

SPECIAL BUSINESS MEETING
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:
Special Business Meeting

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HEARING ROOM A
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SACRAMENTO, CALIFORNIA

THURSDAY, OCTOBER 16, 2008

2:04 P.M.

ORIGINAL

Reported by:
Peter Petty
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COMMISSIONERS PRESENT

Jackalyne Pfannenstiel, Chairperson

Arthur H. Rosenfeld

Jeffrey D. Byron

Karen Douglas

STAFF and CONTRACTORS PRESENT

Melissa Jones, Executive Director

Arlene Ichien for Chief Counsel

Harriet Kallemeyn, Secretariat

Pat Perez

ALSO PRESENT

Jim Caldwell
Los Angeles Department of Water and Power

Norman Pedersen
Southern California Public Power Authority

H. I. "Bud" Beebe
Sacramento Municipal Utility District

Mark Krause
Pacific Gas and Electric Company

Taylor Miller
Sempra Energy

Justin Rathke
Capstone Turbine Corporation

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

2 2:04 p.m.

3 CHAIRPERSON PFANNENSTIEL: This is an
4 Energy Commission special business meeting with a
5 very short agenda, but it does not mean it will be
6 a short business meeting.

7 We'll begin with the Pledge of
8 Allegiance. Please join me.

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

11 CHAIRPERSON PFANNENSTIEL: As I said,
12 this is a special business meeting, and we have
13 one item on the agenda. And it is for the
14 Commission to consider possible approval of the
15 proposed final opinion on greenhouse gas policies
16 and recommendations for the electric sector.

17 Mr. Perez, will you walk us through the
18 proposed decision.

19 MR. PEREZ: Okay. Good afternoon,
20 Chairman Pfannenstiel and fellow Commissioners.
21 My name is Pat Perez with the California Energy
22 Commission. And today I would like to just
23 briefly run through what is in the proposed final
24 opinion for the greenhouse gas strategies.

25 As many of you are probably aware, this

1 item was heard this morning by the California
2 Public Utilities Commission and was adopted on a
3 five-to-zero vote. And it's now up to us to bring
4 forth our recommendation so that we can jointly
5 deliver our recommendations on reducing greenhouse
6 gas emissions for the electricity sector to the
7 Air Resources Board.

8 So, with that I'd like to really cover
9 five major items quickly today. Provide some
10 background and context. Talk a little bit about
11 the September 12th interim opinion, which many of
12 you have probably reviewed extensively and
13 unfortunately probably have not had much time to
14 review the decision that went out earlier today.

15 And then also just briefly summarize the
16 key common areas that all of you provided us, as
17 well as those listening in. And then talk a
18 little bit about some of the content in the
19 proposed final opinion.

20 And then as we recognized many weeks
21 ago, there are a number of issues, areas that are
22 going to require additional analysis, study and
23 possibly modeling that we've identified for the
24 future rulemaking proceeding by the Air Resources
25 Board, of which we're proposing that the

1 California Energy Commission and Public Utilities
2 Commission would assist in that effort.

3 I'd also, before I go any further I want
4 to thank the AB-32 Committee here at the Energy
5 Commission, made up of Chairman Pfannenstiel and
6 Commissioner Byron, for the guidance that we've
7 had on this very ambitious effort, as well as the
8 support, the input from all Commissioners here at
9 the Energy Commission.

10 And President Peevey and his staff,
11 Nancy Ryan, in particular, and Julie Fitch and
12 Charlotte Terkeurst that have been instrumental
13 and critical in working with us to put together
14 this joint final opinion.

15 And I'd also like to acknowledge the
16 staff internally here at the Energy Commission
17 that have offered tremendous assistance, through
18 the guidance of our Executive Director Melissa
19 Jones, and our Deputy Directors over here to my
20 right, Valerie Hall and Sylvia Bender. And then
21 also the legal support that we've had throughout
22 this proceeding from Lisa DeCarlo.

23 And be remiss in not also acknowledging
24 the long hours and two people that have worked
25 side by side with me on putting this together over

1 many many weekends that we've been devoted to
2 this, two Advisors, Laurie tenHope and Diana
3 Schwyzer who have been critical and instrumental
4 in getting this document out; last night at least
5 finalized anyway, and for the many many months and
6 evenings and weekends they devoted to this
7 project.

8 So, with that, just for a little
9 background. As most of you are aware we are
10 producing recommendations, and I want to
11 underscore recommendations, to the Air Resources
12 Board. Because at this point in time we do not
13 know how the Air Resources Board is going to use
14 the input that we're providing. But we're
15 certainly going to be working with them in a
16 collaborative manner to insure that many of our
17 recommendations get serious attention in their
18 rulemaking proceeding that will soon follow the
19 adoption of the scoping plan in December.

20 Where we are today, of course, has been
21 built on a very lengthy and strong record. For
22 many of you, over 65 stakeholders have
23 participated in this forum which led to the March
24 2008 interim opinion, as well as what we delivered
25 last month. And then ultimately to what we're

1 going to share with you today.

2 Some of the recommendations, of course,
3 is that regulatory requirements are going to be
4 the foundation for achieving both our short-term
5 and long-term greenhouse gas emission reduction
6 goals.

7 And that we see the complementary
8 efforts of incorporating a market approach, or
9 what we refer to as a cap-and-trade program as
10 essential for achieving these long-term
11 reductions. And that is why we are recommending,
12 as is the Air Resources Board, that we pursue a
13 multi-sector cap-and-trade program.

14 Some of the recommendations are, of
15 course, not net to those of you that did read the
16 September draft or interim opinion, is that again
17 we're going to aggressively pursue all cost
18 effective energy efficiency, expand renewable
19 energy to achieve hopefully a 33 percent goal by
20 2020.

21 And on the subject of emissions
22 allowances and allocations, we are recommending
23 that a portion of those allowances be auction.
24 And that much of the revenue that is gathered and
25 collected from that effort be returned to the

1 customers within those areas where the money was
2 actually generated from.

3 And then also to address long-term or
4 actually near-term low-income bill relief, because
5 of some of the additional costs that may come
6 about as part of this program.

7 Certainly issues that have been raised
8 by many of the stakeholders throughout this
9 proceeding cover the issues of modeling.
10 Certainly we saw a lot of comments, in fact there
11 were 30 sets of comments that we received that
12 focused on the items I have up here in front of
13 you today on the PowerPoint.

14 We received a lot of comments and
15 questions regarding the key input assumptions that
16 went into the model that was used for assessing
17 the various policy options that we were looking
18 at, whether it be 33 percent renewables, 20
19 percent, or another alternative such as an
20 expanded natural gas-fired generation a
21 possibility. So, as a result we did receive a lot
22 of comments on that.

23 Also the distribution of emissions
24 allowances and a cap-and-trade generated a lot of
25 comment, as well as concern. And then we also

1 addressed what the potential opportunities were
2 for capturing greenhouse gas reductions through
3 expanded use of combined heat and power.

4 And then also we commented on some of
5 the market design of flexible compliance items
6 that ARB should consider as they develop an
7 overall market approach to reducing greenhouse gas
8 emissions.

9 Some of the basic comments, I'm not
10 going to go over this, but you know, energy
11 efficiency is the top of our loading order, and
12 the most cost effective strategy for reducing
13 greenhouse gas emissions. Both Commissions will
14 be pursuing that in an aggressive way, working in
15 tandem and collaboratively with the investor-owned
16 utilities and publicly owned utilities.

17 And moreover, renewable energy we see as
18 the stepping stone for achieving our longer term
19 goals out to 2050.

20 And as we look at the combination of
21 approaches we're recommending, we see cap-and-
22 trade as a backstop or a complementary means of
23 providing auctions for achieving further
24 greenhouse gas reductions, particularly if we
25 don't achieve all of our goals with the market or

1 regulatory approaches we're pursuing.

2 Of course, we have to also acknowledge
3 that there will be cost impacts. And there was
4 quite a bit of extensive modeling that was done by
5 E3 consultants down at the California Public
6 Utilities Commission. And we were also very much
7 concerned about those cost impacts and how we'd
8 minimize them over time.

9 We realize there's still a lot of
10 additional work that will need to be done down the
11 road, because for one thing, when we put this
12 together we did not have the full benefits or
13 appreciation for the Western Climate Initiatives
14 document that came out after our September report,
15 and somewhere down the road we're going to need to
16 fully assess and evaluate a regionwide multisector
17 cap-and-trade program.

18 But overall I think one of the things
19 that was interesting is that when we looked at the
20 potential cost of rate increases that may occur, a
21 lot of that is going to be due to the increases in
22 capital cost and the growing demand for
23 electricity which is unrelated to AB-32. And I
24 think that's really important to remember.

25 It's also extremely important that we

1 have programs and policies in place to minimize
2 some of that potential consumer impacts. But at
3 the same time our efforts to pursue energy
4 efficiency in an aggressive manner will, to some
5 extent, offset those increased costs. And
6 ultimately keep consumer bills down.

7 When I refer to new findings, these are
8 areas in the document that I know many of you
9 probably have not read yet. But when you look at
10 the document we released this morning and compare
11 it to the September 12 document, these are areas
12 where we've made some changes to the language to
13 address input that we received on the previous
14 document.

15 And when I say input, I'm talking about
16 the comments that we received from many of you on
17 October 2nd, as well as the reply comments and
18 information you provided us on October 7th. And
19 we did receive additional comments from the
20 Division of Ratepayer Advocates I think it was on
21 October 10th of last week. So that was taken into
22 consideration in putting this together.

23 Certainly the annual reductions and the
24 slope or how fast we achieve those reductions is
25 going to be ultimately dependent on the type of

1 cap-and-trade program that's ultimately designed
2 by ARB if, indeed, we go down that path. So
3 there's going to be additional work that is going
4 to have to be undertaken following this
5 proceeding.

6 Let's see, we also -- one of the big
7 topic areas is the approach for distributing
8 allowances to retail providers. Again, the
9 Commissions are recommending a sales-based
10 approach.

11 However, if more detailed modeling
12 reveals larger distributional impacts than what is
13 currently seen in the comments that have been
14 provided to us, as well as what we've described in
15 the report, itself, then the Commissions have
16 expressed a willingness to revise this
17 recommendation, or suggest the Air Resources Board
18 further explore other opportunities for looking at
19 this issue.

20 So, we've very open and receptive as we
21 move into the ARB's rulemaking process. And I
22 might add it looks like it's going to be a two-
23 year process, so there's ample opportunity to
24 incorporate and adjust and make necessary changes
25 as new information becomes available.

1 We've also concluded that it's
2 reasonable to include emissions associated with
3 all electricity consumed in California and
4 generated by combined heat and power facilities in
5 excess of the thresholds that ARB will ultimately
6 decide.

7 And that it's also reasonable to provide
8 comparable regulatory treatment for all facilities
9 regardless of whether they're delivering
10 electricity to the California grid, or simply
11 serving their onsite needs.

12 And that when it comes to allocating the
13 allowances to entities that deliver combined heat
14 and power to the grid, and for electricity
15 consumed onsite, we are recommending a fuel-
16 differentiated output approach which is described
17 in the report.

18 With respect to some of the allowance
19 allocation, we do believe that we need to get far
20 more information in this area. And, again, that
21 is part of the discovery and information phase and
22 additional input that will come about as a result
23 of the rulemaking process that ARB will be
24 embarking after they adopt the scoping plan.

25 For us it's extremely important. We've

1 been focused on the electricity and natural gas
2 sectors, but we realize that in order to get a
3 complete assessment and fully appreciate and
4 understand the relative cost, we need to know what
5 the costs are for reducing emissions in the other
6 sectors, too. And that will come forward, because
7 as you've seen through the recommendations,
8 whether it be the Western Climate Initiative or
9 with the scoping plan, we're going to be expanding
10 this cap-and-trade to go beyond electricity to
11 incorporate the industrial sector, transportation
12 sectors down the road.

13 Also want to point out for those that
14 are listening in, I forgot to mention at the
15 outset of my presentation, that this is available
16 on the Energy Commission's website. If you're
17 following us, we are on slide 12 right now.

18 As part of looking at allowance
19 allocations, there were some key criteria that we
20 used in evaluating and ultimately arriving at the
21 recommendations we have in this opinion. And that
22 is one, that whatever approach we recommend or
23 suggest, that it minimize cost and provide equity
24 among the various market participants that are out
25 there.

1 And also that it supports a well-
2 functioning market with appropriate price signals.
3 Certainty, as well as predictability, to the
4 extent we can count on that.

5 And then that it also be simple to
6 administer to keep down cost and keep the burdens
7 to a bare minimum so that we don't have a large
8 bureaucracy. And that our overall focus, of
9 course, and ultimate goal is to focus on the
10 overall goals of Assembly bill 32 and not lose
11 sight of our overall efforts to reduce greenhouse
12 gas emissions.

13 Initially what we're recommending right
14 now is on the allowances is that we begin with 20
15 percent allowances auctioned. Eighty percent of
16 that would be distributed to deliverers. And then
17 eventually ramp up to 100 percent.

18 The rationale for that was that we
19 recognize that the capital investments that your
20 industry is going to have to make are huge, and
21 take many years. And for that reason we didn't
22 want to jump or recommend right upfront going into
23 100 percent auction.

24 Also that free allowances would be
25 allocated to deliverers based on the energy

1 output, as well as the fuel source of electricity.
2 And that if emitters reduce carbon content of
3 their power, allowances can be sold.

4 Again, allowances for the auction
5 granted to the electricity retail providers are on
6 behalf of their customers. We also feel it's
7 important that they be required to sell allowances
8 in an independent centralized auction that could
9 either be run by the Air Resources Board; or if
10 they deemed appropriate, by an alternative
11 independent agent anyway. And I'm sure that's
12 going to generate more discussion as we move into
13 the ARB proceeding.

14 And then allowance allocations to change
15 over time based on the historical portfolio of
16 emissions, and ultimately moving in the direction
17 of a sales basis by 2020. Those are some of the
18 key recommendations here.

19 With respect to auction revenue, a huge
20 issue that many of you did comment on. And I
21 think we're all in line with the concerns as to
22 money that originates in the electricity sector be
23 returned to the electric generation sector.

24 And for that reason we want to
25 underscore that the auction revenues be used

1 specifically for AB-32 purposes to support
2 investments and expanded renewable energy, as well
3 as energy efficiency programs, as well as new
4 energy technologies. And equally important, the
5 infrastructure to accommodate the expansion of our
6 electric system, whether that be transmission or
7 distribution.

8 And for the publicly owned utilities --
9 actually what I should say, the Public Utilities
10 Commission, of course, would have authority for
11 the investor-owned utilities, and, of course, your
12 governing boards for the publicly owned utilities
13 in deciding how that money is distributed.

14 And then we've also recommended -- we
15 being the Public Utilities Commission and the
16 Energy Commission, that a small portion of those
17 allowances would be -- auction revenues be used
18 for statewide energy sector programs that would
19 have to be complement and support AB-32.

20 It's fundamentally important that this
21 money be used for AB-32 purposes. And we
22 underscore that throughout the document and
23 through our recommendations.

24 Treatment of combined heat and power.
25 You know, for projects that are larger than what

1 the ARB specifies as the minimum for qualifying in
2 terms of their regulations, that we felt that
3 greenhouse gas emissions consumed onsite or
4 delivered to the grid be included in a regional
5 cap-and-trade program. And receive allowance
6 allocations consistent with others that are
7 participating in this sector.

8 But we also recommend and acknowledge
9 the fact that there's additional work that needs
10 to be done in this area to identify the type and
11 size of combined heat and power projects that
12 should receive encouragement, whether it be
13 through additional incentives or other mechanisms,
14 to expand, so that we can capture additional
15 potential, I should say greenhouse gas reductions.

16 And, again, the Commissions have agreed
17 to work together to develop the key rules
18 programs, as well as any policies that might need
19 to be developed to achieve those goals.

20 With respect to market design, the
21 flexible compliance issues, this is going to be
22 very important that whatever we ultimately come up
23 with, that we maintain the environmental integrity
24 or the objectives of AB-32, and not lose sight of
25 our goals to achieve greenhouse gas reductions.

1 Because of the very unique nature of the
2 electric utility industry and changes in load,
3 whether they be from weather or hydrologic
4 conditions, we believe it's extremely important
5 that we have a great deal of flexibility and
6 options for the industry to pursue in a cap-and-
7 trade program.

8 And moreover, that whatever we
9 ultimately decide on in working with the Air
10 Resources Board, that it be an open and
11 transparent trading system that involves as many
12 trading partners as possible to hopefully insure
13 that the market is not gamed by a select few. I
14 think it's very important to have as many
15 participants involved.

16 And we believe by adding greater
17 flexibility to the system that this can put
18 downward pressure on overall costs.

19 As I noted earlier, we do support a
20 multisector regional cap-and-trade market with no
21 restrictions on market participation, and links to
22 other equally stringent cap-and-trade programs.

23 And what I mean by equally stringent
24 programs is in other regions and states we want to
25 make sure that they meet the fundamental

1 thresholds as outlined in Assembly bill 32.

2 We're also recommending three-year
3 compliance periods to give industry, you know,
4 sufficient time to transform to this lower carbon
5 or no-carbon market. Because we recognize there's
6 going to be tremendous cost associated with this,
7 as well as significant time to make the capital
8 investments.

9 We're not recommending any safety valve,
10 price triggers, mechanisms that would kick in if a
11 certain price level were achieved, at this moment.
12 Also suggesting that ARB look at unlimited banking
13 of emissions allowances, as well as offsets.

14 But on the issue of offsets, that they
15 should meet the requirements of AB-32, and not
16 just be limited to California. So we're looking
17 at potential offsets that go beyond the region,
18 and perhaps the country.

19 And, again, we have committed jointly to
20 working with ARB to tackle these issues and to
21 come forward with recommendations, as well as
22 support them with our analysis and expertise that
23 the Public Utilities Commission and Energy
24 Commission have.

25 Now, as part of this overall opinion,

1 one of the things that we recognized as we were
2 putting this document together is that there are a
3 lot of changes that are occurring out there in the
4 world and in the market.

5 As I mentioned earlier, the Western
6 Climate Initiative group has put out their draft
7 recommendations. We need to fully appreciate and
8 understand what they're doing, as well as there's
9 going to be additional work coming forward as they
10 fine-tune their recommendations.

11 And at this point in time we also don't
12 know what the implications of the global financial
13 situation might be, and will that have any bearing
14 on what we do here. But it will certainly need to
15 be addressed.

16 So here's a number of issues that we're
17 recommending that we further explore as we work
18 with ARB in crafting the regulations for achieving
19 the AB-32 goals.

20 And that is to look at the impacts of a
21 longer or shorter phase-in periods on the
22 emissions allowances. It sets implications for,
23 you know, revenue transfers and so forth. Also,
24 adjustments to the sales-based allowances for
25 noncarbon-emitting resources that several of you

1 commented on extensively. And, again, it had a
2 lot to do with potential wealth transfers between
3 different entities. And we're sensitive to those
4 issues.

5 And also, market and regulatory barriers
6 for combined heat and power. Both California
7 Public Utilities Commission and the Energy
8 Commission will be pursuing that in an aggressive
9 manner here to identify what those barriers are
10 and recommend ways to overcoming the barriers so
11 that we can capture quality combined heat and
12 power.

13 And then also the potential impacts on
14 electric sector allowance allocations for the
15 electrification in other sectors. And in
16 particular, just to give you one example,
17 transportation. What impact will that have
18 particularly in a multisector cap-and-trade
19 program.

20 And then also the natural gas sector
21 contributions to greenhouse gas reductions. And
22 potential of increased natural gas use in
23 transportation. Those will all have to be
24 addressed in this part of the overall
25 recommendations, you know, the natural gas sector

1 is also being recommended for part of the cap-and-
2 trade program.

3 And then the overall calculations. And
4 I don't want to get into the technical aspects of
5 this. The weighting factors for some of the
6 approaches for distributing, and the allowance
7 allocations to deliverers will require some
8 additional analysis and review.

9 And then finally the updates to the
10 deliverer of specific output-based proportions
11 used in the distribution process. How do we treat
12 the new retail providers that may eventually come
13 into this market? That's going to be an issue
14 that requires further analysis.

15 And then also going from the historical
16 based sales-based allowance allocation, and how
17 steep should that slope be in terms of what we're
18 asking industry, or the pace of which they achieve
19 those reductions will be addressed as part of the
20 next proceeding.

21 And then also the set-aside for
22 voluntary renewable electricity market and those
23 credits, associated credits are a topic of
24 interest and concern. And there's a host of
25 issues associated with those that are being

1 handled in separate proceedings. But will also be
2 a focus of the rulemaking process.

3 And with that, Committee, that's all I
4 have for now.

5 CHAIRPERSON PFANNENSTIEL: Thank you
6 very much, Pat. We're going to open it for public
7 comment. Let me just observe as we do so that we
8 are here because the AB-32 requires that the
9 Energy Commission and the PUC work together to
10 make recommendations for the electric and natural
11 gas sectors to the ARB.

12 And so we have this joint proceeding
13 ongoing for some 18 months or so with the PUC.
14 We've worked in collaboration with them. We have
15 now a series of joint recommendations that if the
16 Energy Commission approves the opinion that the
17 PUC approved this morning, that then we will
18 submit to the ARB for use in their rulemaking.

19 They are, and Pat pointed this out in
20 one of his earlier slides, they're the ultimate
21 decisionmakers in this proceeding. Ours is a role
22 of providing technical expertise, which we have
23 done.

24 We did it based on some very good
25 analysis and a lot of staff work and deliberation.

1 And we pointed out throughout this decision, and
2 Pat pointed out in his slides, we recognize that
3 there's more work to be done. And we're
4 committing to working with the ARB, as necessary,
5 to resolve the issues in front of us.

6 So, while the action today, if we take
7 action today, it will close the proceeding that we
8 opened with the PUC. There will be ongoing work
9 that will feed into the ARB two-year-long
10 rulemaking for implementation.

11 But, with that, let me turn it to the
12 blue cards that I have in front of me.

13 Jim Caldwell, Assistant General Manager
14 of L.A. Department of Water and Power.

15 MR. CALDWELL: Good afternoon,
16 Commissioners. Let me start with what we really
17 like about this proposed opinion. And that is the
18 emphasis on aggressive energy efficiency in the
19 renewable portfolio standard.

20 It was good to see in Pat's
21 presentation, I think, in an early slide where he
22 said that these are the keys for 2050. And I
23 think it's a theme that Commissioner Douglas has
24 been on the stump talking about, is that this is
25 not about 2020, and this is not about the lowest

1 cost of carbon reductions from now to 2020. This
2 is about a longer term, much bigger picture.

3 And to the extent that we do not include
4 and do not focus on energy efficiency measures and
5 renewable portfolio standard measures in these
6 early years in the program, what will happen is
7 that buildings will be built that consume energy,
8 too much energy. That power plants will be built
9 that emit too much greenhouse gases. And we will
10 live with the consequences of that infrastructure
11 investment over the next 10 to 12 years, for a
12 very long time.

13 We're very clear that the infrastructure
14 that causes the carbon emissions today was largely
15 built 40 and 50 years ago. And we will live with
16 the consequences of what we build in the next 12
17 years for at least 40 to 50 years beyond that. Or
18 else we will be in some sort of stranded cost
19 adjustment mode somewhere forever if we do that.

20 So that the emphasis has to be on
21 building things from here on out, building
22 buildings which are as energy efficient as they
23 can, which are energy neutral if we can, as soon
24 as we can. And building as much as we can for
25 things that emit zero carbon.

1 And if anyone believes that this state,
2 that the utilities in this state, or the sector in
3 this state should not be aggressively going for
4 renewables, given the resources that we have in
5 this state, given the wind, given the solar, given
6 the geothermal, world class resources that we
7 have, given the technology that we know how to do
8 today, that we know how to do, that the wind
9 technology works, that the geothermal technology
10 works, isn't going to get any better unless we
11 actually practice it, unless we do it.

12 And, yes, maybe there are some new
13 things in solar that people are talking about now.
14 Ecclesiastes, I believe, had it right in this
15 instance, said, you know, nothing is new under the
16 sun, sayeth the Prophet.

17 But there is fresh money, there is fresh
18 ideas, there is fresh energy involved in the solar
19 business. And they're throwing a lot of things
20 out there on the wall. And as an old fellow with
21 gray hair, who's been in that business for a long
22 time, I don't necessarily believe all that I hear
23 from the new folks that come on, but I do believe
24 that some of that's going to stick. Some of
25 that's going to stick. I don't know which one, but

1 I do know that some of it is going to stick.

2 And so we do have to make those
3 investments now. We, as the utilities in the
4 state, have to make those investments today.

5 And that's what LADWP's plan is really
6 all about. It's an investment plan. It's not a
7 procurement plan, it's not a plan to minimize the
8 cost of carbon between now and 2020. It's an
9 investment for the future. It's an investment for
10 our kids and for our grandkids. And that's what
11 we like about this proposed opinion.

12 Now, you know, anybody who starts a
13 speech like that, saying I'm going to start with
14 what I like, obviously there's the other shoe
15 coming in what is it that we don't like.

16 And what we don't like about the
17 decision, what we don't appreciate about this, is
18 that we think that what you gave at the beginning
19 there, what you gave with that is you took it away
20 with the allowance opinion as to how to distribute
21 the allowances.

22 Because what the sales-based allowance
23 does is it takes the money away from those who
24 have to make the investments, who should be
25 required to make the most investments, who started

1 off, if you will, with the biggest, highest carbon
2 intensity.

3 So you take the money away from them and
4 give it to those who either can't or won't make
5 those investments. You give it to the people who
6 say, we really don't have to do 33 percent because
7 we already gave at the office.

8 You know, we've been doing energy
9 efficiency for a long time. We don't see a lot
10 more. Okay.

11 And you take it away from the people who
12 have these investment plans, who need to make the
13 investment plans. And if you take it away, then
14 who is going to make the investments. Who's going
15 to make the investments to get us out of coal.
16 Who's going to make the investments to build
17 energy efficient buildings in the City of Los
18 Angeles if the money goes somewhere else.

19 And although we appreciate all the
20 caveats that are in the things that Pat talked
21 about, and we appreciate the fact that there is a
22 recommendation there that says that all this money
23 should stay within the electricity sector, I mean
24 who's kidding who.

25 Does anybody who watched the budget

1 process over the past few months believe that they
2 can build a lockbox that's strong enough to keep
3 trust funds that are put up here for a purpose,
4 and keep them, you know, allocated to that
5 purpose?

6 That at the federal level all of the
7 talk now is how do we spend that money. All of a
8 sudden we see this auction revenue as generating.
9 I mean, the numbers at the federal level are like
10 \$100-, \$200-billion a year.

11 And already you're seeing, well, let's
12 see, 15 percent of that should go for deficit
13 reduction; 15 percent should go for healthcare.
14 All very good things to do, but they're not being
15 directed to the investment that they talk.

16 Or they say, all right, how about let's
17 do some -- we have to watch for customer bills.
18 So maybe we ought to rebate some of that to low-
19 income consumers. Well, where do you think the
20 money came from in the first place.

21 You know, Los Angeles Department of
22 Water and Power has a higher percentage of low-
23 income consumers than any utility in the state.
24 And when that money gets transferred from us to
25 somewhere else, it comes from low-income people.

1 It comes from the single mothers in east L.A.

2 And to say that somehow, after all of
3 this stuff, that some of that's going to come back
4 in the form of a rebate, why don't we just leave
5 it where it was. Why don't we just leave it to
6 the people who are charged by the city charter,
7 and by our governing boards, with making the
8 investment decisions for the future.

9 And if we don't make those investments,
10 if somehow we say that we're going to do
11 something, that we're going to reduce carbon
12 emissions by a certain amount, and then we don't,
13 at that point maybe we can talk about enforcement.
14 Maybe we can talk about this.

15 But don't take it away at the beginning
16 so that then we can't do that. Then neither we
17 nor the state can enjoy the benefits of that
18 investment.

19 So we appreciate all the caveats, but we
20 really do believe that some of the flawed modeling
21 topology that we started with, where we started
22 with the view as if we were just one large utility
23 for the whole west, and therefore whatever
24 happened internally, whatever distributional
25 impacts didn't matter. You know, that that was a

1 problem. And that caused us to go down this path.

2 And then the other thing that we think
3 happened is that people's sort of discomfort with
4 the way previous cap-and-trade allowances have
5 been issued, where polluters, if you will, were
6 allocated free emissions in perpetuity, whether
7 they made any changes or not. Or whether they
8 did.

9 That that caused people to jump onto,
10 from the frying pan into the fire. And saying,
11 what we really want to do there, or saying what we
12 wanted to do, was to allocate emissions on the
13 basis of sales, i.e., allocate the emissions on
14 the basis of the legacy investments in the past.

15 And so what we're doing with this
16 allowance allocation measure is subsidizing
17 investments like Hetch-Hetchy. Subsidizing
18 investments like Diablo Canyon. And in perpetuity
19 giving allowances for those investments. And
20 taking them from the people who have to make the
21 investments for the future. And we think that's
22 bad public policy.

23 So, thank you for listening to us. We
24 intend to be in this. And we intend to prosecute
25 this issue as long as we can, because it is

1 something that is fundamental to our future as an
2 institution. And we believe it's fundamental to
3 the success of AB-32.

4 Thank you.

5 CHAIRPERSON PFANNENSTIEL: Thank you,
6 Jim. Norm Pedersen, Southern California Public
7 Power Authority.

8 MR. PEDERSEN: Good afternoon, Chairman
9 Pfannenstiel. Norman Pedersen for the Southern
10 California Public Power Authority. It's certainly
11 a pleasure to be here on this auspicious
12 afternoon.

13 Like Mr. Caldwell, I would like to start
14 by thanking you. I'd like to thank you for some
15 of the very important revisions that are in the
16 revised decision.

17 For example, we applaud the strengthened
18 language in the revised decision about the return
19 of option proceeds to retail providers. As was
20 explained in the opening presentation, if
21 allowances are allocated to retail providers and
22 their option to deliver, is there is a threat that
23 the pot of option revenues that would be created
24 would be raided by people elsewhere in the city.

25 And on page 16 and elsewhere in the

1 revised decision, there's an explicit
2 recommendation to ARB that the ARB adopt
3 safeguards to assure that auction proceeds go back
4 to retail providers. We agree with that.

5 Also, there is several places in the
6 decision, a reference to a new provision under
7 which retail providers that are also deliverers
8 that had to, as deliverers, buy allowances, say,
9 through the auction, they would only have to
10 pay -- those retail providers who are also
11 deliverers would only have to pay the net
12 difference between what they had bid into the
13 auction and the auction proceeds they would be
14 getting back from the auction.

15 That's another measure that would assure
16 that the auction proceeds would actually go back
17 to retail providers.

18 However, in our view the most important
19 revision in the revised PD is actually on page 5.
20 And actually, similar language appears elsewhere.
21 And that language indicates that the PD -- the
22 decision is not a static document. And it goes
23 on, the two Commissions will continue to analyze
24 collaboratively the issues related to AB-32, and
25 as further information becomes available, we will

1 assess whether any of the recommendations included
2 herein should change. We will provide further
3 recommendations at ARB as appropriate as this
4 implementation process proceeds.

5 We believe that there are several
6 provisions in the decision that do need to be
7 further examined and further analyzed. A cardinal
8 example, in our view, is actually the provision
9 that is now at page 211 of the decision. Used to
10 be on page 210.

11 This is the provision that rejects the
12 CEC and the PUC Staffs' suggestion that was
13 included in the staff paper, that if allowances
14 are allocated among retail providers on a sales
15 basis, among retail providers, then the allocation
16 should, as the staff put it, should be on a net
17 load approach, or net sales approach. In other
18 words, there should be an exclusion of an
19 allocation to sales that are supported by big
20 hydroelectric or nuclear generation.

21 We thought the staff had it right when
22 they made that suggestion. First, in our view,
23 there is absolutely no need to allocate allowances
24 to sales supported by big hydroelectric or nuclear
25 resources. There are no emissions.

1 Secondly, we thought that the
2 allowances, we thought the argument that
3 allowances should be given to big hydroelectric
4 and nuclear resources to reward those resources as
5 constituting early action just didn't make sense.
6 We thought it just could not make sense to say
7 that dams built on the American River in the 19th
8 century, that nuclear projects built early in the
9 20th century constituted early action.

10 And actually, the ARB's agreed with
11 that. They've defined early action as it appears
12 in AB-32. And they've defined it as actions
13 between when AB-32 became effective January 1,
14 2007, and when regulations, the ARB's regulations,
15 take effect January 1, 2012. And actually there's
16 language in the revised decision that reflects
17 that ARB determination.

18 Well, if those two arguments aren't
19 appropriate grounds for adopting gross sales, as
20 opposed to net sales, as a basis for allocating
21 allowance among retail providers, what could be
22 the rationale, in the PD there is -- in the
23 decision there is still some language that
24 provides an additional argument. The decision
25 would state: We conclude that a transition to

1 allowance allocations made in proportion to
2 unadjusted sales by 2020 would strong incentives
3 for increased reliance on all low- and nonemitting
4 resources, including legacy generation.

5 We look at that and we wonder what kind
6 of incentive is needed. First of all, we've got
7 the declining cap. That's supposed to provide an
8 incentive to install renewables. And on top of
9 that, if that doesn't work, we've got a command
10 and control 33 percent RPS. So it looks like
11 we've kind of got new renewables covered.

12 What about the legacy hydro and nuclear
13 resources that are mentioned in the PD? How are
14 we supposed to get access to that? I don't find
15 any provision in the decision that is telling the
16 utilities that do have access to the zero emitting
17 legacy resources that they're supposed to make
18 those available to southern California utilities
19 that don't have them available to them now.

20 The people who have them are going to
21 keep them, and we aren't going to be able to get
22 access to them regardless of what kind of
23 incentive is provided through the gross-sales
24 approach.

25 Now, apparently recognizing the problem

1 with the one argument that's presented in the PD
2 for why the gross-sales approach should be
3 adopted, this morning President Peevey pointed to
4 figure 5-10, with which I'm sure you're familiar,
5 in the PD, that shows that the impact on LADWP and
6 the southern California utilities of adopting the
7 gross-sales approach, and the overall allowance
8 allocation methodology that's recommended in the
9 PD, would have, as President Peevey put it, only a
10 4-6-8 mills per kilowatt hour impact.

11 Well, what kind of argument is that? Is
12 it okay to mug someone if you only take \$20? Is
13 it okay to rob a liquor store if you only take
14 \$100? That, to us, does not seem to be the right
15 criteria, the amount that is actually taken. And,
16 of course, in this instance there would be a
17 wealth transfer. And the wealth transfer would be
18 substantial.

19 In LADWP's opening comments on the
20 decision they, assuming \$100 a ton, quantified the
21 wealth transfer as being approximately \$4.8
22 billion. If you want to assume \$30 a ton, it
23 would be a lot less, but it would still be about
24 \$1.5 billion.

25 As Mr. Caldwell explained, the utilities

1 in southern California need that money in their
2 service territory.

3 And so we think that the rejection of
4 the net-load approach, the staff's proposed net-
5 load approach, is an example of a provision in the
6 decision that does need further examination. And
7 we would hope you would be open to that as we go
8 forward.

9 In our comments we raised a number of
10 other ones, safety valve. I won't go into all of
11 them that we raised. But certainly the rejection
12 of the net-load approach is a cardinal example.

13 We applaud your determination that this
14 should not be a static document. And we hope you
15 will entertain our suggestions for revisions in
16 the future. And thank you for the opportunity to
17 be here today.

18 CHAIRPERSON PFANNENSTIEL: Thank you,
19 Mr. Pedersen. I'm incredibly impressed that you
20 have gone through this entire document, it sounds
21 like, from the time it was first posted. Good
22 job.

23 MR. PEDERSEN: Went through every word.

24 CHAIRPERSON PFANNENSTIEL: We do
25 appreciate your comments.

1 MR. PEDERSEN: Thank you.

2 CHAIRPERSON PFANNENSTIEL: Bud Beebe,
3 Regulatory Affairs Coordinator from SMUD.

4 MR. BEEBE: Good afternoon,
5 Commissioners. My name is Bud Beebe; I'm with the
6 Sacramento Municipal Utility District.

7 This is momentous. You know, it's an
8 incredible feat that the joint Commissions have
9 done on this. You've worked very closely
10 together, combining your technical talents here
11 and your understanding of the publicly owned
12 utilities, with the efforts of the Public
13 Utilities Commission over in San Francisco has.
14 And I think that's remarkable.

15 Here we are at a big decision point.
16 And is this going to end with a bang or a whimper?
17 I think not. I think it all just sort of is this
18 big sigh of resignation that we have a lot of work
19 in front of us.

20 That's important, and you have clearly
21 indicated in this decision that there is a lot of
22 work ahead of us. That said, still there's many
23 things that are important in what is going to
24 become sort of this basecamp that's established by
25 these decisions.

1 And I think that SMUD supports the
2 overall work, though we do have some reservations,
3 as all of us must, going forward with a great deal
4 of uncertainty.

5 SMUD was a big supporter of AB-32 at its
6 very beginning. We believe that it's the right
7 course for California, and this decision is a
8 balanced and well-considered set for the electric
9 utility sector. It remains to be seen how well
10 this all fits with a multisector approach. It
11 remains to be seen how California fits within the
12 large Western Climate Initiative. It remains to
13 be seen how California fits within a federal or an
14 international assessment and policies regarding
15 these same issues.

16 And it's in that context that I think
17 I'd like to make an item. And that is that it's
18 important that this work really stands not only as
19 a recommendation to the ARB, but it is also a
20 decision that decisionmakers in jurisdictions
21 outside of California, which includes the federal
22 government, will take into consideration as they
23 look forward to what they feel they have to do on
24 this very important societal subject.

25 And so as we think in California of what

1 we should do here, we want to recommend that you
2 not only look at what happens when we look only
3 from an internal California structure, but also as
4 California must ultimately look to other
5 jurisdictions outside of itself.

6 California has a very very clean and low
7 greenhouse gas resource mix for its generation of
8 electricity. And in federal resource plans we
9 could be disadvantaged if we gave too much in
10 policy to people who are high emitters.

11 On the other hand, we have to be careful
12 to conserve our resources and to use them for the
13 best possible evolution to a low-carbon future.
14 What you've attempted here, I think, genuinely has
15 attempted to do exactly that. And to the extent
16 that the ultimate world works out the way we have
17 set up in this scenario I think this will be a
18 very nice plan.

19 But, there are major contingencies that
20 have to be considered. Three of those things we
21 think are worthy of specific mention. One is that
22 the allocation methodology associated with
23 allowances to be auctioned works well as a
24 balancing medium within the confines of our
25 assumed availability of allowances to the State of

1 California.

2 But given the relative upset of overall
3 relationships between California and other
4 jurisdictions, I'm not saying things are in
5 turmoil or anything, but there's just nothing set
6 there yet. And so putting auctioning as far
7 forward in the whole process as you have, starting
8 with a 20 percent and going to 100 percent within
9 four years, means that it places a great deal of
10 burden on how well the allocation methodology
11 associated with those auction allowances really
12 pans out.

13 And SMUD sees potential difficulties in
14 doing that. And unnecessary, because the fuel
15 differentiated output-based allowance allocation
16 methodology, which you've accepted for the non-
17 auctioned allowances, performs many of the same
18 balancing requirements that you get from the
19 methodology that you proposed for your auctioned
20 allowances. And so we don't see the need to go to
21 an auction as quickly and as heavily as you've
22 indicated here.

23 That said, we would -- the fuel
24 differentiated output-based allocation analysis,
25 itself, still has not been fully tested with

1 analyses and with stakeholder input.

2 So, however we go in this, we have a
3 long road. We would appreciate additional
4 cautions as we go down the road to both look
5 clearly, from an analytical standpoint, at what
6 the fuel differentiated output-based allocation
7 methodology can do for us vis-a-vis the
8 methodologies that you've recommended within the
9 auctioned allowances.

10 And also just to realize overall how
11 California fares in its relationships with other
12 jurisdictions is a key point in this.

13 The second point I'd like to
14 specifically mention is that the reliability of
15 the electricity grid is, of course, of paramount
16 importance to California decisionmakers, to this
17 body, to the PUC, and certainly, certainly to
18 those of us who have to deal with it every single
19 day in putting together our resource plans.

20 We know that the decision in March noted
21 that electricity grid reliability is a very
22 important consideration in all that you do.
23 However, we did not see, within these specific
24 analyses that are the backbone for this decision,
25 a specific look at how the market-based

1 methodologies for allowance allocation and the
2 effects on market, how those overall effects might
3 affect grid reliability.

4 And we would really like to have grid
5 reliability become a specific criterion in
6 consideration by the ARB and by these Boards as we
7 do additional analyses on market-based
8 methodologies.

9 And lastly, we all try to figure out
10 just how it is that we can get early actions
11 going. Everybody says that early action's got to
12 be like an important part of this thing. But
13 until we start to identify specific programs that
14 might be accessible to communities and to others
15 that could be used, say, as offsets, then there
16 will be a great reluctance from the people who
17 could make a difference in early actions in
18 actually following through and beginning their
19 programs.

20 So, we would like to see a bit more
21 evidence of specific programs within the offset
22 structure that could be given credits in the very
23 earliest days of this process.

24 So, those are my three items and a
25 general commendation for this body and also for

1 the PUC for working together so well, and for
2 listening to our comments, as well.

3 Thank you very much.

4 CHAIRPERSON PFANNENSTIEL: Thank you,
5 Mr. Beebe.

6 Mark Krause, PG&E.

7 MR. KRAUSE: Madam Chair and
8 Commissioners, I guess I'll start off with 18
9 months. It's pretty ominous to think that you
10 spend 18 months doing anything. But I think it
11 actually kind of understates the work that staff
12 and the Commission has done.

13 Just one quick story. About three weeks
14 ago I asked for a meeting with staff, any staff
15 that would hear us, for the joint IOUs, all three,
16 to come and talk and sort of kick ideas around.
17 And I think we got three email responses.

18 I was a little worried we were going to
19 have more folks on the IOU side than from the
20 agency. Turned out 20 people, 20 staff showed up.
21 And they had questions and they had issues they
22 wanted to talk about. And that was, you know,
23 three weeks. I mean it's been a long, long time
24 and they kept up the marathon. And apparently
25 it's a marathon that's not quite over.

1 We want to start by saying we're very
2 supportive of the decision in the way that it
3 tracks the loading order, and particularly its
4 commitment to all achievable energy efficiency.
5 That's an area which PG&E has a proven track
6 record, and will continue to work on.

7 We're pleased to see the first deliverer
8 system, that model included from the very outset.
9 And encouraged by the efforts of cost control
10 provided by multiyear compliance period.
11 Unlimited offsets, and allowance banking.

12 We will continue through the ARB, and
13 with you and the PUC, to work toward additional
14 measures for cost control and those market
15 volatility issues.

16 We're pleased to see that the final
17 recommendation acknowledges that additional
18 modeling will be needed and that market design
19 elements may be needed and adjusted to reflect the
20 results of those efforts.

21 Most importantly we believe that the
22 decision hits square on the marketing objective of
23 insuring environmental integrity.

24 And I guess that's about it. We really
25 were glad to see that the Commissions both are

1 going to be involved as we move over to the ARB.
2 And thank you very much for all your work.

3 CHAIRPERSON PFANNENSTIEL: Thank you,
4 Mark.

5 Are there others who would like to
6 address us on this decision? Yes, please come
7 forward.

8 MR. MILLER: Taylor Miller with Sempra
9 Energy speaking on behalf primarily of Sempra
10 Energy Utilities this afternoon,

11 Just a quick comment in support in
12 general of the proposed final decision. And also
13 an acknowledgement of the amazing amount of work
14 that went into this on the part of the staffs of
15 both agencies. And I'd just echo those comments
16 of Mark Krause from PG&E on that topic.

17 We would just emphasize a couple of
18 points. And, first, the need, which is reflected,
19 as has been noted, in the final decision to treat
20 these recommendations, to some degree, as
21 conditional upon additional analysis going forward
22 concerning the economic effects of the measures
23 and the technical feasibility.

24 I think it's generally recognized that
25 all those analyses are not done. For example,

1 there is no economic modeling, as yet, of the
2 fuel-based output-based allocation as proposed in
3 the decision. That analysis is going on right
4 now, I believe.

5 I'm sure there'll be others. As you
6 well know, the ARB's attempt to use the energy
7 2020 modeling to evaluate the impacts of proposed
8 alternatives on an intra-sectoral basis is not yet
9 done.

10 So, we'll have, as has been stated, a
11 couple of years at least, going forward. But we
12 would just emphasize the need to treat the
13 analysis as preliminary essentially.

14 Finally, regarding the issue of the
15 sales-based allocation, we're in general support
16 of a sales-based allocation on behalf of Sempra.
17 However, the concern with the decision to, it
18 seems, and I have to confess I haven't read the
19 brand new one this morning, as Norm has managed to
20 do somehow --

21 (Laughter.)

22 MR. MILLER: -- but I don't believe it's
23 been changed. Perhaps it has. The initial
24 allocations are emissions based. And the decision
25 only proposes transitioning to a sales-based late

1 in the period.

2 So it seems that that concern is largely
3 addressed. And also a fuel-based sales allocation
4 also accounts for differences in emissions based
5 on fuel. So I don't think that -- it seems to be
6 a reasonable balancing of those interests to us.

7 In fact, of course, as everybody would
8 like to have their position adopted a hundred
9 percent, in which case we would prefer a sales-
10 based type allocation at the outset.

11 So, I won't take any more of your time.
12 Thank you very much.

13 CHAIRPERSON PFANNENSTIEL: Thank you.
14 Other public comment?

15 MR. RATHKE: Good afternoon. My name is
16 Justin Rathke; I'm with Capstone Turbine
17 Corporation. We're the world leader in low-
18 emission micro --

19 COMMISSIONER ROSENFELD: Justin, can you
20 push the mike up a little bit?

21 MR. RATHKE: I'm sorry. My name is
22 Justin Rathke with Capstone Turbine Corporation.
23 We make microturbines that are put in combined
24 heat and power systems.

25 Many references were made in the

1 document to looking into the unique issues
2 associated with CHP. We understand that the PUC
3 and perhaps the Energy Commission, as well, will
4 open a separate proceeding related to CHP.

5 To my knowledge I haven't seen any
6 details on that. But I'd like to express on
7 behalf of Capstone and, you know, we sit on the
8 California Clean Distributed Generation Coalition.
9 You know, we look forward to working with the
10 Commissions.

11 And really, you know, it's a very
12 complex issue, how to treat CHP within the context
13 of a cap-and-trade, and how to deal with some of
14 the barriers that are truly standing in the way
15 of, you know, reaching the goals that have been
16 set by AB-32 and the scoping plan.

17 So, I would just, you know, like to
18 commend you, and express our interest in working
19 with you in the future.

20 Thank you.

21 CHAIRPERSON PFANNENSTIEL: Thank you for
22 being here.

23 Other comments? Public comment?
24 Comments from the dais? Commissioner Rosenfeld.

25 COMMISSIONER ROSENFELD: I'll pass.

1 CHAIRPERSON PFANNENSTIEL: Commissioner
2 Douglas.

3 COMMISSIONER ROSENFELD: I'll pass
4 because I'm very happy with energy efficiency
5 comes first.

6 (Laughter.)

7 CHAIRPERSON PFANNENSTIEL: Commissioner
8 Douglas.

9 COMMISSIONER DOUGLAS: Thank you, I do
10 have some brief comments.

11 COMMISSIONER DOUGLAS: I also think that
12 this decision provides a very important starting
13 point for thinking about how to achieve our
14 climate goals in the electricity sector.

15 I also particularly like that it puts
16 energy efficiency first, and renewables, a close
17 second, in my mind. We really really have to
18 achieve our energy efficiency and renewables goals
19 to get where we need to go. Not only in 2020, but
20 very much in 2050.

21 The decision also essentially proposes a
22 phase-in to cap-and-trade with -- in a cap-and-
23 trade system which, itself, transitions from a
24 system that accommodates the reality of the very
25 different starting points of so many parties in

1 this industry. And transitions towards a system
2 that increasingly rewards the cleanest and the
3 least-polluting generation. And so directionally
4 that's absolutely how we need to go.

5 I have a few observations about the
6 allocation question, which, of course, was the
7 focus of most of the public comment and much of
8 the analytical work that has gone into this
9 proceeding.

10 Cap-and-trade theory, itself, has a very
11 compelling logic to it. And it makes a lot of
12 sense to think about putting a price on something
13 that we want less of. And creating essentially
14 market incentives at every stage of the decision
15 process to, in fact, produce less of this thing.
16 And look for cleaner alternatives. And look for
17 the most cost effective cleaner alternatives. So
18 there's very strong compelling logic to the cap-
19 and-trade theory.

20 What we have certainly found, what I
21 think everyone in this room at this point
22 recognizes, after this proceeding, is that
23 applying this theory to a real industry sector in
24 the real world with historical and geographic and
25 other circumstances that we were just faced with

1 is messy. And there's probably no better way to
2 put it.

3 It's challenging. The stakes are high.
4 It matters a lot to people through the state. It
5 very well could impact the ability of some
6 entities. And it's hard to predict which ones,
7 even, at this point, to make the needed
8 investments that we really want to see in energy
9 efficiency and renewables.

10 And for all of these reasons the Energy
11 Commission and the PUC have strong language in
12 this decision about the need for really good
13 information; about the need to come back, if
14 needed, and look again at what we've proposed
15 based on better information that we expect will
16 come forward in the next couple of years.

17 The methodology of the decision, in some
18 ways, underscores the challenges of coming up with
19 an allocation scheme. What we essentially do in
20 this decision is look at our existing electricity
21 sector and model the results, model to the best of
22 our ability the results of different timelines,
23 different allocation schemes on that sector. And
24 assess those results against some policy goals
25 that we set out upfront and that have been

1 constant throughout much of this proceeding.

2 And the PUC has already voted, and we
3 propose, in this decision that is before us now,
4 to say that the allocation scheme that we've put
5 in the decision is to reasonably achieve these
6 goals based on what we know. And we need to know
7 more; we need to analyze this more.

8 But as a starting point, it seems like
9 it basically works. And I think that's the best
10 anyone can do at this point in time.

11 I'd also want to make the point, and
12 this very much comes to what Mr. Beebe said in his
13 comments, that, in part, because of this
14 methodology the actual allocation scheme that we
15 propose could have very different results if it
16 were applied to a multisector cap-and-trade
17 system, depending on how that is set up. Or a WCI
18 system, depending on how that works. Or a
19 national system.

20 And so, again, taking our recommendation
21 in isolation without really going through the
22 exercise of saying, well, how does this work when
23 it's applied to this actual system that's before
24 us, could lead to results that would make us, I
25 think, want to re-examine our formula.

1 So, again, I just want to underscore
2 that that is the methodology, and that is -- we're
3 giving ARB the best we have based on what we know.
4 But there's a lot still that we don't know.

5 I wanted to briefly address Mr.
6 Pedersen's comment on net sales. I actually
7 happen to agree with you, Mr. Pedersen, that
8 providing allowances in an auction for legacy
9 nuclear and hydroelectric generation isn't needed
10 to insure that there is an incentive to continue
11 running those resources.

12 I think the incentive to run those
13 resources lies in the fact that they exist, that
14 they've been ratebased, they've been largely paid
15 off in many cases with the existence of a cap-and-
16 trade system. These resources provide those who
17 are lucky enough to have them with a lower carbon
18 intensity that helps them, even if they don't get
19 allowances that they can sell for in the allowance
20 market.

21 Now, that said, I don't agree with you
22 that therefore having the recommendation the way
23 it is means that somehow you were robbed. And I
24 think I want to put it a slightly different way
25 from the way you put it.

1 We recommend that in the beginning we
2 start out with essentially historical basis, and
3 we transition to this net-sales basis. And in the
4 beginning entities with legacy coal resources will
5 be seeing some benefit from the coal resources.
6 And towards the end, under this recommendation,
7 entities with the legacy hydro and nuclear will
8 see some benefit from that.

9 And there's nothing pure whatsoever
10 about that recommendation. One could poke holes
11 at it on both ends, and certainly people will.

12 I think the key is does the math work
13 out in such a way that the result is reasonable.
14 And what this decision before us says very clearly
15 is if it does not we should revisit this
16 recommendation. I think that's true of other
17 recommendations, as well.

18 I will just conclude by moving off of
19 cap-and-trade. And I think sometimes in this
20 proceeding, in particular, the temptation is to
21 take up all of our air time on cap-and-trade, but
22 this Commission -- you know, our core work is in
23 energy efficiency and renewables, and insuring a
24 smoothly functioning, reliable, well-planned
25 electricity system with all of the good hard work

1 of policy analysis that goes behind it.

2 So, we're very much committed to that.
3 We hope that everyone who has been reading every
4 word of our greenhouse gas allocation documents
5 participates with the same level of energy in our
6 efforts to meet our energy efficiency and
7 renewables goals. We certainly will provide the
8 same energy and more towards our efforts to meet
9 those goals.

10 CHAIRPERSON PFANNENSTIEL: Now, my
11 partner on the AB-32 Committee, Commissioner
12 Byron.

13 COMMISSIONER BYRON: Thank you, Madam
14 Chairman. It's certainly been enjoyable working
15 with you on this. And I commend your leadership.
16 You've been as unflappable as one of the
17 candidates in the Obama-McCain debates.

18 (Laughter.)

19 COMMISSIONER BYRON: You know, I've also
20 noticed during this process that the PUC and the
21 Energy Commission do things differently. The do
22 proposed decisions, we tend to do recommendations.
23 They have assigned Commissioners, we have
24 Committees. They regulate monopolies, we try and
25 take a broader view towards all the energy service

1 providers in the state.

2 We have different roles and
3 responsibilities, but in this case we have a
4 common goal that we've been working on. And I
5 think that both Commissions have been very
6 effective.

7 And for the last 18 months, as others
8 have pointed out, we've been working
9 collaboratively on this joint proceeding to make a
10 recommendation to the Air Resources Board on how
11 to reduce greenhouse gases for the electric
12 sector.

13 This has been extraordinary on many
14 levels. This is a big deal. I really am
15 impressed how the Commissions have cooperated at
16 all levels. We've been charting unexplored new
17 waters here is what we've been doing for the state
18 in trying to provide this leadership on this key
19 issue.

20 And there were a lot of accolades that
21 were handed out this morning by my colleagues at
22 the PUC for the efforts on behalf of staff. I'd
23 like to pay certain attention to the stakeholders.
24 Their involvement and attention to detail, I
25 think, has been extraordinary. And I assume that

1 many of you are here today because you couldn't
2 comment at the PUC, because you're parties. And
3 we're glad to have you.

4 Our rules are different, as you know,
5 and we really welcome the input. In fact, I met
6 with many of you in recent days, and I'd like to
7 commend you all for your very thoughtful and
8 measured input. It's been very helpful, and
9 difficult at the same time.

10 And I also acknowledge that some
11 stakeholders have begun and want to take action
12 already. And so we need to really do what we can
13 to provide further assurances that that early
14 action and action taken now will be recognized and
15 counted.

16 Of course, the electric sector is just
17 one piece of a much larger puzzle, as you know. I
18 suspect we have stretched the resources of the
19 stakeholders to the limit. But it's not over.

20 We're going to -- so, I'll just say
21 thank you, but it's not over. We're going to need
22 you at all three agencies going forward. And I
23 think this is really just the beginning. I don't
24 think the 18 months quite covers it.

25 You know, but maybe most extraordinary

1 of all is that remember the foundation of this
2 decision is reliance on the regulatory mandates
3 for an unprecedented commitment to energy
4 efficiency and renewables, as Commissioner Douglas
5 has pointed out.

6 There will be a lot of continued
7 discussion around the market mechanisms. But 100
8 percent economically achievable energy efficiency
9 and 33 percent renewable are new and extraordinary
10 goals for the entire electricity sector. And I
11 credit both Commissions for the work on this.

12 And they've already started, as you
13 know, we're ramping up building standards and
14 appliance standards, the energy efficiency work
15 that goes on, smart-communities, point-of-sale
16 requirements that our Chairman has spearheaded,
17 investor-owned energy efficiency programs. The
18 list goes on. RETI, the Renewable Energy
19 Transmission Initiative to try and begin
20 implementing renewables in a much more substantial
21 way. I could go on. The work has already begun
22 towards these two goals.

23 But, having said all that, what we're
24 voting on today here is not perfect. It is a
25 snapshot. We have a lot of additional work to do,

1 a lot of additional modeling and analysis. And we
2 are open to additional input as we move forward.

3 I'd like to also characterize this
4 recommendation as a trajectory of sorts. We have
5 a complicated mix of changes that we're trying to
6 implement over a period of years to get all the
7 electric providers throughout the state from where
8 they are today to where they need to be, so we can
9 see real, verifiable and fair reductions of
10 greenhouse gases.

11 And I would also say that in that it's
12 not been perfect, it's been difficult at times.
13 I'd like to apologize to the Public Utilities
14 Commission. We're not easy to work with here at
15 the Energy Commission. And I suspect we've driven
16 them crazy at times from our attention to detail,
17 which they might characterize as minutia; all the
18 changes that we've requested and made, which they
19 might characterize as nits.

20 But, you know what, we've agreed on all
21 the basic principles. As President Peevey
22 espoused this morning in their proceeding, we are
23 in complete agreement with the principles and this
24 recommendation as it stands today.

25 I'd like to compliment staff's -- I

1 think the PUC complimented their staff in
2 extraordinary detail, and we really haven't done
3 that. I'm going to just say thank you. But I
4 will call out one, it's a self-serving one that
5 I'll call out, my Advisor Laurie tenHope has been
6 a tremendous assistance to me, and I hope to my
7 fellow Commissioners.

8 And I'd also like to acknowledge that my
9 counterparts at the PUC took this very seriously.
10 I know in my conversations with them, they've
11 taken it as seriously as my colleagues here at the
12 Commission have.

13 I appreciated the thoughtful comments
14 earlier this morning when they voted five-zero to
15 approve this what they call a proposed decision,
16 what I call a recommendation.

17 Now, how doe this all -- what's this all
18 mean in the greater scheme of things? I'd just
19 like to put just a little bit of my own
20 characterization on that. I'd like to make sure
21 that we all acknowledge that despite the law,
22 itself, there's still a great deal of public
23 opposition to the efforts to reduce greenhouse
24 gases, and government intervention in this
25 process.

1 So we have a continued responsibility to
2 work on education, increased awareness; and
3 getting their buy-in is still an important and
4 ongoing aspect of what we must continue to do.

5 Another item in the greater scheme of
6 things might be that we really don't fully know
7 what the future will hold. We're making our best
8 guesses at that, trying to understand markets and
9 responses.

10 But a couple of key issues that come to
11 mind that have been pointed out already, and I
12 apologize for reiterating them. Certainly, how
13 does this fit in the context of the Western
14 Climate Initiative or federal legislation. And
15 what's the impact of the financial crisis on
16 credit markets going forward as Commissioner Bohn
17 pointed out, as well, this morning.

18 You know, and we never fully know the
19 market response, the market manipulation or
20 gaming, as I call it, that Commissioner Grueneich
21 identified this morning. And the unexpected
22 consequences of our actions here. We don't really
23 fully understand how this will all fit into that.

24 But the biggest concern that I've got,
25 and I don't think I've heard this raised yet

1 today. While we continue to focus on greenhouse
2 gas reductions, I'd like to say I don't think we
3 can forget to mind the store.

4 What I mean by that is, of course, all
5 these greenhouse gas reduction programs are right
6 in our kitchen. They are our bread and butter,
7 energy efficiency, renewables, demand response.
8 These are all what we do and we do well.

9 But, you know, we're not going to be
10 able to meet the growing demand for electricity in
11 the state by just implementing these programs to
12 reduce greenhouse gases. Demand growth continues
13 primarily due to population. And, of course, we
14 also want to retire the aging power plants, the
15 less efficient power plants, in the state.

16 We're going to continue to need more
17 nonrenewable power. --

18 COMMISSIONER ROSENFELD: Renewable
19 power.

20 COMMISSIONER BYRON: We're going to
21 continue to need -- that's already part of the
22 mandate.

23 COMMISSIONER ROSENFELD: Oh, sorry --

24 COMMISSIONER BYRON: And I believe we're
25 going to continue to need more --

1 COMMISSIONER ROSENFELD: We need it.

2 COMMISSIONER BYRON: -- nonrenewable
3 power. And right now we're virtually frozen in
4 terms of our ability to site nonrenewable power
5 plants. Even the renewables are in some jeopardy
6 here.

7 And I'll just characterize the issues
8 that I think many of you are aware of. We're
9 being challenged, we're being put on notice that
10 we're going to be challenged to look at greenhouse
11 gases as part of our responsibilities under CEQA.

12 There's an issue in southern California
13 that's pretty significant. We characterize it as
14 the priority reserve. The once-through cooling
15 rules that are coming out. Things that we'd like
16 to do, like electrify the transportation sector.
17 The land use issues that are coming up for large
18 solar projects. Transmission siting to get to
19 those large renewables.

20 And I still put this on the list, as
21 well. I think we have challenges with the
22 electric procurement process that are going to
23 play into all of this.

24 Having said all that, we have some
25 significant challenges in minding the store. And

1 that is we're going to continue to need to build
2 power plants while we reduce greenhouse gases. I
3 don't want a repeat of what happened when we
4 focused solely on deregulation in the last decade
5 and forgot that we need to keep the lights on and
6 the economy humming. Both Commissions have
7 important continuing roles in addressing this
8 issue.

9 I'd also like to emphasize one other
10 thing, and Commissioner Grueneich did this as well
11 this morning. We are not going to solve
12 greenhouse gases in California alone. We need to
13 do all of this in the context of the larger
14 markets. We've put our proceeding in the context
15 of the Western Climate Initiative, but we're
16 really looking for a larger federal role and our
17 place in the world, so we should address this
18 issue, as well.

19 Nevertheless, California is certainly
20 demonstrating leadership and that's our intent
21 here. I'm proud to be part of this Commission,
22 and the PUC, in addressing these critical issues.
23 And I'd like to reiterate my commitment to all the
24 stakeholders that I'm going to continue to work on
25 getting this right, and working with the PUC and

1 the Air Resources Board.

2 Madam Chairman, would it be
3 inappropriate to make a motion at this time, or
4 would you care to do that?

5 CHAIRPERSON PFANNENSTIEL: You certainly
6 may move, --

7 COMMISSIONER BYRON: I'd like to move
8 the item.

9 CHAIRPERSON PFANNENSTIEL: -- and then I
10 have some comments before --

11 COMMISSIONER BYRON: Absolutely.

12 CHAIRPERSON PFANNENSTIEL: -- before we
13 take a vote.

14 COMMISSIONER ROSENFELD: And I second
15 it.

16 CHAIRPERSON PFANNENSTIEL: You may
17 second it. It's been moved and seconded.

18 I think just about everything that needs
19 to be said has been said and then some. But one
20 thing that I think we do not have enough of is the
21 thanks. There's been an awful lot of work that
22 went into not just the decision before us
23 Commissioners, but, in fact, the many workshops
24 that we participated in, the review of the very
25 good comments that we got from many parties.

1 It's been a long and intense effort by a
2 lot of people. So, I'll give a general thanks to
3 staff and the Commissioners' Offices. But let me
4 point out a few people who really need some
5 special thanks. And that's Laurie and Diana,
6 certainly.

7 Nancy Ryan from the PUC. I know we've
8 put up with a lot with each other. I'm not sure
9 Nancy would return my phone calls anymore.

10 (Laughter.)

11 CHAIRPERSON PFANNENSTIEL: Mushar
12 Wahterverst (phonetic), of course, the
13 Administrative Law Judge with whom we worked
14 closely.

15 But I fundamentally want to thank Pat
16 Perez who did the yeoman's work around here in
17 pulling it all together both within our Commission
18 and between the two Commissions. He was pulled
19 into this, pulled off of other assignments which
20 I'm sure he longs for these days. But worked
21 tirelessly and actually probably missed the debate
22 last night, since he was here, I know, fairly late
23 when I talked to him. So, thank you, Pat, on
24 behalf of us.

25 COMMISSIONER ROSENFELD: Pat, you should

1 take the day off tomorrow.

2 CHAIRPERSON PFANNENSTIEL: Maybe half a
3 day.

4 (Laughter.)

5 CHAIRPERSON PFANNENSTIEL: And my fellow
6 Commissioners. I think we've put a lot of effort
7 into this.

8 So, what we have before us is a document
9 that begins the process at the ARB. And as
10 Commissioner Douglas pointed out, most of the air
11 time in this proceeding has been taken up with
12 cap-and-trade and the market mechanisms. And that
13 is new and it's difficult, and it's taken us a
14 long time to get there.

15 We are offering to ARB our best
16 consideration based on the information before us.
17 But we do so recognizing that compliance with AB-
18 32 is going to affect different utilities,
19 different retail providers differentially
20 depending on their starting point.

21 And so what we tried to do in this
22 decision is allow some time and hopefully some
23 funding to allow people, allow the utilities to
24 move there in a way that would mitigate some of
25 the impacts.

1 But with that I want to go back to the
2 point already made by my fellow Commissioners, and
3 that's the major fundamental building blocks of
4 how we're going to comply with AB-32 are the
5 programs that we've already begun in California,
6 energy efficiency and renewable energy.

7 But we've really only scratched the
8 surface of where we're going with those programs,
9 if we really believe that we're going to be able
10 to achieve a hundred percent cost effective energy
11 efficiency and a growing 33 percent, and then
12 some, renewables.

13 To be honest, we don't know how we're
14 going to do both of those things right away. But
15 we need to do them, and we better learn how to do
16 them. And it's going to require not just this
17 Commission and not just our partners at the PUC.
18 It's going to be a lot of state agencies; it's
19 going to be the Legislature; it's going to be all
20 of you, many parties.

21 We're going to have to be finding new
22 activities, new initiatives, new legislation
23 perhaps, to make some of this happen. We talk
24 about the need to make buildings more energy
25 efficiency. Well, right now the Energy Commission

1 has the authority, the responsibility of setting
2 standards for new buildings, for major
3 renovations, but primarily new buildings. That's
4 a small percentage of the building stock in
5 California.

6 We need to find a way of getting at
7 efficiency in existing buildings. That's just a
8 small example of what I mean by a hundred percent
9 of cost effective energy efficiency in California.
10 We're going to have to do things better, but much
11 differently.

12 With that I also want to point out a
13 couple of the underlying, a couple of the points
14 that were made earlier. Jim Caldwell, besides
15 citing scripture, which always works in this body,
16 I think helped us, pointed out that we're really
17 looking at 2050 and beyond. That our perspective
18 needs to be much longer than the 2020. I think we
19 always have to keep that in mind, because that's
20 really what we're fundamentally bringing to the
21 ARB is meeting these climate change goals for the
22 very long term.

23 But also, Bud Beebe pointed out again
24 it's not just the time but it is the space. Our
25 perspective needs to be regional, it needs to be

1 national, and ultimately it needs to be
2 international.

3 So what we're bringing to the ARB is
4 actually much bigger than the 270-some pages that
5 we're giving them now. It should be the stepping
6 stone for both of those efforts. A very broad,
7 very long and very important first step.

8 With that we have in front of us a
9 proposed decision, still, at this point,
10 recommendation, and final recommendation and
11 opinion on greenhouse gas regulatory strategies.
12 It has been moved and seconded. We'll have a
13 vote.

14 All in favor?

15 (Ayes.)

16 CHAIRPERSON PFANNENSTIEL: It's been
17 approved. Thank you, all.

18 (Whereupon, at 3:35 p.m., the special
19 business meeting was adjourned.)

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CERTIFICATE OF REPORTER

I, PETER PETTY, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Energy Commission Special 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 30th day of October, 2008.



PETER PETTY