BUSINESS MEETING

BEFORE THE

CALIFORNIA ENERGY RESOURCES CONSERVATION

AND DEVELOPMENT COMMISSION

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

CALIF ENERGY COMMISSION
JUL 29 2008
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CALIFORNIA ENERGY COMMISSION

HEARING ROOM A

1516 NINTH STREET

SACRAMENTO, CALIFORNIA

WEDNESDAY, JULY 16, 2008

10:05 A.M.

ORIGINAL

Reported by:
Peter Petty
Contract Number: 150-07-001

COMMISSIONERS PRESENT

Jackalyne Pfannenstiel, Chairperson

James D. Boyd, Acting Chairperson

Arthur H. Rosenfeld

Jeffrey D. Byron

Karen Douglas

STAFF and CONTRACTORS PRESENT

Melissa Jones, Executive Director

William Chamberlain, Chief Counsel

Marni Weber, Legislative Director

Harriet Kallemeyn, Secretariat

David Vidaver

Raoul Renaud

Caryn Holmes

Donna Stone

Felicia Miller

Mike Monasmith

Mark Hesters

Marla Mueller

PUBLIC ADVISER

Elena Miller

ALSO PRESENT

Michael Carroll, Attorney
Latham and Watkins

ALSO PRESENT

Terry E. Caldwell, Mayor
John Roberts, City Manager
City of Victorville

Buck Johns, President
Thomas M. Barnett, Executive Vice President
Inland Energy, Inc.

Marc Joseph, Attorney
Adams, Broadwell, Joseph & Cardozo
California Unions for Reliable Energy

Eldon Heaston, Executive Director
Mojave Desert Air Quality Management District

Kevin Dayton, Government Affairs Director
Associated Builders and Contractors of California

Jane Luckhardt, Attorney
Downey Brand Attorneys, LLP

Jeffery D. Harris, Attorney
Ellison, Schneider & Harris, LLP

Jonathan A. Sacks
Mirant Corporation

Richard M. (Mike) Jones
J-Power USA
J Power Group

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

2 10:05 a.m.

3 CHAIRPERSON PFANNENSTIEL: Good morning.

4 Sorry we're starting a little late. This is the

5 Energy Commission biweekly business meeting.

6 Please join me in the pledge of allegiance.

7 (Whereupon the Pledge of Allegiance was

8 recited in unison.)

9 CHAIRPERSON PFANNENSTIEL: A big crowd

10 for a short agenda. On the consent calendar I

11 understand that we have a request to move item

12 1.b. off of the consent calendar. So we will

13 discuss that separately.

14 But, consent calendar 1.a., is there a

15 motion?

16 COMMISSIONER ROSENFELD: I move consent

17 calendar 1.a.

18 COMMISSIONER BYRON: Second.

19 CHAIRPERSON PFANNENSTIEL: All in favor?

20 (Ayes.)

21 CHAIRPERSON PFANNENSTIEL: And then

22 1.b., Commissioner Byron, if you'd like to --

23 COMMISSIONER BYRON: Yes, thank you. I

24 don't think there's an issue here, Madam Chairman.

25 We decided in the Siting Committee last week that

1 this might be best to have a little discussion,
2 item 1.b., for the benefit of our other
3 Commissioners, as a result of SB-1368. The
4 Commission has some responsibility in reviewing
5 these contracts on the part of the publicly owned
6 utilities.
7 And I was hoping that counsel might be
8 able to provide a little summary of that, on your
9 behalf, again.
10 We discussed a similar contract that we
11 reviewed on July 2nd, and these will eventually go
12 to consent items on probably a regular basis. But
13 can I ask, counsel, could you or one of your staff
14 provide, for the rest of the Commissioners, a
15 brief summary again of why these issues are
16 showing up?
17 CHIEF COUNSEL CHAMBERLAIN: I think
18 David Vidaver is here prepared to do that.
19 COMMISSIONER BYRON: Good.
20 MR. VIDAVER: Good morning,
21 Commissioners. In September 2006 Governor
22 Schwarzenegger signed Senate Bill 1368 into law,
23 the first step towards limiting investment in
24 high-carbon generation resources by California
25 utilities.

1 The bill required the California Public
2 Utilities Commission and the California Energy
3 Commission to draft emission portfolio standards
4 for investor-owned and public utilities,
5 respectively.
6 After a rulemaking here at the Energy
7 Commission, sections 2900 through 2913 were added
8 to Title 20 of the California Code of Regulations
9 in August of last year.
10 These regulations prohibit long-term
11 investment by public utilities in a generation
12 facility designed or intended to operate as a
13 baseload plant if said plan emits more than 1100
14 pounds of CO2 per megawatt of generation.
15 Investment here includes construction or
16 purchase of a power plant, a contract with a plant
17 of five years or more in length, or capital
18 upgrades that extend a plant's life, or materially
19 increase the plant's capacity or expected level of
20 output.
21 We're here today to ask you to rule on
22 the compliance of a long-term contract entered
23 into by the City of Riverside. While this is not
24 the first investment that you have been asked to
25 rule upon, it is significant in that it is the

first contract before you that will replace coal-fired generation in a utility's portfolio.

The City of Riverside has entered into a long-term power purchase agreement with Shoshone Renaissance, Incorporated, for the output of a new geothermal facility to be located near Brigham City, Utah.

This facility is expected to come online in 2010 and have a nameplate capacity of 64 megawatts. The City of Riverside has secured the rights to all output and environmental attributes for a 30-year period.

The contract will replace one currently in the City's portfolio that calls for delivery of energy from two coal plants in eastern Utah. And thus reduce the portfolio's CO2 emissions by some 400,000 metric tons annually.

As the power purchase agreement is for more than five years, and is for energy from a baseload facility of 10 megawatts or more in size, it must comply with the emission performance standard established by the Commission.

These regulations also require that the City of Riverside submit a compliance filing to the Energy Commission, and that the Commission

1 rule upon the compliance of the agreement with the
2 standard.
3 Staff has reviewed the compliance filing
4 and recommends that the agreement be found
5 compliant with the emissions performance standard.
6 The geothermal facility is a renewable electricity
7 generation facility, as defined in chapter 8.6 of
8 division 15 of the Public Resources Code. Section
9 2903(b) of the aforementioned regulations declares
10 that such facilities are determined to be
11 compliant with the emissions standard.
12 Thank you.
13 CHAIRPERSON PFANNENSTIEL: Thank you
14 very much, Mr. Vidaver. That's quite helpful to
15 me. I was not at the last business meeting when
16 the prior one came up. I understand this is --
17 well, we hope this is the beginning of a number of
18 such contracts.
19 Other questions?
20 VICE CHAIRPERSON BOYD: I think I just
21 want to comment that I want to thank Commissioner
22 Byron for accomplishing this explanation this
23 morning, rather than just treat this as a consent
24 item.
25 I think this is a pretty significant

1 event. I would like to suggest it deserves some
2 notoriety because it may show the way to other
3 public utilities in California whose portfolios
4 seem to be invested heavily in coal plants.
5 And we've been trying to encourage
6 various ways, including legally, that there is a
7 different future. And this is kind of a milestone
8 in the right direction. So I hope -- I'm almost
9 presuming I know the outcome of our action, but I
10 hope it gets, Ms. Jones, some notoriety from out
11 information office, let's say.
12 CHAIRPERSON PFANNENSTIEL: With that, is
13 there a motion to approve the contract?
14 COMMISSIONER BYRON: I move the item.
15 COMMISSIONER ROSENFELD: Second.
16 CHAIRPERSON PFANNENSTIEL: All in favor?
17 (Ayes.)
18 CHAIRPERSON PFANNENSTIEL: Thank you.
19 Item 2, possible adoption of Presiding
20 Member's Proposed Decision and Errata for the
21 Victorville II Hybrid Power Project.
22 MR. RENAUD: Good morning, Madam
23 Chairman, Commissioners. Raoul Renaud, Hearing
24 Advisor for the project.
25 CHAIRPERSON PFANNENSTIEL: Good morning,

1 Mr. Renaud.

2 MR. RENAUD: Good morning. Just by way

3 of brief background, the applicant is the City of

4 Victorville; and this is a 563 megawatt solar and

5 natural gas hybrid project; 50 megawatts of that

6 is the solar component.

7 The AFC was filed February 28, 2007, and

8 determined data adequate April 11. We held the

9 evidentiary hearing in Victorville on April 3,

10 2008. And the PMPD was issued on May 30, 2008.

11 Pleased to report that all issues have

12 been resolved between the staff and the applicant.

13 The one issue that has been ongoing, and was

14 finally resolved yesterday afternoon, has to do

15 with the condition of certification pertaining to

16 the use of road paving for emission credits of

17 PM10.

18 The original proposal was that all road

19 paving be complete 15 days prior to construction.

20 At the Committee Conference on June 17th, the

21 applicant requested basically to phase in the road

22 paving, to do sufficient road paving to offset the

23 construction-related PM10 15 days prior to

24 construction. And the rest of it within six

25 months after that.

1 That was a request that the staff
2 recommended denying, and the Committee agreed and
3 denied that request.
4 As a result of ongoing discussions, the
5 AQSC-9 verification has now been amended, and
6 staff and applicant have agreed that the road
7 paving shall be complete -- and I'm reading the
8 final sentence of it -- "all paving of roads shall
9 be complete at least 15 days prior to start of
10 construction ground disturbance of the project."
11 And the understanding is that ground
12 disturbance is as defined in the PMPD.
13 I have copies of that amended AQSC-9 if
14 you'd like to have that in front of you.
15 CHAIRPERSON PFANNENSTIEL: I think that
16 would be a good idea, thank you.
17 MR. RENAUD: You would like it?
18 CHAIRPERSON PFANNENSTIEL: Yes.
19 MR. RENAUD: All right.
20 (Pause.)
21 MR. RENAUD: The Committee has reviewed
22 that amended AQSC-9 and approved it. And my
23 understanding is the Committee recommends
24 adoption.
25 CHAIRPERSON PFANNENSTIEL: Yes. Thank

you. Let's hear from staff and applicant, and then we have a couple requests to speak to this issue. Thank you.

Ms. Holmes, have any --

MS. HOLMES: Staff doesn't have any comments at this point, other than to support the PMPD as revised.

CHAIRPERSON PFANNENSTIEL: Thank you. Applicant.

MR. CARROLL: Good morning; Mike Carroll with Latham and Watkins. Mr. Renaud provided a very good summary, including the recent resolution of the timing issues associated with AQSC-9. So we have no substantive comments at this time. And would urge adoption of the proposed decision and the errata.

Sitting with me at the table to my far right is the Mayor of the City of Victorville, Mayor Terry Caldwell. And to my immediate right is Tom Barnett, Executive Vice President with Inland Energy, the developer of the project. We also have a number of other representatives from the City of Victorville, including the City Manager, John Roberts, and from Inland Energy, the President, Buck Johns.

1 At some point prior to moving on to the
2 next agenda item, after you've taken action on
3 this matter, Mayor Caldwell and Mr. Barnett would
4 like to make some brief remarks.
5 Thank you.
6 CHAIRPERSON PFANNENSTIEL: Yes, thank
7 you, we welcome them.
8 We have a request to speak from Marc
9 Joseph of CURE.
10 MR. JOSEPH: Thank you, Madam Chair. I
11 actually have a handout which I'd like to pass out
12 to -- kind of a visual aid to follow along, if
13 that's okay?
14 CHAIRPERSON PFANNENSTIEL: Yes, fine.
15 (Pause.)
16 MR. JOSEPH: Good morning. My name is
17 Marc Joseph; I represent California Unions for
18 Reliable Energy, an intervenor in this proceeding.
19 And I just want to talk about one issue,
20 just a single issue. And that is to be sure the
21 Energy Commission complies with all of its
22 obligations under the Warren Alquist Act regarding
23 offsets for PM10.
24 I'm going to describe the issue and
25 provide the condition of certification that

1 insures the Commission will comply with its
2 obligations.
3 But first what I want to say is what the
4 issue is not. From our perspective, what we're
5 raising now is not whether road paving is an
6 environmentally effective to offset combustion
7 emissions. We are not raising the issue of
8 whether or when EPA would approve the Air
9 District's new rule authorizing road paving to
10 generate offsets.
11 We are not requesting the Energy
12 Commission to require the applicant to identify
13 offsets other than road paving.
14 And finally, this is not about a labor
15 issue. The City has identified a union contractor
16 that would be available to build the project
17 should we get to that point.
18 What the issue is, the single narrow
19 issue that I'm raising, requires a little bit of
20 background. And, Commissioner Boyd, I'm sure
21 you're very familiar with it, but to be sure that
22 everybody's familiar with it, under the Clean Air
23 Act states adopt rules to implement the federal
24 Clean Air Act.
25 These rules in California are adopted by

1 air districts. EPA reviews those rules and
2 approves or doesn't approve those rules.
3 When the rules are approved they become
4 enforceable in federal court and become federal
5 law. They are the state implementation plan, and
6 they are the federal law which applies the Clean
7 Air Act in this state.
8 Many years ago the Air District adopted
9 its rule 1302, which says that a project like this
10 is required to provide offsets. And EPA approved
11 that rule. And so it is now federal law in the
12 Mojave Desert Air District that you need offsets.
13 More recently, the Air District approved
14 rule 1406, which says one way that you can create
15 offsets that would satisfy 1302 is by paving
16 unpaved roads. At this moment that rule has not
17 been approved by EPA. And so at this moment,
18 using road paving offsets to comply with 1302
19 would not comply with federal law.
20 Now, there's been a lot of discussion in
21 the workshops and in the Committee conferences
22 about when EPA will approve this. And the
23 applicant has said, you know, in its opinion it'll
24 be soon enough. Fine. We are not here to dispute
25 the prospective timing of EPA's action. But

1 it's -- EPA has not, at this moment, approved the
2 rule.
3 Okay, so what. So, that comes to the
4 handout. The first page of the handout is one
5 subsection of the Public Resources Code,
6 25523(d)(2), which is one of the provisions which
7 identifies the Commission's obligations in site
8 certification. And I've highlighted the language
9 that's applicable here.
10 The Commission shall require, as a
11 condition of certification, that the applicant
12 obtain any required emission offsets consistent
13 with any applicable federal law.
14 This is not something which is optional
15 by the Commission, but it's a mandatory
16 requirement to have this kind of condition of
17 certification.
18 And the second page is the federal law
19 that you need to insure compliance with; that's
20 rule 1302, as approved by EPA. And the bolded
21 subsection is the section dealing with offsets.
22 And so this leaves the conclusion you
23 need to have a condition of certification which
24 says, you know, you have to comply with this. And
25 at this moment the proposed decision, the PMPD,

1 does not have such a condition.
2 And so we have supplied, as the last
3 page here, the very simple condition, trying to
4 make it as short and sweet as possible, which
5 would say that the project owner shall comply with
6 the Air District's SIP-approved rule 1302 by
7 obtaining offsets pursuant to SIP-approved rules
8 prior to the commencement of construction of the
9 facility.
10 And that is the lone request we make of
11 you at this time.
12 CHAIRPERSON PFANNENSTIEL: Thank you,
13 Mr. Joseph. Ms. Holmes, do you have a response?
14 MS. HOLMES: Staff's position is that
15 the conditions of certification that are included
16 in the Presiding Member's Proposed Decision, which
17 incorporates the conditions of certification
18 required pursuant to the determination of
19 compliance issued by the applicable district is in
20 conformity with federal law.
21 CHAIRPERSON PFANNENSTIEL: And that's
22 because of the timing that the road paving has to
23 take place before construction? Is that --
24 MS. HOLMES: That's correct.
25 CHAIRPERSON PFANNENSTIEL: -- your

1 conclusion? Mr. Carroll.

2 MR. CARROLL: We agree that the proposed

3 conditions of certification comport with all

4 applicable laws. The issue that Mr. Joseph has

5 raised has been raised many times throughout these

6 proceedings.

7 It was briefed by the parties. Mr.

8 Joseph's colleague, Ms. Smith, made the same

9 argument with the same handout at the last

10 Committee conference that we had on this project.

11 And we think that the issue has been

12 very well vetted and we think that it's very clear

13 that the proposed offset package and the proposed

14 conditions of certification related to that offset

15 package do comport with applicable laws, district

16 regulations, state law and federal law.

17 What Mr. Joseph would have us do is read

18 into rule 1302(b)(2) a requirement that the

19 credit-generating rule be SIP approved at the time

20 that the Commission renders its decision. And

21 that requirement simply is not in that language.

22 His argument is dependent upon reading that

23 requirement into the language. And as you can

24 see, from the paper in front of you, it's not

25 there.

1 So, we feel very comfortable that the
2 project, as proposed, comports with all applicable
3 laws. And urge the Commission to go forward.
4 Thank you.
5 CHAIRPERSON PFANNENSTIEL: Are there
6 questions from the Commission?
7 COMMISSIONER BYRON: I have a couple.
8 CHAIRPERSON PFANNENSTIEL: Commissioner
9 Byron, yes.
10 COMMISSIONER BYRON: Mr. Joseph, I don't
11 think it's on the document you provided or your
12 name or anything. What's the organization, again,
13 CURE stand for?
14 MR. JOSEPH: California Unions for
15 Reliable Energy.
16 COMMISSIONER BYRON: Okay. And you said
17 something that was rather curious, as I read
18 through all this material, and the material that
19 you just provided me. This is not a labor issue?
20 MR. JOSEPH: Right.
21 COMMISSIONER BYRON: Could you explain
22 what you mean by that?
23 MR. JOSEPH: There are sometimes
24 suggestions that the only interest of labor unions
25 is in a labor agreement. And it is sometimes

1 lurking in the back of people's minds that that is
2 why I'm standing here.
3 And I wanted to address that issue
4 forthrightly and explicitly because it very much
5 is not the case here. There is no labor issue on
6 the table. The City has identified a union
7 contractor that we would be very happy with.
8 And the only thing we are addressing are
9 the requirements of the Warren Alquist Act and the
10 requirements of federal law.
11 And if I could, Madam Chair, respond
12 briefly to Mr. Carroll. Mr. Carroll said that we
13 are suggesting that the Commission has to find
14 that EPA has already approved the road paving rule
15 before it can issue its decision.
16 And I want to make clear that we are not
17 suggesting that. We are proposing a condition
18 which allows you to approve the project today.
19 But allows you to do it by explicitly complying
20 with the Warren Alquist Act which says the
21 Commission shall require, as a condition of
22 certification, the applicant obtain emission
23 offsets consistent with federal law.
24 So, this is saying, applicant, you shall
25 obtain emission offsets consistent with federal

1 law. We are not saying that those have to be
2 approved -- that the road paving rule has to have
3 ben approved already.
4 That discussion did come up earlier.
5 That discussion was considered in Committee
6 conferences. That's not what we're asking for
7 today. We're asking for a provision which allows
8 you to move forward and say yes to the project
9 today. But consistent with the Warren Alquist
10 Act.
11 CHAIRPERSON PFANNENSTIEL: We
12 understand, thank you.
13 VICE CHAIRPERSON BOYD: But I'm
14 struggling with how your suggested language does
15 that. Whereas, the language that we have before
16 us, or that the staff and applicant and the Siting
17 Committee have all tended to believe, in effect,
18 accomplishes what you're trying to accomplish.
19 So, what do you do that's different, and
20 how do you interpret differently than from what
21 Mr. Carroll said was the intent?
22 MR. JOSEPH: The air quality condition
23 SC-9 does, indeed, -- I would agree with Ms.
24 Holmes, it does, indeed, incorporate the
25 provisions that the Air District included in its

1 DOC. It does comply -- it does allow the Energy
2 Commission to be consistent with the Air District
3 DOC. And with respect to Air District rules it
4 fully accomplishes that.
5 But it does not address the fact that at
6 this moment rule 1406 has not been approved by
7 EPA. And you couldn't make a finding that at this
8 moment using road paving credits is consistent
9 with federal law, because at this moment it's not.
10 At this moment, EPA has not approved
11 that. And so at this moment condition AQSC-9 does
12 not satisfy federal law.
13 Now the applicant has, you know,
14 predicted that that will happen soon. And you
15 have a condition which says, okay, as soon as it
16 happens then we're consistent with federal law.
17 CHAIRPERSON PFANNENSTIEL: Are there
18 other questions --
19 COMMISSIONER BYRON: One more question.
20 CHAIRPERSON PFANNENSTIEL: Yes,
21 certainly.
22 COMMISSIONER BYRON: Mr. Joseph, do you
23 have any evidence that the EPA is unlikely to
24 approve this rule?
25 MR. JOSEPH: I don't have a crystal ball

here, and I don't think it's necessary to decide whether they will or they won't. It's just, from the Energy Commission's perspective, when they do then this project will be consistent with federal law. Whether it's tomorrow, next month, next year. At whatever point that happens.

COMMISSIONER BYRON: If we took that approach and waited on the EPA, this state would be stuck in a lot of other issues, as well, as I'm sure you could imagine.

MR. JOSEPH: Commissioner Byron, I am not saying you should wait. I am not saying you should not approve the project today. I am giving you a condition which allows you to say yes to the project today.

COMMISSIONER BYRON: I got it. I got it. You don't have to review it a third time. Thank you.

CHAIRPERSON PFANNENSTIEL: Commissioner Douglas, do you have any questions?

COMMISSIONER DOUGLAS: I have one question. From a practical perspective, if EPA were to surprise us and not approve the road pave rule, what would happen in our process, as the applicant moved forward toward its construction?

1 Would you find an alternative? Would you wait?
2 MR. CARROLL: From the applicant's
3 perspective we would be required to find an
4 alternative. Ultimately we completely agree that
5 the project needs to comply with federal law.
6 What federal law requires is that the credit-
7 generating rule be approved in the state
8 implementation plan prior to commencement of
9 operation of the project. That's very clear.
10 So, if, for some reason, and we
11 certainly don't expect that to happen, because
12 we've been working hand-in-hand with the Air
13 District -- and I should have mentioned at the
14 outset the Executive Officer of the Mojave Desert
15 Air Quality Management District, Mr. Eldon
16 Heaston, is also here with us today.
17 We've been working hand-in-hand with the
18 Air District and with EPA to insure that we have
19 an approvable rule. So we certainly don't expect
20 that to happen. But if it were to happen, we
21 would obviously need to find an alternative source
22 of emission offsets for the project.
23 COMMISSIONER DOUGLAS: And if it were to
24 happen and you had to find an alternative source
25 of offsets, would you have to process an amendment

1 with us or -- is that right?
2 MR. CARROLL: In all likelihood we
3 would, because I think the conditions are quite
4 explicit as to where the emission offsets are
5 coming from for the project.
6 COMMISSIONER DOUGLAS: Does Mr. Joseph
7 or staff have any additions or other takes on the
8 answer to this question?
9 CHAIRPERSON PFANNENSTIEL: Nothing else.
10 Thank you, Mr. Joseph.
11 We also have to speak, Kevin Dayton from
12 the Associated Builders and Contractors.
13 MR. DAYTON: I'm Kevin Dayton,
14 Government Affairs Director, Associated Builders
15 and Contractors of California. We're a
16 predominately nonunion construction trade
17 association. Our membership includes companies
18 that do industrial construction, including power
19 plants large and small.
20 I'm here to talk about California Unions
21 for Reliable Energy, CURE, and their intervention
22 on this project, and the continuing objections to
23 it.
24 Now, the City of Victorville applied for
25 approval for this power plant February 28, 2007;

1 16 months later we're still going on with it. Not
2 a very good advertisement for companies or cities
3 that want to build solar hybrid power plants.
4 And some of that, probably the time
5 spent is appropriate scrutiny by the Energy
6 Commission and staff about, you know, making sure
7 that this project is done to minimize any
8 environmental effects.
9 But some of it is also related to
10 California Unions for Reliable Energy. Their
11 massive data requests they filed last year. If
12 you looked at that it's amazing how many
13 environmental problems there are with solar power.
14 And here they are, even today,
15 continuing to complain about this project.
16 They've also, as you may be aware, filed a lawsuit
17 with the Mojave Desert Air Quality Management
18 District. They just lost that a couple weeks ago
19 in Riverside County Superior Court.
20 So what is this all about? Well, CURE
21 has a long history of intervening in power plant
22 projects. They are all about labor issues. What
23 they want is the owners and developers of power
24 plants to require contractors to sign a project
25 labor agreement with unions in order to build this

1 project.
2 You've dealt with this before on many
3 other issues. You may remember some of the most
4 prominent ones have happened to be municipal power
5 plants. The City of Roseville; they gave in, they
6 signed a project labor agreement to get CURE out
7 of the way.
8 You may remember the City of Riverside,
9 2004, resisted it. They managed to get that power
10 plant built without a project labor agreement.
11 This time the City of Victorville has
12 not signed a project labor agreement with CURE for
13 this project. Therefore, no surprise that CURE
14 and their lawyers are still coming here and
15 talking about what the problems are with this
16 project. And trying to, as best they can, to foul
17 up the works.
18 So, a couple things I'd like to leave
19 you with here. First, Associated Builders and
20 Contractors is hoping that the City of Victorville
21 and Inland Energy will continue to stand firm,
22 don't give in to this tactic. Because every time
23 somebody gives in to CURE and their ways, it just
24 encourages them to do it more. Stand firm. Allow
25 fair and open competition to occur.

1 There are great union companies out
2 there who can build this power plant. There are
3 also great nonunion companies that can build it,
4 too. Allow fair and open competition to work,
5 competitive bidding, don't force contractors to
6 sign union agreements.
7 Now, secondly, I encourage the
8 California Energy Commission, when you produce
9 your reports and you talk about CURE, please
10 consider, as you almost did with Riverside,
11 pointing out what the motive is of CURE.
12 It's not necessarily environmental
13 issues. They also have labor issues that are
14 involved in that. We should be able to
15 acknowledge that.
16 Third, I think there should be a concern
17 here as more solar projects come up here before
18 the Energy Commission, and CURE continues to
19 object to them, and you're already seeing some of
20 their objections coming up for some other solar
21 generating facilities.
22 What needs to be changed here in the
23 Energy Commission process to make sure that the
24 objections really are about environmentalism, and
25 not about ulterior motives.

1 We've sponsored a couple bills in the
2 Legislature the past couple years that deal with
3 this. They haven't gone out of committee. But we
4 will continue to try to find creative ways to make
5 sure that the public is protected, without having
6 the process misused for labor purposes.
7 Finally, I encourage you today to
8 approve this report that's before you. Thank you.
9 CHAIRPERSON PFANNENSTIEL: Thank you,
10 Mr. Dayton. So we have before us the Presiding
11 Member's Proposed Decision, which is recommended
12 by the Committee, which was Commissioner Boyd
13 presiding and myself for consideration and
14 approval by the full Commission.
15 Are there further questions or
16 discussion?
17 VICE CHAIRPERSON BOYD: I'm prepared to
18 make a motion if there are no further discussions.
19 But first let me ask, Mr. Carroll, did you
20 indicate earlier you had some folks who wanted to
21 speak. Did they want to speak before or --
22 CHAIRPERSON PFANNENSTIEL: I think he
23 said after the --
24 MR. CARROLL: After would be fine.
25 VICE CHAIRPERSON BOYD: Thank you.

1 Okay, first, as the Presiding Member of the Siting
2 Committee, I want to just mention that this is a,
3 quote, hybrid project. We're very pleased to see
4 it. And it helps us usher in the present new era
5 of beginning to utilize thermal, solar thermal to
6 produce some of the power we need in this state.
7 This has been a pretty complicated
8 process, with lots of last-minute activities. So
9 I'm going to carefully read my motion here to make
10 sure that we sweep everything into the motion that
11 needs to be dealt with today.
12 And I want to commend the staff, the
13 applicant and our Hearing Officer, Mr. Renaud, for
14 their perseverance and their diligence in dealing
15 with these complicated issues.
16 Mr. Joseph mentioned before that I might
17 understand the air quality issues involved here.
18 I certainly do. And I appreciate his concerns,
19 but I also appreciate what the state's been doing
20 for many many years.
21 I happen to know this rule obviously was
22 approved by the Air Resources Board, a state
23 agency, before it moved it on to the federal
24 agencies. And I'm aware that the federal
25 government takes years, literally in many cases,

1 to approve the rules of the state. And rarely
2 takes exception with the actions of the state.
3 So, on that basis I think we, the
4 Committee, have great comfort in this project. So
5 I'm going to move the adoption of the PMPD dated
6 May 30, 2008, the errata dated June 30, 2008, the
7 amendments to the errata dated July 11, 2008, and
8 the amendments to condition AQSC-9 that we were
9 just discussing, and has been provided for the
10 record.
11 That's my motion.
12 CHAIRPERSON PFANNENSTIEL: Is there a
13 second?
14 COMMISSIONER ROSENFELD: Second.
15 CHAIRPERSON PFANNENSTIEL: I think
16 before we vote on it, I'd also like to just weigh
17 in and thank the staff and the applicant, and also
18 the Hearing Officer. I think he did a masterful
19 job narrowing the issues and narrowing them and
20 narrowing them, and finally resolving them. We
21 are all grateful that he took the incentive to do
22 that. We appreciate it.
23 Further comments before the vote?
24 Moved and seconded.
25 All in favor?

(Ayes.)

CHAIRPERSON PFANNENSTIEL: Thank you. It has been approved.

Comments, Mr. Mayor, did you want to address us.

MAYOR CALDWELL: Thank you, Madam Chairman, Members of the Commission. First, let me say thank you on behalf of the City of Victorville, 107,000 people that are excited about this project.

I want to say when we started this odyssey back so many years ago when you approved what we affectionately refer to as unit I, and we won Power Plant Of The Year, which was a big event in our lives.

As we now move with unit II and the approval today, the fact that we're building a first of a kind, state of the art, hybrid with a capacity to marry the solar component to it, leads us to be optimistic that we will again be power plant of the year in 2011.

But we can't get to that point without the help and the support of your staff. I met with your staff at the front end of this process, and I told them that I leaned very hard and would

1 continue to lean very hard on Inland Energy, our
2 consultants, to expedite this project. And that I
3 hoped that the Energy Commission Staff wouldn't be
4 offended by the fact that I would push Inland and
5 they would push the staff.
6 Your staff has been marvelous to work
7 with. And they have helped identify and solve
8 critical issues that are so important to the
9 success of this plant.
10 So, Victorville is pleased to be
11 involved in the creation of energy resources for
12 this state. You will see a lot more of us. We
13 are actively discussing the possibility of a third
14 power plant once unit II is operational. We're in
15 active discussions for large solar field
16 development. And we are in active research with
17 the possibility of coming back here at some point
18 in the future with an application for a nuclear
19 energy facility.
20 Victorville is committed to be an energy
21 leader, not just for the high desert, but for
22 southern California and the region. And we
23 appreciate the hard work you do, and we really say
24 thank you for the vote today.
25 CHAIRPERSON PFANNENSTIEL: Thank you.

1 And thank you for traveling up here to be part of
2 this. I think that Commissioner Boyd and I have
3 spent some time down in Victorville now on the
4 hearings and appreciate all of the consideration
5 given to us.
6 Other comments?
7 MR. BARNETT: Yes. Thank you, Madam
8 Chair and other Members of the Commission. My
9 name is Tom Barnett; I'm the Executive Vice
10 President of Inland Energy, which was retained by
11 the City of Victorville to manage this development
12 effort.
13 As some of you know this is not the
14 first time I've been through this process. I have
15 some experience with it. And I just wanted to
16 briefly comment on the fact that I found this, the
17 cooperation of the CEC Staff to be unprecedented.
18 In particular, the ALJ Renaud and the Staff
19 Attorney, Caryn Holmes, and the Project Manager,
20 John Kessler.
21 I mean without their cooperation, as you
22 mentioned, this was an extremely complicated
23 project. And the fact that we were able to work
24 through these issues so well and so expeditiously
25 is a testimony to their professionalism.

1 And I also want to just briefly mention
2 the leadership that the CEC has provided on this
3 important new technology. The hybrid concept is
4 one that we think will be a blueprint for other
5 plants. In fact, as you may know, we have a
6 second hybrid plant in the high desert about to
7 enter your pipeline. And we look forward to the
8 same spirit of cooperation.
9 So, thank you very much.
10 CHAIRPERSON PFANNENSTIEL: Thank you,
11 all.
12 Moving on, then, in the agenda. Item 3,
13 possible approval of an amendment to the
14 Commission decision for the Calistoga Power Plant,
15 formerly known as Occidental, OXY, Geothermal
16 Power Plant No. 1, to change condition of
17 certification biological resources 5-4, regarding
18 boron drift monitoring to allow the Compliance
19 Project Manager the discretion to confirm in
20 writing that further boron drift testing is not
21 required. Ms. Stone, good morning.
22 MS. STONE: Good morning. This is an 80
23 megawatt power plant the Commission certified
24 February 1, 1982. And that it's about three air
25 miles northwest of the community of Anderson

1 Springs in Lake County, in the area known as the
2 Geysers known geothermal resources area.
3 This has been operational since April of
4 1984. This proposed change to condition of
5 certification biological resources 5-4 would allow
6 monitoring every five years as is done now, or
7 until the Compliance Project Manager confirms in
8 writing that boron is not having an effect, boron
9 drift is not having an effect or impact on the
10 vegetation surrounding the power plant. And that
11 monitoring is no longer required.
12 Staff has concluded, after reviewing
13 this, that there would be no impacts to this.
14 There's been past monitoring, first for a year
15 prior to the project being operations; then
16 annually for three years; and then at five-year
17 intervals, the last time this was done was in
18 2003. And it is due again this year.
19 All those times there's never been any
20 impacts noted from boron drift monitoring. And
21 the scientist that actually was doing the
22 monitoring recommended that the project owner
23 request that they don't have to continue doing
24 this.
25 The other thing here is that rather than

1 write them a letter saying that they no longer had
2 to do this, our staff has recommended that we
3 change the condition to say that the CPM retains
4 the right to reinstitute monitoring at any time
5 should we think it's necessary.
6 We also intend to go down to the project
7 no less than every two years and check on the
8 condition of the vegetation surrounding the plant.
9 Rick York, Senior over the Biology Unit,
10 and I went down last week just so that we had a
11 baseline reading of how things looked.
12 The power plant can comply with all the
13 state and federal, local laws and ordinances and
14 regulations if the change is adopted the way staff
15 has proposed it.
16 This petition was modified -- I mean,
17 I'm sorry -- was filed and docketed April 21st,
18 and we did a notice of receipt. The staff
19 analysis was docketed and mailed to the post-
20 certification mailing list, public agencies and
21 posted on the Energy Commission website on May
22 23rd. To date there's been no comments received
23 whatsoever on this.
24 The petition meets all the filing
25 criteria of section 1769; the modification will

not change the findings in the Energy Commission's final decision. The project will remain in compliance with all laws, ordinances, regulations and standards. The change will be beneficial to the project owner, just in that they won't have to go through the expense of doing this monitoring.

And it's based on information that was not available to us at the time of certification. So staff is recommending that the Commission approve the project modification.

CHAIRPERSON PFANNENSTIEL: Thank you, Ms. Stone. Mr. Harris, any comment?

MR. HARRIS: I guess first off we'd certainly want to say thank you to the staff for their work on this project.

We'd offered in the alternative to delete the requirement all together, which would have been our preference. But I think the staff's language is sufficiently -- the Compliance Manager's sufficient discretion that we can work with the language as amended. So we're thankful for that.

We accept this condition.

CHAIRPERSON PFANNENSTIEL: Any questions?

1 Is there a motion?
2 COMMISSIONER BYRON: Madam Chair, we
3 reviewed this in the Siting Committee and I move
4 the item.
5 COMMISSIONER DOUGLAS: I'll second it.
6 CHAIRPERSON PFANNENSTIEL: All in favor?
7 (Ayes.)
8 CHAIRPERSON PFANNENSTIEL: Thank you.
9 Item 4, possible approval of the
10 Executive Director's data adequacy recommendation
11 for the Orange Grove Energy's application for
12 certification for the Orange Grove Power Plant
13 project.
14 MS. MILLER: Good morning, Chairman
15 Pfannenstiel and Commissioners. I'm Felicia
16 Miller, Staff Siting Project Manager for the
17 Orange Grove project. And with me is Staff
18 Counsel, Jarad Babula.
19 On June 19th Orange Grove Energy filed
20 an application for certification to construct a
21 simple cycle power plant in northern San Diego
22 County. Supplemental information to the AFC was
23 filed in Thursday, July 10th.
24 The project will have a nominal
25 electrical output of 96 megawatts and is in

1 response to a San Diego Gas and Electric request
2 for offer for new peaking resources for supporting
3 reliability of the local electricity system.
4 The proposed project would be located on
5 an 8.5-acre site within a 202-acre property
6 located two miles west of the town of Pala, and 16
7 miles west in a rural area of San Diego County.
8 The proposed project would be fueled by
9 natural gas delivered to the site via a 2.4
10 underground pipeline. As proposed, the project's
11 water would be obtained from Fallbrook Public
12 Utilities District and trucked to the project
13 site.
14 Project water consists of approximately
15 12 acrefeet per year of tertiary treated
16 wastewater, and approximately 21 acrefeet per year
17 of fresh water.
18 Transmission interconnection to the Pala
19 Substation will occur within the limits of the
20 contiguous parcel, and would include a 69 kv
21 underground transmission line interconnection.
22 Construction for the project is planned
23 for spring of 2009.
24 Staff has reviewed the application for
25 certification and supplemental materials and found

1 the application data adequate.
2 At this time staff recommends that you
3 find the AFC complete and data adequate, and we
4 request the appointment of a committee.
5 Thank you.
6 CHAIRPERSON PFANNENSTIEL: Thank you.
7 Applicant, comments?
8 MS. LUCKHARDT: Hi. My name is Jane
9 Luckhardt from Downey Brand on behalf of Orange
10 Grove Energy. And we would just like to thank the
11 efforts of the staff to work with us to get this
12 project to be data adequate at this point in mid
13 July.
14 CHAIRPERSON PFANNENSTIEL: Thank you.
15 Questions, comments, Commissioners?
16 VICE CHAIRPERSON BOYD: I'm just
17 wondering if we should address this as a hybrid
18 plant, too, but based on its history with us, but
19 I won't.
20 I would move approval of the item.
21 COMMISSIONER ROSENFELD: Second.
22 CHAIRPERSON PFANNENSTIEL: All in favor?
23 (Ayes.)
24 CHAIRPERSON PFANNENSTIEL: So it is now
25 data adequate.

A committee, I understand that actually since this is a sort of a continuation committee, it will be Commissioner Boyd presiding, and Commissioner Rosenfeld as the Associate Member.

May I have a motion for that Committee?

COMMISSIONER BYRON: I'd be glad to move it. I understand Commissioner Boyd is very familiar with the earlier version --

CHAIRPERSON PFANNENSTIEL: I understand so.

COMMISSIONER DOUGLAS: And I'd be happy to second it.

CHAIRPERSON PFANNENSTIEL: All in favor?

(Ayes.)

CHAIRPERSON PFANNENSTIEL: All right, there's a Committee. Thank you.

MS. MILLER: Thank you.

CHAIRPERSON PFANNENSTIEL: Item 5, possible approval of Executive Director's data adequacy recommendation for Mirant Marsh Landing LLC's application for certification of the Marsh Landing Generating Station.

MR. MONASMITH: Good morning, Chairman and Commissioners. My name is Mike Monasmith, Project Manager of the Siting Division. Next to

me is interim legal counsel, Jared Babula.

On May 30, 2008, Mirant Marsh Landing filed an application for certification seeking approval from the Energy Commission to construct and operate the Marsh Landing Generating Station project.

Marsh Landing would be a 930 megawatt plant, consistent of four separate power blocks, two Siemens FP10 combined cycle units, each capable of generating 275 megawatts of electricity. And two Siemens 5000F simple cycle units, each potentially capable of generating 190 megawatts of electricity.

This project would be located adjacent to Mirant's existing Contra Costa Power Plant just north of the City of Antioch. Power from Marsh Landing would be delivered to PG&E's adjacent switchyard through a new 1700-foot 230 kV transmission line.

Up to 736 acrefeet a year of reclaimed water will be used by Marsh Landing, all of it supplied by a new Delta-Diablo Sanitation District water recycling facility.

If approved, Marsh Landing plans to begin construction in October of 2009 with

1 commercial operation beginning in early summer
2 2012. Total project cost is estimated to be over
3 $800 million.
4 Staff initially found six technical
5 areas data inadequate. Of those, only
6 transmission system engineering remains
7 inadequate. TSE remains inadequate because no
8 system impact study, as described in the data
9 adequacy forms, has been performed.
10 The Cal-ISO has typically performed such
11 studies, but now is in a period of modifying its
12 interconnection process. Therefore, a Cal-ISO
13 study would not be expected for this project until
14 2010.
15 Given this, staff has determined a
16 third-party interconnection study would be
17 sufficient for the project to meet data adequacy.
18 Staff understands such a study is currently
19 underway and anticipates the results in the very
20 near future.
21 Thank you, and if there are any
22 questions on the AFC or on the new TSE data
23 adequacy process, staff is here to explain that.
24 And I'll answer any questions that the Commission
25 may have.

1 CHAIRPERSON PFANNENSTIEL: Thank you,
2 Mr. Monasmith. Applicant?
3 MR. SACKS: Thank you, Madam Chairwoman,
4 Commissioners, good morning. My name is Jonathan
5 Sacks. I'm a Business Director for Development
6 and Transactions for Mirant Corporation. And I
7 manage Mirant's new power point developments in
8 the western United States.
9 First I would like to thank Mike
10 Monasmith and the rest of the Commission Staff for
11 their diligence in completing the initial review
12 of Mirant Marsh Landing's application for
13 certification before this Commission.
14 Mirant Marsh Landing has worked with
15 staff to address the identified data adequacy
16 deficiencies, and as noted by Mr. Monasmith, as of
17 today, with only one exception, Mirant Marsh
18 Landing has satisfactorily provided all the
19 supplemental information requested by staff.
20 The one outstanding item, staff's
21 request for a completed transmission system impact
22 study prepared by a third-party consultant.
23 We understand that this study, when
24 submitted, will satisfy the transmission system
25 engineering data adequacy requirement that calls

1 for a completed system impact study or a signed
2 agreement with the CA-ISO to perform a system
3 impact study.
4 I will note that the timing of our
5 application for certification filing is
6 unfortunate. Mirant Marsh Landing filed a
7 generation interconnection request with the CA-ISO
8 back in March of 2008, and was actively working
9 with the CA-ISO to enter into a system impact
10 study agreement as required by this Commission's
11 regulations.
12 However, during that process the CA-ISO
13 informed us that they would not deliver a system
14 impact study agreement to Mirant Marsh Landing for
15 execution as a result of the ongoing generation
16 interconnection reform process. As such, we've
17 been unable to satisfy this data adequacy
18 requirement as of now.
19 We do appreciate staff's efforts to
20 identify a study that can be prepared and
21 submitted during this interim period while the CA-
22 ISO is reforming its interconnection process.
23 Mr. Hesters has clarified earlier, and I
24 would appreciate it if Mr. Monasmith would also
25 confirm to this Committee, that our study will

1 likely be prepared using a dataset provided by
2 Pacific Gas and Electric, not the California ISO.
3 And that this would be acceptable to the
4 staff and to the Commission.
5 Our consultant will use the data from
6 PG&E to prepare a study that meets the required
7 elements outlined in staff's data adequacy
8 recommendations.
9 Having reviewed the guidance presented
10 today by staff, with our transmission consultants,
11 we anticipate it will take approximately six weeks
12 to complete the study that staff has recommended.
13 This likely means we will not be able to achieve
14 data adequacy until late August at the earliest.
15 Mirant Marsh Landing is dedicated to
16 this process and will do everything we can to
17 complete the study as soon as possible. And we
18 hope you recognize that this delay is caused by
19 circumstances beyond our control.
20 We look forward to working with the
21 staff and the Commission to complete our
22 certification process as expeditiously as
23 possible. And we thank you for your
24 consideration. Thank you.
25 CHAIRPERSON PFANNENSTIEL: Thank you,

1 Mr. Sacks. And I think you realize that it's
2 circumstances beyond our control, as well. And
3 I'm glad that you and the staff have worked out a
4 way of resolving this last area, because it's
5 clearly an important one. And we certainly don't
6 want to wait until 2010 for the resolution.
7 Questions, comments? Yes, Commissioner
8 Douglas.
9 COMMISSIONER DOUGLAS: I wanted to say
10 we discussed this issue at some length in the
11 Siting Committee. The ISO queue reform process is
12 a much needed step that the ISO is taking. But it
13 does present us with this dilemma in our siting
14 process.
15 And I think staff's solution of
16 accepting, at this time, third-party system impact
17 study is a reasonably good solution under the
18 circumstances. I think it's consistent with our
19 regulations and something that we can do under our
20 existing regulations.
21 So, I support going forward with this as
22 an interim measure while the ISO is changing its
23 system. And we may want to revisit how this whole
24 issue is handled once that process is complete.
25 CHAIRPERSON PFANNENSTIEL: Commissioner

1 Byron.

2 COMMISSIONER BYRON: Yes. I underscore

3 Commissioner Douglas' comments, and also indicate

4 we recognize there's increased costs associated

5 with this for the applicant. But in order to get

6 these through in a timely manner, I think this is

7 a very good approach.

8 However, if you went into the queue now,

9 I understand, it takes more than a credit card to

10 get into the queue now. So the cost there is much

11 higher, as well.

12 So, I agree, I think this is a good

13 interim approach, and we may see more of these

14 over the next year or two.

15 CHAIRPERSON PFANNENSTIEL: So,

16 consequently I guess we approve the data adequacy

17 recommendation, which is that it is not data

18 adequate at this time?

19 VICE CHAIRPERSON BOYD: Could I ask a

20 question?

21 CHAIRPERSON PFANNENSTIEL: Of course.

22 VICE CHAIRPERSON BOYD: Until I'd read

23 the file for this agenda item, I was unaware of

24 this Cal-ISO study and its ramifications on our

25 agency or on applicants. And I'm glad to hear

1 that the Siting Committee pondered this.
2 I'm just curious as to whether Cal-ISO
3 gave us, you know, heads-up notice in advance that
4 this was an issue and discussed this with us at
5 all, recognizing it's going to ripple through the
6 whole process? Or whether we had to ferret it
7 out, ourselves, by receiving this request?
8 CHAIRPERSON PFANNENSTIEL: Executive
9 Director?
10 EXECUTIVE DIRECTOR JONES: Yes,
11 Commissioner Boyd, we were aware; the ISO has come
12 in and briefed us. Our staff has worked with the
13 ISO. We indicated that we felt this could
14 potentially be a problem for our siting cases,
15 which is why staff has worked out an alternative
16 compliance.
17 You know, they're in a sticky situation.
18 They're trying to clean up their queue. They've
19 got some 50,000 megawatts of generation in the
20 queue, and so they're doing the queue reform.
21 We understand their needs, and I think
22 we've come up with a workable solution.
23 VICE CHAIRPERSON BOYD: Thank you, I'm
24 glad to hear that.
25 COMMISSIONER BYRON: Yeah, Commissioner,

1 if I may add, my initial response was likewise,
2 did the ISO consider the needs of this Commission
3 in reviewing applications.
4 But if I can use maybe a poor analogy,
5 the drain was clogged. And even if we tried to
6 put more water down the drain, it wasn't going to
7 go through. So they've disassembled it, so to
8 speak, and -- if we don't have this kind of
9 approach we would also tend to get applications in
10 chunks, if you will, because there's certain dates
11 that they will be reviewing their system
12 integration studies, and we would get a lot of
13 them, potentially a lot of applicants immediately.
14 So, I think this third-party approach
15 will serve us well. And we're hopeful that the
16 third-party system integration studies may be
17 acceptable to the ISO. If not, they will have to
18 probably do their own studies. And, of course,
19 I'm sure they'll reserve the right to do so.
20 VICE CHAIRPERSON BOYD: Thank you, I
21 appreciate that. Although an hour before lunch
22 I'm not sure I'll eat my lunch now. Anyway,
23 thanks.
24 CHAIRPERSON PFANNENSTIEL: Just home
25 repairs.

1 EXECUTIVE DIRECTOR JONES: Commissioner
2 Boyd, I should also indicate that Mark Hesters is
3 here to answer any additional questions you may
4 have about transmission.
5 CHAIRPERSON PFANNENSTIEL: Yes, thank
6 you. We do have Jeff Harris, who would like to
7 speak, from Ellison, Schneider and Harris.
8 MR. HARRIS: Just happened to be here
9 today, actually, for the other item. But, let me
10 say a couple things. Number one, I think you
11 ought to find these guys data adequate today. I
12 don't think you ought to wait.
13 Your regulation is just that, it's a
14 regulation, it's not a law. I think you've got
15 the discretion. I'd look to Mr. Chamberlain to
16 tell me whether I'm right or wrong on that, to
17 find these gentlemen data adequate, assuming
18 everything else is data adequate, at this point.
19 And I further think you need to consider
20 an emergency rulemaking if you want to fix your
21 rule. I think that's the best way to proceed;
22 it's the cleanest way to proceed. This will
23 repeat. And this was avoidable. This was one of
24 the points that industry made when you all revised
25 your regulations awhile back.

1 The basic point was that this was not
2 something an applicant can control in and of
3 themselves. They need the cooperation of someone
4 else to sign an agreement. And you rejected that
5 argument. So, I think you ought to do the hard
6 thing here, and fix the regulation.
7 I also think you ought to do the right
8 thing and find these guys data adequate today.
9 CHAIRPERSON PFANNENSTIEL: Thank you for
10 your opinion, Mr. Harris.
11 But we have in front of us a
12 recommendation from the Executive Director that we
13 pursue this course of action and wait until the
14 interconnection study is complete --
15 EXECUTIVE DIRECTOR JONES: I'd like to
16 have Mark just address one issue.
17 MR. HESTERS: We have one comment from
18 Mr. Sacks about whether or not they could use a
19 PG&E dataset rather than an ISO dataset. And we
20 are happy with the PG&E dataset. I was actually
21 on the phone with PG&E this morning working out
22 what datasets were available. And the PG&E
23 datasets will work absolutely fine for these
24 studies.
25 CHAIRPERSON PFANNENSTIEL: Thank you.

1 Sounds perfectly reasonable to me.
2 Further discussion?
3 Do we have a motion to adopt the
4 Executive Director's recommendation?
5 COMMISSIONER DOUGLAS: So moved.
6 COMMISSIONER BYRON: Second.
7 CHAIRPERSON PFANNENSTIEL: All in favor?
8 (Ayes.)
9 CHAIRPERSON PFANNENSTIEL: Thank you,
10 all.
11 VICE CHAIRPERSON BOYD: I have a closing
12 comment. I think the idea that this Commission
13 may have to do something more in the future is a
14 relevant suggestion. And there may be some need,
15 since this is just the first unclogging effort, if
16 I might. I think it's true there'll be other
17 situations and perhaps the Siting Committee can
18 take a look --
19 CHAIRPERSON PFANNENSTIEL: Oh, yeah, I
20 would suggest --
21 VICE CHAIRPERSON BOYD: -- at unclogging
22 our drain --
23 CHAIRPERSON PFANNENSTIEL: -- the staff
24 should make any recommendations to the Siting
25 Committee if that same -- something that needs to

1 be done.

2 COMMISSIONER DOUGLAS: I will just add

3 that we had this specific discussion about whether

4 this needed to be done through regulation or

5 whether it could be done through the applications

6 that are brought before us.

7 And our decision at the time, or our

8 judgment was that the approach suggested by staff

9 is consistent with our regulations, consistent

10 with the Warren Alquist Act. And I personally

11 think that we may have to look at revising our

12 regulations at some point to deal with the changes

13 at the ISO. And there may be other issues that we

14 might want to fold into that.

15 But it makes more sense to me to get out

16 of this interim phase and get into the actual new

17 system that the ISO is establishing before we were

18 to do that.

19 CHAIRPERSON PFANNENSTIEL: Sounds right.

20 All right, moving on to item 6.

21 Possible approval of work authorization MR-026

22 with Synapse Energy Economics, Inc. under contract

23 500-02-004, not to exceed $350,000 to develop a

24 credible method to quantify the air quality

25 benefits measures that reduce energy use in

1 California. Ms. Mueller.

2 MS. MUELLER: Good morning. I'm Marla

3 Mueller with the PIER environmental program.

4 First I would like to clarify that this

5 is a request for approval for a research project

6 to develop and test methodology to obtain state

7 implementation plan credits for decreases in air

8 pollution emissions, for reductions in energy use,

9 such as energy efficiency, peak load reductions,

10 renewable generation and heat-island mitigation

11 measures. Using up to $350,000 of the funds

12 allocated in work authorization MR-026, amendment

13 2 for this project.

14 California continues to experience large

15 challenges in meeting air quality standards. Many

16 areas still have to adopt and implement additional

17 measures to meet the state implementation plan

18 requirements for attainment.

19 Most of the straightforward emission

20 control strategies have already been implemented,

21 so new types of strategies are needed. Measures

22 to reduce the use of energy, help to reduce the

23 need for power generation, and thus reduces the

24 emissions of air pollutants.

25 The Commission's 2005 Energy Action Plan

1 identified 23,000 gigawatt hours per year of
2 electricity savings from the energy saving goals
3 adopted by the California Public Utilities
4 Commission in September 2004.
5 Because of the difficulty in quantifying
6 the benefits of air quality from reductions in
7 energy demand, reductions of electricity demand
8 have been largely under-valued by the
9 environmental community.
10 It can be difficult to accurately
11 estimate the amount of emissions reductions from
12 energy and peak demand reduction measures that
13 impact air quality in a specific nonattainment
14 area.
15 If energy reduction measures can
16 quantify for state implemented emission plan
17 credit, they become a more valued commodity. The
18 increased value could be expected to translate
19 into increases in energy saving measures. This
20 would help the state better manage its energy
21 demand with its available energy supplies, and
22 assist in progress toward healthful air quality.
23 This would further assist the Energy
24 Commission and the California Public Utilities
25 Commission in achieving their goals for energy

1 efficiency and conservation.
2 Synapse Energy Economics would perform
3 this research. During this project we would
4 continue working with the Commission Staff, the
5 California Air Resources Board, the Sacramento
6 Metropolitan Air Quality Management District, the
7 South Coast Air Quality Management District, and
8 the federal EPA.
9 I am here to answer your questions.
10 Thank you.
11 CHAIRPERSON PFANNENSTIEL: Questions?
12 Commissioner.
13 COMMISSIONER ROSENFELD: I just want to
14 make a comment. I want to praise the PIER program
15 and Ms. Mueller for finally putting cool
16 communities into this research program.
17 There's a huge multiplier which we
18 haven't taken advantage of for the last 10 or 20
19 years. I'm looking at an 11-year-old paper from
20 LBL studying smog in the L.A. Basin.
21 The direct savings in NOx from cool
22 roofs and cool roads is 7 tons per day of NOx.
23 But the equivalent savings in NOx from cooling the
24 city and slowing down the rate in which smog is
25 formed is not 7 tons, but 350 tons.

1 So there's a little multiplier there of
2 at least a factor of ten, maybe 50. And we're
3 finally getting around to looking at that. And I
4 think that's great.
5 So, thank you.
6 CHAIRPERSON PFANNENSTIEL: And do we
7 have a motion?
8 VICE CHAIRPERSON BOYD: I'll move
9 approval. I just want to comment, I was delighted
10 to see this project. I think it's very
11 impressive. I think somehow or another we need to
12 let people know through some form of notoriety or
13 another that we are carrying out such a study.
14 Because it is in consideration of our continuous
15 concerns for improving air quality.
16 But it also raises some very interesting
17 possibilities for our climate change future, and
18 the whole issue of credits, trading, et cetera, et
19 cetera.
20 I think it's a very significant study.
21 This is no small issue at all. So I commend the
22 staff, and I think it's going to be very helpful
23 when they get done with this effort.
24 COMMISSIONER ROSENFELD: Are you moving
25 the --

1 VICE CHAIRPERSON BOYD: I move the item.
2 COMMISSIONER ROSENFELD: Second.
3 CHAIRPERSON PFANNENSTIEL: All in favor?
4 (Ayes.)
5 CHAIRPERSON PFANNENSTIEL: Thank you,
6 Ms. Mueller.
7 MS. MUELLER: Thank you.
8 CHAIRPERSON PFANNENSTIEL: Approval of
9 minutes from the July 2nd business meeting with
10 recusals from myself and Commissioner Boyd.
11 VICE CHAIRPERSON BOYD: Correct.
12 COMMISSIONER ROSENFELD: I move the
13 minutes.
14 COMMISSIONER BYRON: Second.
15 CHAIRPERSON PFANNENSTIEL: In favor?
16 (Ayes.)
17 CHAIRPERSON PFANNENSTIEL: Commission
18 Committee discussions. Anything to raise?
19 VICE CHAIRPERSON BOYD: Well, let me
20 mention one thing; it just happened this morning
21 just before this meeting. In my office I had a
22 meeting with representatives of the Energy
23 Minister of Mexico, and a representative of the
24 Governor of Baja, Norte.
25 Just in continuing discussions of

1 everything from the MOU we've been discussing with
2 the Energy Minister, Secretary of Mexico, for more
3 than a year now. And the continuous work we do
4 for the Board of Governors, and specifically some
5 questions we've been asking of late about why our
6 own utilities, particularly in southern
7 California, don't seem to be rushing to work with
8 the folks in Baja with regard to the very
9 significant wind resource that's down there.
10 Turns out there is quite a bit of work going on.
11 But the significance of the meeting was
12 in my six and a half years here and dealing with
13 this cross-border stuff, this is the first time I
14 suddenly realized, almost serendipitously, that an
15 energy representative from a state and an energy
16 representative of the federal government in the
17 State of California sat down to talk about
18 something.
19 And that was actually fairly
20 significant, because as we learned over the years
21 in working with the -- when they created the new
22 energy worktable, the States of Mexico have
23 absolutely no authority, no power, very little
24 knowledge in the energy area.
25 They've been building that knowledge,

1 but the federal government has all the authority
2 and all the power and all the knowledge. And the
3 new President of Mexico has been pushing this
4 down. And I think we've seen a little bit of
5 success.
6 And in light of the fact that our
7 Governor is President of the Board of Governors
8 this year, and is planning a very large event in
9 Los Angeles -- he likes to say it's in Hollywood,
10 but -- in August for the Board of Governors, why
11 this is just another little bit of progress I
12 think that this agency has contributed to.
13 Now, I've learned that the Governor has
14 invited the Energy Secretary of Mexico to come to
15 California in the fall. Didn't know that until
16 the Mexican people told me about it.
17 But nonetheless, that probably will
18 afford an opportunity for us to perhaps get this
19 MOU executed perhaps at a higher level than I had
20 anticipated in the past.
21 So, more to follow.
22 CHAIRPERSON PFANNENSTIEL: Thanks, Jim.
23 Anything else?
24 COMMISSIONER BYRON: Just to let my
25 fellow Commissioners know, earlier this week we

1 conducted an IEPR workshop on the procurement
2 review groups and the way they're structured.
3 I found it to be very informative. But
4 I think also it became very clear to me, as a
5 result of the workshop, how linked so many of our
6 policies are around renewables and distributed
7 generation, combined heat and power, et cetera,
8 are linked to this procurement process.
9 So, I appreciate Commissioner Douglas
10 joining us, as well, for a portion of it. I think
11 that's enough.
12 CHAIRPERSON PFANNENSTIEL: Thank you.
13 Chief Counsel report. Mr. Chamberlain.
14 CHIEF COUNSEL CHAMBERLAIN: Thank you,
15 Madam Chairman. As the Commission knows, recently
16 my office lost Elena Miller to a higher calling.
17 And we are also losing Fernando de Leon to
18 retirement this month.
19 CHAIRPERSON PFANNENSTIEL: Certainly a
20 higher calling.
21 CHIEF COUNSEL CHAMBERLAIN: I'm very
22 pleased to report that legal office management has
23 identified two excellent candidates to replace
24 these two valued attorneys. And those candidates
25 should be arriving within a very few weeks.

1 CHAIRPERSON PFANNENSTIEL: Delighted to
2 hear that. Look forward to meeting them.
3 CHIEF COUNSEL CHAMBERLAIN: And I
4 believe there's a brief closed session --
5 CHAIRPERSON PFANNENSTIEL: There will be
6 a brief --
7 CHIEF COUNSEL CHAMBERLAIN: -- scheduled
8 today.
9 CHAIRPERSON PFANNENSTIEL: There will be
10 a closed session following the public session.
11 Thank you.
12 Executive Director report. Ms. Jones.
13 EXECUTIVE DIRECTOR JONES: I have
14 nothing to report today.
15 CHAIRPERSON PFANNENSTIEL: That's good
16 news, thank you.
17 Leg Director report, Marni.
18 LEGISLATIVE DIRECTOR WEBER: Basically
19 nothing to report. The Legislature has finally
20 gone out for a brief recess. However, they've
21 been told to be on call in case the budget is
22 passed. So nothing to report.
23 CHAIRPERSON PFANNENSTIEL: Thank you.
24 Public Adviser report.
25 PUBLIC ADVISER MILLER: My news will be

1 brief. I have one item to announce. I'm pleased
2 to introduce you to our new Associate Public
3 Adviser, Loreen McMahon. She came on board with
4 the Commission last Thursday. The Commission's
5 very fortunate to have her. And I've enjoyed our
6 first week working together. And we're very
7 fortunate to have her.
8 CHAIRPERSON PFANNENSTIEL: Well,
9 welcome, we're delighted to have you here, Loreen.
10 MS. McMAHON: Thank you. Good morning,
11 Commissioners. I'd just like to say that I'm very
12 pleased to be here, too. And to be a part of
13 serving Governor Schwarzenegger's Administration.
14 The Public Adviser position certainly
15 gives you a good opportunity to serve the public,
16 as well as assisting meeting the needs of the
17 Energy Commission.
18 So, I look forward to meeting and
19 working with all of you. Thank you.
20 VICE CHAIRPERSON BOYD: Welcome.
21 CHAIRPERSON PFANNENSTIEL: Welcome. You
22 have your work cut out for you, both of you.
23 VICE CHAIRPERSON BOYD: Good
24 introduction today.
25 CHAIRPERSON PFANNENSTIEL: We're glad

1 that you're here, both of you.

2 MS. McMAHON: Thank you.

3 PUBLIC ADVISER MILLER: Thank you.

4 CHAIRPERSON PFANNENSTIEL: Any public

5 comment, since I think Manuel is perhaps the only

6 nonstaff person here.

7 With that we will adjourn to an

8 executive session on some potential litigation in

9 my office. Otherwise, adjourned. Thank you.

10 (Whereupon, at 11:18 a.m., the business

11 meeting was adjourned into executive

12 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 26th day of July, 2008.