CHAIRPERSON PFANNENSTIEL: Comments, staff?

MS. RAITT: Well, Gabe probably can address this as well, but the reason I did not put that in there is because for the retail sellers it is required to be certified. But we did include the parenthetical to address the local publicly owned utilities, to recognize their participation in the program, as well.

MR. DEANGELIS: Well, I did see the parenthetical, but if the publicly owned utilities still only get a precertification number, then I would read that as still not meeting the delivery requirements. So that's why I would like to add the precertification.

MR. HAIR: Well, of course, Mike, POUs aren't under a delivery obligation. You have authority to set your own rules. These guidelines predominately address the RPS requirements for electrical corporations for retail sellers which, by law, excludes SMUD and other publicly owned electric utilities.

I think the parenthetical does address your situation. And as Heather mentioned, if we include precertification there, then we're going to have situations where an entity selling possibly, or hoping to sell to a retail seller

might want to identify its precertification number rather than the certification number, which could lead to some confusion.

And this could be one of those issues, I think, maybe we should address in the future when we have a little bit more time.

MR. DEANGELIS: Well, perhaps you could put the precertification in the parenthetical then for publicly owned utilities. Would that help?

Because I mean it's clear that publicly owned utilities cannot get certification.

MR. HERRERA: Yeah, I think that might work.

CHAIRPERSON PFANNENSTIEL: Thank you.

MR. DEANGELIS: That would be satisfactory for us, if you're able to do that.

And then the only other change that we would recommend is on page 41 of the actual eligibility guidebook. I didn't see this in the errata, so I can't reference it in the errata.

If you go to page 41, the final paragraph, and this may run into the same problem, but let's think about this. The Energy Commission encourages local publicly owned utilities to meet their RPS obligation through procurement from RPS-

certified facilities.

Once again, we appreciate this encouragement, but in some cases you can't certify. So we would add the phrase or precertification in there. Because the statute, it does not allow you to fully certify.

MS. RAITT: We can add that in; that doesn't change the meaning. It's a nonsubstantive change I should say. That can be added.

CHAIRPERSON PFANNENSTIEL: Thank you, Heather.

MR. DEANGELIS: Okay, I think that's primarily it; and again, I want to thank both the staff and the Commissioners for considering our comments.

CHAIRPERSON PFANNENSTIEL: I want to thank you, Mike, for coming in and helping us with this support.

COMMISSIONER GEESMAN: And I do believe that we need to follow up legislatively to clarify some of the statutory areas.

MR. DEANGELIS: Thank you.

CHAIRPERSON PFANNENSTIEL: We also have on the phone, Peter Blood from TransAlta Energy Marketing.

MR. BLOOD: Yes, Peter Blood with TransAlta Energy Marketing here. Appreciate the time and effort that the staff and the Commissioners have put into the guidebook and the effect it will have on a robust marketplace for renewables, and the energy marketplace at large.

We have not submitted any written comments today, but I'd like to comment on two sections here, very similar to Horizon and PPM Energy's comments.

Section 2 (d), item (c) essentially the Horizon comments we would echo those comments. And I believe PPM Energy responded to the same section; I'm not a hundred percent certain of that. But, the comment of adding energy into or changing the word generation to energy. Am I understanding that correct?

COMMISSIONER GEESMAN: I believe that was a slightly different section.

CHAIRPERSON PFANNENSTIEL: Yeah, that was --

MR. BLOOD: Okay, okay, maybe --

CHAIRPERSON PFANNENSTIEL: We're not finding it in that --

MR. BLOOD: -- my misunderstanding.

But, I do believe the comment that Anders Glader made was a good comment, to put the word in energy terms rather than specific generation off of specific projects, --

COMMISSIONER GEESMAN: Yeah, that was section (e) 1.

CHAIRPERSON PFANNENSTIEL: Right, we have that --

MR. BLOOD: (e) 1, okay. Well, I would echo that comment, as well. As well as the comment that Horizon made on section 2(d) item (c); and also the comment on section 2(e), item 5. Echo that comment, as well.

And that would be it. And I appreciate the efforts and looks like a very good setup and good guidebook for us to proceed on. I would encourage a speedy adoption, as well. Thank you very much.

CHAIRPERSON PFANNENSTIEL: Thank you. Further questions from the public or stakeholders or Commissioners on this item?

MR. HERRERA: Chairman, I need to make some comments for the record --

CHAIRPERSON PFANNENSTIEL: Yes.

MR. HERRERA: -- concerning the

California Environmental Quality Act, if that's okay. Anytime the Commission revises these guidebooks the legal office takes a look at the guidebook revisions to determine to what extent they're impacted by the California Environmental Quality Act or CEQA, and determine whether, in fact, there's an exemption that covers these projects. And if not, whether an environmental assessment is required, which then requires an initial study and a negative declaration or environmental impact report prior to the Commission's adoption of the guidebook revisions.

In this case, these guidebook revisions are not a project under CEQA. There's a specific exemption that excludes this type of activity. It's in California Code of Regulations, Title 14, section 15378, subdivision (b)(2) and (4). And it addresses these activities because these activities deal with the continuation of administrative and maintenance activities related to general policy and procedure making; and also the creation of government funding mechanisms and other physical activities which do not involve any specific project which would result in a potentially significant physical impact on the

environment.

So, as a result of that this activity, the adoption, is exempt from CEQA.

CHAIRPERSON PFANNENSTIEL: Thank you, Mr. Herrera. And that advice applies to all five of the guidebooks that we will consider, or do you want to go through it each time?

MR. HERRERA: It does, and yeah, with your permission I'd like not to have to go through that each time.

(Laughter.)

CHAIRPERSON PFANNENSTIEL: You're the one advising us.

With that, is there a motion for the adoption of the renewable portfolio standard eligibility guidebook?

COMMISSIONER GEESMAN: I will move it, while at the same time joining the chorus of praise for the staff effort on this.

COMMISSIONER ROSENFELD: Second.

CHAIRPERSON PFANNENSTIEL: Thank you. And before we vote I want to make sure that we all understand where we would be approving it with the errata as discussed earlier, and then as elaborated and, in some cases, corrected at this

meeting.

Yes, Commissioner Byron.

COMMISSIONER BYRON: Madam Chair, before you vote, just about the time I get my -- I think I get my arms around this subject, about 40 pages showed up at 9:30 this morning. I have a tendency to get a little upset at the staff for that.

But then I start looking through the emails and seeing the late-night emails and the early-morning emails, and I realize you're probably a little upset at those that contribute to all these last-minute comments.

But really I'm very appreciative of the process and all those that are here today, and who provided comments. Extraordinary effort on everybody's part to help us try and get these guidelines done.

And so rather than get upset I'd really like to thank Mr. Herrera and Ms. Raitt, and also Dana Heinrich, the State Water Resources Control Board, and others who I can't tell behind the scenes. And everyone that was here today. Thank you all very much for helping us to get through this today.

CHAIRPERSON PFANNENSTIEL: Thank you,

Commissioner Byron. And I, also, I mean we've gone through this at the Renewables Committee for months. And I think we've focused on the right issues and I think we've gotten very good advice and help in coming up with the drafts that are in front of us.

So, they have been moved and seconded.

All in favor?

(Ayes.)

CHAIRPERSON PFANNENSTIEL: So, the first one is done.

MS. RAITT: Thank you, Commissioners.

CHAIRPERSON PFANNENSTIEL: And now we move on to item 9, the possible adoption of the Committee draft of the consumer education program guidebook. And, Ms. Raitt.

MS. RAITT: The changes to this guidebook went through the same -- or the proposed changes went through the same public process that we went over for the RPS eligibility guidebook. The changes to this guidebook are simply to add specific limitations on the program's funds concerning the regional accounting system, to verify compliance with the RPS. And these changes are needed to be consistent with the statutory

modifications that went into effect January 1, 2003 -- 2007.

CHAIRPERSON PFANNENSTIEL: And there is no errata associated with this guidebook that I've seen.

MS. RAITT: No, there is no errata.

CHAIRPERSON PFANNENSTIEL: Given that, is there a motion?

COMMISSIONER GEESMAN: So moved.

COMMISSIONER BYRON: Second.

CHAIRPERSON PFANNENSTIEL: All in favor?

(Ayes.)

CHAIRPERSON PFANNENSTIEL: The consumer education guidebook is adopted.

Item 10, possible adoption of the Committee draft existing renewables facility program guidebook. And, Ms. --

MS. RAITT: I'll ask Jason Orta to go over this one.

CHAIRPERSON PFANNENSTIEL: Thank you. Mr. Orta.

MR. ORTA: Good morning. This is Jason Orta from the Energy Commission's renewable energy office.

These proposed changes to the existing

renewable facilities program guidebook went through the same public process that the consumer education and RPS eligibility guidebook went through.

The proposed modifications to the existing guidebook are the following: This guidebook would allow facilities participating in the program to use up to 5 percent fossil fuel on a total energy input basis annually.

Additionally, this guidebook modifies the methodology for assigning target prices to facilities which would be based on monthly energy prices in cents per kilowatt hours. However, capacity payments in dollars per kilowatt year may be used to assign those target prices.

The Energy Commission will also reserve the right to set target prices that are based on all end prices. Additionally, this guidebook would require facilities to annually provide information on the public benefits provided by the operation of this facility.

One of the other requirements is that the facilities report their market value. And they will do so by using the value that has been assessed for calculating property taxes.

Additionally, this guidebook will state that the Energy Commission may set targets and caps for groups of facilities that have substantially similar needs. And also there will be conforming and clarifying changes to this guidebook and the supporting forms.

Additionally, with the Commission's permission I would like to read some errata to this guidebook that we included.

The bottom of page 8, the following should be added: The Energy Commission will consider applications to hold the above required information confidential under its regulations for confidential designation. California Code of Regulations, Title 20, section 2501.

Applicants seeking confidential designation should send their application for funding eligibility and supporting documentation, along with an application for confidentiality, to the Executive Director.

Additionally, this language will also be added to the existing account forms, as well.

And the other errata are the following: On page 12, paragraph 3, we are suggesting the following revision: Applicants for biomass

facilities must also submit the biomass and fossil fuel usage report for biomass facilities. This is a change from biomass fuels and fossil fuels usage report.

Page 17, paragraph 1, sentence 1 also makes a similar -- also recommends a similar change, as well. That change is also recommended on page 20, paragraph 3. Again, it'll be biomass and fossil fuel usage report for biomass facilities. And that change again also appears on page 28, which is also the form, name of the form, CEC-1250E-4. And the name of the form again is the biomass and fossil fuel usage report for biomass facilities.

Commission Staff is requesting adoption of this guidebook.

CHAIRPERSON PFANNENSTIEL: Thank you, Mr. Orta. Are there questions, or is there discussion? Either among the Commissioners, anybody on the phone or in the hearing room.

Hearing none, is there a motion to adopt the existing guidebook with errata?

COMMISSIONER GEESMAN: I will move the item.

COMMISSIONER BYRON: Second.

CHAIRPERSON PFANNENSTIEL: All in favor?

(Ayes.)

CHAIRPERSON PFANNENSTIEL: It's approved, thank you.

MR. ORTA: Thank you.

CHAIRPERSON PFANNENSTIEL: Item 11, possible adoption of the Committee draft new renewable facilities program guidebook. Ms. Raitt.

MS. RAITT: Actually I'm going to ask Bill Knox to take this one, as well, thank you.

MR. KNOX: Good morning, Commissioners. The new renewable facilities program guidebook describes the supplemental energy payments and process for them.

The proposed changes to this guidebook include the following: A cap is imposed, a 10 percent cap, 10 percent of the total amount of SEP funds are available to out-of-state facilities.

SEP eligibility is expanded to facilities that are contracting with energy service providers or community aggregators. SEPs are prohibited for contracts of under ten years. No SEPs will be allowed for tradeable renewable energy certificates.

The guidelines are also changed to describe the conditions under which facilities contracting with energy service providers may receive SEPs. In addition, they expand SEP eligibility to facilities that contract with procurement entities that enter into an agreement to procure RPS eligible electricity on a retail seller's behalf.

And then finally they end the exclusion from SEPs for facilities that are owned by either investor-owned utilities or publicly owned utilities.

The only errata on this one actually are just conforming changes in one of the forms, in the seller application form for SEPs.

Any questions?

CHAIRPERSON PFANNENSTIEL: Questions, discussion? Is there a motion?

COMMISSIONER GEESMAN: So moved.

COMMISSIONER BYRON: Second.

CHAIRPERSON PFANNENSTIEL: All in favor?

(Ayes.)

MR. KNOX: Thank you.

CHAIRPERSON PFANNENSTIEL: Adopted, thank you.

Item 12, possible adoption of Committee draft overall program guidebook. Ms. Raitt.

MS. RAITT: Thank you. The changes to this guidebook are to add, delete and modify various terms and definitions that are applicable to the renewable energy program.

CHAIRPERSON PFANNENSTIEL: Nothing else. Any questions? Is there a motion?

COMMISSIONER GEESMAN: So moved.

COMMISSIONER BYRON: And second.

CHAIRPERSON PFANNENSTIEL: All in favor?

(Ayes.)

CHAIRPERSON PFANNENSTIEL: It's approved, thank you.

MS. RAITT: Thank you.

CHAIRPERSON PFANNENSTIEL: Thank you for a lot of hard work on all of these.

Approval of minutes of the February 28, 2007 business meeting.

COMMISSIONER ROSENFELD: I move the minutes.

COMMISSIONER GEESMAN: Second.

CHAIRPERSON PFANNENSTIEL: All in favor?

(Ayes.)

CHAIRPERSON PFANNENSTIEL: Minutes are

approved.

Commission Committee presentations. Anybody have anything to raise or report? Nothing.

Chief Counsel's report.

MR. CHAMBERLAIN: Yes, Madam Chairman, at the last meeting I was so engaged in your meeting that I was not looking at my Blackberry, and therefore did not note that the Supreme Court has rejected the most recent challenge to the Commission's decision in the San Francisco Reliability Energy case. So I report that to you today.

In addition, I need a brief closed session to discuss the design of litigation cudgels.

CHAIRPERSON PFANNENSTIEL: Thank you. We'll have a cudgel discussion.

Executive Director's report, Mr. Blevins.

EXECUTIVE DIRECTOR BLEVINS: Madam Chairman, one brief item. I wanted to embellish on the Rohnert Park item that was presented earlier by Mr. Hudler. And just make a comment relative to his climate change comment.

I think, as some of you know, the Climate Action Team recommended local governments be a potential sector for meeting the Governor's target. I suspect that the Air Resources Board, in implementing AB-32, will likely consider carrying that forward as a sector under its rules and regulations.

The nature of our Title 24 standards and the ability of local governments to go beyond those standards is going to probably create something that the Commission-- create a situation that the Commission may want to think through. Because obviously you have a process there by which we come up with a specific expected amount of savings from our standards. And they're in a position where they can come and create a quantitative point beyond that.

The degree to which they are a sector and there's going to be potentially a value assigned to that additional increment, and that value may be traded in some future scheme, that can have some implications clearly for the number of these things that may be coming forward.

And then the other aspect of this is, as you know, they come forward but we don't

necessarily pass judgment on the economic payback, if you will, period for those additional increments.

CHAIRPERSON PFANNENSTIEL: Excuse me, they just show us that they have done one.

EXECUTIVE DIRECTOR BLEVINS: That's right. So, you know, it's very timely, with Rohnert Park coming forward, just to bring this to your attention and this is something that's going to work its way out over time.

But I think it's very invaluable to the Commission to start thinking now about the implications of what AB-32 might do relative to local government process in extending the standards.

Thank you.

CHAIRPERSON PFANNENSTIEL: Thank you. Mr. Smith, Leg Director's report.

MR. SMITH: Thank you, Chairman, Commissioners. I just want to briefly bring you up to speed on the new things that have been happening and that will be happening.

Last week was an extremely busy week for my office, and some of the division staff. We had a request from the Governor's Office for analyses

on 18 separate bills that we received on Monday afternoon, were due Friday.

We dropped one, so we had 17. But then added eight on our own initiative. So all but three were submitted to Resources Agency and we are working on the last two or three now.

So, I feel very very good about that, and I really appreciate the work that the individual divisions did, and leg coordinators and your offices, as well, in helping move those things forward.

In terms of upcoming events, let me first say yesterday we had the Senate energy hearing on long-term electricity forecasting and planning. And Commissioner Geesman made a very detailed presentation on the Commission's perspectives.

I understand that we have something of an assignment or assignments that have come out of that hearing, so I'll be working with your offices and with staff to make sure we provide that information.

Upcoming events. I'm, at this point, prepared to coin a new old saying, and that is, which is new is old again. Just when we thought

the Assembly utilities and commerce committee hearings were finally set, they are now old again. And let me walk you through these changes.

The Assembly utilities and commerce hearing on March 19th on the status of the RPS, that is now being moved to March 26th at 2:00 p.m. It was scheduled for 2:00 p.m. on the 19th.

The Assembly utilities and commerce committee hearing on the summer of 2007 electricity forecast, which Commissioner Byron was going to present at, was moved to March 26th very recently; is now been moved to March 29th. And that will begin at the adjournment of the floor session which may be approximately 10:00 a.m.

Shall I go over that again?

CHAIRPERSON PFANNENSTIEL: Or later.

MR. SMITH: Each of you received an email from Ed Randolph of the committee staff.

Also, on Monday, March 26th, is the Assembly transportation committee meeting on bills that are important to us. They will be hearing AB-255, which is Kevin deLeon's clean air and energy independence fund bill, establishing a funding source for alternative fuels development in California.

Okay, getting back on track. Tuesday, March 27th Senate transportation and housing committee will be meeting. There's five bills there of interest to us. They will be in the hearing. Senator Flores' SB-71, one of a package of seven biodiesel-related bills that he's introduced. SB-75, another one of his seven biodiesel bills.

Senator Kehoe's SB-140, which is her renewable diesel fuel bill, which is a mirror image of the bill she introduced last year, SB-1675. Also, Kehoe's SB-210, which is her bill to basically codify the low carbon fuel standard initiative the Governor's started with his executive order.

There's also a provision in there for the Commission to report on its energy report. And so we'll be taking a close -- on the effectiveness of that, the implementation of the standards -- so we'll be taking a close look at that.

And lastly, Kehoe's SB-494, which is very similar, if not identical, actually identical to Assemblymember Joe Nation's bill last year dealing with percentage of new vehicles in

California that must be ready to use alternative fuels.

Also on April 10th the Assembly judiciary committee will be hearing AB-985 by Saldano. This bill would change the appeal of Commission decisions. And let me just very quickly read it to you.

It said: This bill would allow decisions of the CPUC and the Energy Commission that are currently subject to judicial review only by the Supreme Court, to be also reviewable by a court of appeal. So we'll be working, and all working very closely with Arlene Ichien in the Chief Counsel's Office on this particular bill.

Regarding budget committee meetings, surprisingly no date changes that I have to report. But let me just reiterate from earlier communications. The Senate budget fiscal review committee number two, their prehearing is, at least for now, scheduled for March 27th at 2:00 p.m.

The Senate budget and fiscal review hearing is scheduled for April 19th at 10:00 a.m. And the Assembly budget subcommittee number three prehearing may be held either on April 5th or 6th.

And that date we need to determine the appropriate date the committee staff is giving us. And the Assembly budget committee hearing is scheduled for April 18th.

And the only other item I had to report is we are reviewing the PIER annual report, which is scheduled to be posted today for consideration by the Commission at the March 28th business meeting. And is due to the Legislature at the end of this month.

And that's all I have to report. If there's any questions I'd be happy to answer them.

CHAIRPERSON PFANNENSTIEL: Questions? Yes, Commissioner Geesman.

COMMISSIONER GEESMAN: The Leg Analyst report had suggested that the Assembly and Senate policy committees and budget subcommittees contemplate joint hearings on RPS. Is there any indication that there will be such joint hearings?

MR. SMITH: I have not seen such an indication, Commissioner. I know they made that recommendation, but they still seem to be holding to the separate but parallel hearing tracks.

COMMISSIONER GEESMAN: Thank you.

CHAIRPERSON PFANNENSTIEL: Thanks, Mike.

Public Adviser report. Nobody from the Public Adviser's Office.

Any further public comment?

If not, we will reconvene in my office for a brief closed session.

(Whereupon, at 11:36 a.m., the business meeting was adjourned into Executive Session.)

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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 28th day of March, 2007.