BUSINESS MEETING

BEFORE THE

CALIFORNIA ENERGY RESOURCES CONSERVATION

AND DEVELOPMENT COMMISSION

In the Matter of:)
)
Business Meeting)
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CALIFORNIA ENERGY COMMISSION

HEARING ROOM A

1516 NINTH STREET

SACRAMENTO, CALIFORNIA

THURSDAY, NOVEMBER 20, 2008

10:00 A.M.

ORIGINAL

Reported by:
John Cota
Contract Number: 150-07-001

COMMISSIONERS PRESENT

Jackalyne Pfannenstiel, Chairperson

Jeffrey Byron

Karen Douglas

Arthur H. Rosenfeld

STAFF and CONTRACTORS PRESENT

Barbara Byron

William Chamberlain, Chief Counsel

Matt Coldwell

Chris Davis

Melissa Jones, Executive Director

Rod Jones

Harriet Kallemeyn, Secretariat

Suzanne Korosec

Helen Lam

Chris Marxen

Melanie Moultry

Bill Pennington

Sarah Pittiglio

Paul Roggensack

PUBLIC ADVISER

Elena Miller

ALSO PRESENT

Scott Galati, Galati|Blek
- Item 3: Representing Northern California Power Agency
- Item 9: Representing Pacific Gas and Electric Company
- Public Comment: Representing himself

Ed Warner, Northern California Power Agency

Jeff Chapman, California Living Energy and CalHERS

Michael P. Short, Southern California Edison

Manuel Alvarez, Southern California Edison

Kathy Treleven, Pacific Gas and Electric Company

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

2 10:07 a.m.

3 CHAIRPERSON PFANNENSTIEL: Good morning,

4 this is a rare Thursday Business Meeting of the

5 Energy Commission. Please join me in the Pledge

6 of Allegiance.

7 (Whereupon the Pledge of Allegiance was

8 recited in unison.)

9 CHAIRPERSON PFANNENSTIEL: We'll start

10 with the Consent Calendar.

11 COMMISSIONER ROSENFELD: I move the

12 Consent Calendar.

13 COMMISSIONER BYRON: Second.

14 CHAIRPERSON PFANNENSTIEL: All in favor?

15 (Ayes.)

16 CHAIRPERSON PFANNENSTIEL: The Consent

17 Calendar is approved.

18 Item number 2, Starwood Power-Midway,

19 possible approval of an amendment petition to

20 increase stack height, allow construction of a new

21 well for a backup water supply, reposition

22 buildings in the site plan, and add a second

23 evaporation pond to retain storm water. Good

24 morning.

25 MR. DAVIS: Good morning. My name is

1 Chris Davis and I am the compliance project
2 manager for Starwood. Starwood was approved on
3 January 16 of this year, as most if not all of you
4 remember, and began construction, basically
5 grading, on September 23. Starwood is a 120
6 megawatt peaking power plant under construction in
7 western Fresno County on West Panoche Road about
8 two miles off of I-5.
9 The petition was filed April 22 after a
10 bit of a revelation to Starwood's owners that I'll
11 go into in just a minute and the staff assessment
12 of the petition was published on October 17. The
13 petition requests several modifications to the
14 project, the first of which is the stack height
15 increase. And the stack height that we approved
16 in January met federal regulations.
17 They improved the design, which improved
18 dispersion and basically lowered air quality
19 impacts. As a result of approving that design, in
20 order to continue meeting the federal regulation
21 that has a ratio of stack height to diameter, they
22 increased the height. Overall, again, it is an
23 air quality benefit.
24 The well is probably the most important,
25 well it is the most important item to Starwood's

owners and also the one in which staff invested the most time and is suggesting changes to conditions of certification. The well would serve as a backup water supply for the Starwood project.

A little background. Starwood owns CalPeak. They were planning to get water from the CalPeak Panoche Plant next door, run a pipe over there, and supply water to both projects. They found out that PG&E owns the water rights to that water and would have to go to the Public Utilities Commission for approval. Rather than go that route Starwood elected to come to us with a petition to drill a well for the backup water supply.

A little bit about the primary supply. It is a recycling, it comes from a recycling system that Starwood paid for the farmer next door to build and it is a much cleaner water supply.

The backup well would be drilled into a pretty brackish aquifer that has a very high total dissolved solid count. As a result staff was concerned that when and if Starwood has to switch to the backup supply from the cleaner, primary supply that they would not be discharging this much more brackish water into an unlined

1 evaporation pond, which the Water Board is
2 allowing Starwood to do because of the clean,
3 primary water supply.
4 The other changes are all design
5 changes. Things like increasing room between the
6 turbines to improve access, splitting the ponds
7 into two, one of which will hold storm water, and
8 reducing from two to one the number of aqueous
9 ammonia tanks.
10 No comments have been received. The
11 petition meets all the filing criteria of Section
12 1769(a) of the siting regulations concerning post-
13 certification project modifications. And no, I
14 don't think I could say that ten times fast.
15 Again, no comments received.
16 The changes will be beneficial to the
17 public and PG&E. They will allow Starwood to stay
18 on schedule to begin producing power for the grid
19 in California for the summer of next year. Staff
20 has analyzed the petition, recommends several
21 changes to conditions of certification, and with
22 those changes recommends approval.
23 CHAIRPERSON PFANNENSTIEL: Thank you.
24 When I went through this material I was just
25 completely confused about why between January 16

1 and whatever the April date is when they filed
2 suddenly they had this revelation of these changes
3 that were needed. One of the reasons that we
4 would entertain changes is if there has been, and
5 I am quoting, a substantial change in
6 circumstances. I just haven't found why that
7 happened.
8 It is as if they have been working on
9 all of these changes throughout the time that we
10 were processing their license application. But we
11 gave them the license based on whatever point in
12 time that was and then they come in with many --
13 they appear all to be beneficial so I am not
14 questioning whether it makes sense to do them. I
15 am just really confused about the process.
16 MR. DAVIS: And a big question is how
17 they could have come to the point where they have
18 gotten certification and not found out that PG&E
19 owns the rights to that.
20 CHAIRPERSON PFANNENSTIEL: Precisely.
21 How we could have certified them without having
22 that information in front of us, that there were
23 better designs and more beneficial to the public
24 designs of stacks and why that happened at that
25 time.

1 MR. DAVIS: Apparently this process of
2 changing designs is a thing that happens on every
3 power plant. Power plants are design/build
4 projects and as they move along the designs are
5 constantly changing. The stack height, the design
6 improvement will do away with any potential for
7 gas pockets to form, therefore improve the design.
8 As staff said to me, some projects do a
9 very detailed design and come to the meeting and
10 build that project almost exactly as approved.
11 Many others get a design and then when they get to
12 the final design stages, which they are in now
13 building the project, they do make changes as they
14 move along. I was at a ground-breaking for a
15 project yesterday and somebody mentioned that same
16 thing, that it is just something that happens with
17 power plants.
18 CHAIRPERSON PFANNENSTIEL: Any further
19 questions?
20 COMMISSIONER BYRON: Madame Chair, I
21 think it is a very good question. We brought it
22 up in a similar line in the Siting Committee
23 meeting as well. I don't recall if it was this
24 project or another that prompted me to realize
25 that we are seeing these kinds of changes from the

time of permitting to the time when maybe we can start the construction process. We agreed that it will be something we would track more carefully because obviously the compliance, the more plants we license the more compliance there will be. But this one raises the concern in my mind.

I should say this, as a civil engineer myself I realize when you get to the as-built state it is going to be different than the original design and we accommodate that. And that's what I think this would be characterized as. But it could also be used to circumvent or get through this licensing permitting process quickly and then bring some changes in later on that you don't want to have to deal with during that process.

CHAIRPERSON PFANNENSTIEL: Well precisely, and since one of our rules says that there needs to be a substantial change in circumstances since our certification justifying this change. In this case I looked in vain for that change in circumstances and I still don't hear it. It sounds like the developer found better ways of doing things that didn't come up during our certification process.

1 COMMISSIONER BYRON: Right. We looked
2 at those changes and we were comfortable with them
3 in the Siting Committee. I think it is fair to
4 ask if the applicant is here or if they are on the
5 phone that they might be able to answer some of
6 these questions.
7 MR. DAVIS: They are not represented
8 here today.
9 CHAIRPERSON PFANNENSTIEL: Are there
10 further questions? Does somebody want to move
11 approval of this change?
12 COMMISSIONER BYRON: I would move the
13 item.
14 COMMISSIONER ROSENFELD: I second, I
15 second it.
16 CHAIRPERSON PFANNENSTIEL: But before we
17 go on. But the Siting Committee is going to track
18 this kind of activity more carefully to see if
19 this is a pattern.
20 COMMISSIONER BYRON: Correct.
21 CHAIRPERSON PFANNENSTIEL: With that
22 assurance, all in favor?
23 (Ayes.)
24 CHAIRPERSON PFANNENSTIEL: Thank you.
25 MR. DAVIS: It is also something that we

in the compliance office are sharing with projects. That you are a lot better off, you will get it built a lot more quickly if you stick with the approved design and don't come back in with amendments because we are so busy now with siting cases that --

CHAIRPERSON PFANNENSTIEL: That is precisely my point, yes. Thank you.

COMMISSIONER BYRON: Thank you.

CHAIRPERSON PFANNENSTIEL: Item 3a, possible approval of the Executive Director's data adequacy recommendation for Northern California Power Agency's Application for Certification of the Lodi Energy Center. Good morning.

MR. JONES: Good morning, Madame Chair and Energy Commissioners. My name is Rod Jones and I am the project manager for the Lodi Energy Center. I would like to take the time to introduce Melanie Moultry, she is CEC staff counsel for the project, and Scott Galati, who is with NCPA, counsel, and Ed Warner who is project manager with NCPA as well.

CHAIRPERSON PFANNENSTIEL: Good morning all.

MR. GALATI: Good morning.

1 MR. WARNER: Good morning.
2 MS. MOULTRY: Good morning.
3 MR. JONES: On September 10, 2008
4 Northern California Power Agency filed an
5 Application for Certification seeking approval
6 from the Energy Commission to construct and
7 operate the proposed Lodi Energy Center project.
8 The Lodi Energy Center is a proposed natural gas-
9 fired, combined-cycle nominal 255-megawatt power
10 generation facility proposed on approximately 4.4
11 cres of land owned and incorporated by the City of
12 Lodi. The site is six miles west of the City of
13 Lodi city center, located near Interstate 5,
14 approximately 1.7 miles south of State Route 12.
15 On October 22, 2008 the Energy
16 Commission determined that the Lodi Energy Center
17 project did not meet all the requirements listed
18 in Title 20, Section 1704, and Division 2, Chapter
19 4, Appendix B of the California Code of
20 Regulations for the 12 month process.
21 Specifically, the AFC was deficient in eight of
22 the 23 technical areas: Air Quality, Biological
23 Resources, Cultural Resources, Socioeconomics,
24 Transmission System Design, Soils, Visual
25 Resources and Water Resources.

1 On October 24, 2008 NCPA filed an AFC
2 Data Adequacy Supplement for review. Staff has
3 reviewed all eight of the previously deficient
4 technical disciplines and believes the project is
5 data adequate with the filing of the AFC
6 Supplement.
7 Staff's evaluation of the Supplement to
8 the AFC was submitted to the Executive Director,
9 whose recommendation is before you. The Executive
10 Director is recommending that the Commission
11 accept the Lodi Energy Center project AFC with the
12 supplemental information as complete and appoint a
13 siting committee to preside over the data
14 discovery and analysis phase of the project during
15 the licensing process.
16 CHAIRPERSON PFANNENSTIEL: Thank you.
17 MR. JONES: And with that, are there any
18 questions?
19 CHAIRPERSON PFANNENSTIEL: Are there any
20 questions from the Commissioners?
21 COMMISSIONER BYRON: None.
22 CHAIRPERSON PFANNENSTIEL: Any comments
23 from the applicant?
24 MR. GALATI: Scott Galati on behalf of
25 NCPA. I want to thank the staff very much for

1 giving us very clear direction on our data
2 adequacy deficiencies. I think the team is
3 supported very well by Andrea Grenier, who you
4 know, and CH2MHILL. I think they responded very,
5 very quickly and clearly, which enabled us to get
6 here at this Business Meeting.
7 We look forward to that continued
8 collaboration and information exchange and
9 hopefully look forward to seeing us at a site
10 visit/informational hearing so you can see the
11 project, see the project site, see where it goes
12 and see how it fits because it fits very well.
13 MR. WARNER: Ed Warner with NCPA. I
14 would just like to thank the Commission. And also
15 I look forward to working with you over the
16 process of this project. I would also like to
17 help you understand that NCPA is a public agency.
18 We represent members of the municipalities and
19 government agencies in Northern California. We
20 look forward to working with you on this project.
21 CHAIRPERSON PFANNENSTIEL: Thank you
22 very much. With that is there a motion to approve
23 the Executive Director's data adequacy
24 recommendation?
25 COMMISSIONER BYRON: I move the item.

1 COMMISSIONER DOUGLAS: Second.
2 CHAIRPERSON PFANNENSTIEL: In favor?
3 (Ayes.)
4 CHAIRPERSON PFANNENSTIEL: It's
5 approved.
6 MR. JONES: Thank you.
7 CHAIRPERSON PFANNENSTIEL: Appointment
8 of a siting committee. I would recommend a
9 committee of Commissioners Douglas and Byron with
10 Commissioner Douglas presiding. Is there a motion
11 for that committee?
12 COMMISSIONER ROSENFELD: I move it.
13 CHAIRPERSON PFANNENSTIEL: And I'll
14 second that. All in favor?
15 (Ayes.)
16 CHAIRPERSON PFANNENSTIEL: The committee
17 has been appointed, thank you.
18 MR. GALATI: Thank you.
19 MR. JONES: Thank you.
20 Item 4, possible approval of Contract
21 500-08-021 for $274,067 with the California
22 Department of Conservation to extend previous West
23 Coast Regional Carbon Sequestration work on the
24 potential for geologic sequestration in
25 California's underground sedimentary basins. Good

morning.

MR. COLDWELL: Good morning, Commissioners. My name is Matt Coldwell and I am with the PIER program. I am filling in today for Linda Spiegel. Excuse me, I have a cold if I sound a little stuffed up.

Before you is an 18 month interagency agreement with the California Department of Conservation in the amount of $274,067. This work will be done, will build upon previous PIER-funded work done by the Department of Conservation's California Geological Survey. The earlier work characterized saline aquifers throughout the state to determine the potential for geologic carbon sequestration.

The proposed project will further the characterization of the potential for geologic sequestration by evaluating California's offshore sedimentary basins as well as to do a more detailed study of the depth of the saline waters and the sequestration capacity of gas fields in the southern Sacramento basin.

This project is part of the West Coast Regional Carbon Sequestration Partnership also known as WESTCARB. It supports the 2005 IEPR goal

1 for California to take a leading role in
2 developing technologies that capture and store CO2
3 by performing a preliminary geologic
4 characterization of the potential for CO2
5 sequestration in California's offshore subsurface
6 environments and refining previous estimates for
7 saline aquifers and gas fields.
8 The results of this project will also
9 help California reduce its greenhouse gas
10 emissions per the mandates set in AB 32. Thank
11 you. And at this time I'd be happy to answer any
12 questions.
13 CHAIRPERSON PFANNENSTIEL: Are there
14 questions?
15 COMMISSIONER BYRON: We have seen other
16 contracts come through on WESTCARB. I think it is
17 always worth reiterating the importance of this
18 work. It is basic research with regard to carbon
19 capture sequestration. We had a workshop
20 yesterday that primarily dealt with greenhouse
21 gases and what we are going to do with them.
22 Pending the development of other
23 technologies I think this is going to eventually
24 be extremely important. Having said all that, and
25 so I am very much in favor of it, is there -- are

there more projects associated with WESTCARB that we will see coming, be seeing coming before this Commission for approval?

MR. COLDWELL: Yes. This project is part of the Phase II WESTCARB. WESTCARB is a three phase project. Phase I has already been completed and this is part of Phase II. Right now we are at the beginning of getting contracts ready for the Phase III work, which will ultimately be the construction of a power plant that has the capability of sequestering I think about a million tons of CO2.

COMMISSIONER BYRON: So will there be any more Phase II contracts for approval?

MR. COLDWELL: The next Business Meeting actually there's a no cost/time extension on the Consent Calendar for MR45, which is a work authorization with the California Institute for Energy Environment to continue their work that they are doing right now.

COMMISSIONER BYRON: Okay, thank you, Mr. Coldwell.

MR. COLDWELL: Thank you.

CHAIRPERSON PFANNENSTIEL: I have one sort of minor question. Just at the end of your

1 presentation you said that this project would help
2 reduce California's greenhouse gas emissions. How
3 does that happen since we don't burn coal in this
4 state?
5 MR. COLDWELL: Well, I guess the more
6 accurate statement would have been -- excuse me.
7 Yes. If we had an opportunity to sequester that
8 carbon from a power plant then it would help. I
9 realize that we don't burn coal in the state.
10 CHAIRPERSON PFANNENSTIEL: Okay.
11 COMMISSIONER BYRON: But we do burn a
12 lot of natural gas.
13 CHAIRPERSON PFANNENSTIEL: We certainly
14 do but I didn't know that this had any focus on
15 natural gas. I thought this was entirely on coal,
16 is it not?
17 MR. COLDWELL: Yes, from my
18 understanding, yes.
19 MS. JONES: Yes, just to clarify. The
20 Westcarb III project is for natural gas-fired
21 power plants.
22 CHAIRPERSON PFANNENSTIEL: But this one
23 so far has been for coal.
24 MS. JONES: Yes.
25 CHAIRPERSON PFANNENSTIEL: Thanks. That

1 was my question.
2 MR. COLDWELL: Thank you. Sorry for the
3 confusion.
4 MR. CHAMBERLAIN: I think there are
5 really two points. One is that, of course, much
6 of our -- This is part of a broader research and
7 development --
8 CHAIRPERSON PFANNENSTIEL: I understand.
9 MR. CHAMBERLAIN: And much of our power
10 does come from coal and so some of that could be
11 sequestered in the future. And of course
12 yesterday we were talking about, people were
13 saying, well, you know, when you build a natural
14 gas-fired power plant you are making a 40 year
15 commitment to carbon emissions. Well not
16 necessarily if this technology comes along.
17 CHAIRPERSON PFANNENSTIEL: Right, thank
18 you. It was the natural gas/coal question that
19 was of interest to me. Thank you very much.
20 MR. COLDWELL: Yes, sorry for the
21 confusion.
22 CHAIRPERSON PFANNENSTIEL: Any other
23 questions?
24 COMMISSIONER ROSENFELD: I move the
25 item.

1 COMMISSIONER DOUGLAS: Second.
2 CHAIRPERSON PFANNENSTIEL: All in favor?
3 (Ayes.)
4 CHAIRPERSON PFANNENSTIEL: It's
5 approved, thank you.
6 MR. COLDWELL: Thank you very much.
7 CHAIRPERSON PFANNENSTIEL: Item number
8 5, possible approval of contract 500-08-008 for
9 $300,000 with Southern California Edison for Self-
10 Audit of Wastewater Treatment Processes to Achieve
11 Energy Optimization, Phase 1. Good morning.
12 MR. ROGGENSACK: Good morning,
13 Commissioners. My name is Paul Roggensack; I am
14 with the PIER Industrial, Agricultural and Water
15 Program. Southern California Edison is requesting
16 $300,000 to develop a self-audit software, phase
17 1, for wastewater treatment facilities.
18 This software will be able to do three
19 things. First it will provide wastewater
20 facilities a tool to benchmark and track their
21 energy consumption. And second, it will be able
22 to develop energy efficiency measures for the
23 wastewater treatment facility to apply for
24 Southern California Edison's rebate program for
25 energy efficiency. And finally, it will be able

1 to evaluate the cost-effectiveness to qualify for
2 that rebate program with Southern California
3 Edison.
4 The software will be developed by
5 Edison, first of all collecting a database on all
6 the available treatment processes for wastewater
7 facilities. From that it will develop or use
8 existing models for those processes and then
9 combine these processes tailor-made for an
10 individual facility. And this overall software
11 would be able to show how a change in one
12 treatment process will affect another process
13 within that facility.
14 And this software will be able to have
15 calibrating tools that have benchmark or
16 troubleshooting tools to be able to make the model
17 match the actual facility energy consumption.
18 So this software will then also be able
19 to, will have protocols to improve the energy
20 efficiency of an individual process and also do
21 life cycle analysis of that process.
22 Initially this tool will just be used as
23 Southern California Edison's property but Edison
24 plans to make it available throughout the state.
25 So if the tool is successful they are estimating

1 perhaps 50 percent market penetration and perhaps
2 a 15 percent reduction of wastewater treatment
3 facilities. That would equate to roughly 150
4 million kilowatt hours in the state.
5 So this is the first phase, which will
6 cover everything from the inlet through secondary
7 treatment. The second phase, when PIER has money
8 available, will fund from secondary treatment on,
9 which will include disinfection and sludge
10 processing. So I'd be happy to answer any
11 questions you have regarding this.
12 CHAIRPERSON PFANNENSTIEL: Thank you.
13 Will Edison actually develop the model themselves,
14 the tool, Edison employees? Or are they going to
15 contract it out?
16 MR. ROGGENSACK: They would contract
17 that out.
18 CHAIRPERSON PFANNENSTIEL: So it made
19 sense for us to give this to Edison to contract
20 out rather than us directly contracting with
21 whomever is going to develop the model?
22 MR. ROGGENSACK: It would be Edison's
23 software because they are doing the rebate
24 program. They are the organizer and the overseer
25 of the overall project.

1 CHAIRPERSON PFANNENSTIEL: Thank you.
2 Are there questions?
3 COMMISSIONER BYRON: Yes. I think it's
4 along the lines of your's, Madame Chairman. You
5 know, when I think of software development,
6 wastewater treatment plants, and then what I would
7 characterize as the commercialization of that
8 software, making it available and useful to other
9 wastewater treatment plants throughout the state.
10 A utility doesn't jump to mind as being the first
11 choice to do that sort of work. And this was
12 sole-sourced, as I understand.
13 MR. ROGGENSACK: That's right.
14 COMMISSIONER BYRON: So I would like to
15 ask the fundamental question, why were they
16 chosen?
17 MR. ROGGENSACK: Well they were chosen,
18 first of all, because they have done, we have done
19 work with them on wastewater treatment facilities
20 before so they have the infrastructure and the
21 institutional knowledge of doing wastewater
22 treatment. And plus they are pretty aggressive
23 with this rebate program. That is really the
24 driver for this is to have a tool that they can
25 use to evaluate energy efficiency measures for

1 their rebate program.
2 COMMISSIONER BYRON: So why wasn't it
3 put out for a solicitation?
4 MR. ROGGENSACK: Well, they were the
5 ones who came up with the project. They had the
6 -- You know, they were the ones that developed the
7 concept. They had the staffing and the
8 institutional knowledge to do it.
9 COMMISSIONER BYRON: Okay.
10 MS. JONES: And I would just like to add
11 to that. This project has been in the pipeline
12 for some time. But we have instituted new
13 policies for PIER and they are doing many more
14 competitive solicitations. So we are hoping to
15 reduce somewhat the amount of sole-sources that we
16 do. So this was one that was already in the
17 pipeline.
18 COMMISSIONER BYRON: And when you say
19 for a long time, Ms. Jones. Do you know, prior to
20 our being quizzed by the Utilities and Commerce
21 Committee?
22 MS. JONES: Prior to February of this
23 year in planning?
24 MR. ROGGENSACK: Yes it was. It's been
25 proposed earlier this year.

1 COMMISSIONER BYRON: I know you are well
2 aware of the sensitivity around these issues. It
3 is extremely important, I think, when this
4 Commission does sole-source that it be well-
5 justified for the Legislature in the use of public
6 funds.
7 MS. JONES: And one of the things that I
8 do do before it gets on a Business Meeting, I have
9 pushed up the process so that sole-source
10 justifications are provided to me at the time that
11 it is put on a Business Meeting agenda so that I
12 can see the adequacy of the sole-source
13 justification. So we have a pretty good system
14 for doing that right now.
15 CHAIRPERSON PFANNENSTIEL: And this one
16 included?
17 MS. JONES: Yes.
18 CHAIRPERSON PFANNENSTIEL: Thank you.
19 COMMISSIONER BYRON: Well good. Then
20 let's just put Southern California Edison on
21 notice that they should do a good job on this
22 contract.
23 MR. ROGGENSACK: Absolutely.
24 CHAIRPERSON PFANNENSTIEL: Is there a
25 motion?

1 COMMISSIONER BYRON: I move the item.
2 COMMISSIONER ROSENFELD: I move the
3 item. I second it.
4 COMMISSIONER BYRON: Commissioner, go
5 right ahead.
6 CHAIRPERSON PFANNENSTIEL: All in favor?
7 (Ayes.)
8 CHAIRPERSON PFANNENSTIEL: Thank you
9 very much.
10 Item 6, possible approval of Contract
11 500-08-019 for $505,000 with the US Department of
12 Energy, Lawrence Berkeley National Laboratory to
13 measure greenhouse gases in the atmosphere at two
14 towers, in San Francisco and just south of
15 Sacramento, to assess the accuracy of existing
16 emissions estimates. Good morning.
17 MS. PITTIGLIO: Good morning,
18 Commissioners. My name is Sarah Pittiglio; I am
19 with the Public Interest Energy Research program.
20 Today I am here for Guido Franco because he is not
21 able to attend this meeting.
22 Current inventories of greenhouse gases
23 are highly uncertain, especially for non-CO2 gases
24 like methane and nitrous oxide. So in order to
25 resolve this issue a previous contract with LBNL

1 was established and they started two greenhouse
2 gas measurement sites at a tower in San Francisco,
3 Sutro Tower, and a tower in Walnut Grove.
4 The existing project, which ends in
5 March of next year, is going extremely well. It
6 is showing that it is very likely that the
7 existing measurements will be able to track
8 emissions in Northern California. This project
9 started building a baseline of emissions that will
10 help make it possible to track compliance with AB
11 32 in the future. The project has also received a
12 lot of positive press including a news review in
13 Nature, which indicated that the project was the
14 first of its kind to attract emissions at a state
15 level.
16 In order to demonstrate compliance with
17 AB 32's targets for greenhouse gas reductions we
18 need to establish a baseline but we also need to
19 start a continuous monitoring program of
20 greenhouse gases. And more greenhouse gas
21 measurements are also necessary to improve the
22 accuracy of existing inventories.
23 The proposed project will continue
24 measurements being taken for two years and enhance
25 these measurements by adding an additional tower

in Marin and also by making more frequent measurements of nitrous oxide.

The researchers will also test an atmospheric transport model to estimate the path of greenhouse gases to the towers from a single point source like a dairy, for example, using meteorological data.

The National Oceanic Atmospheric Administration and the Air Resources Board are also fully engaged in this project as well. If you have any questions I'll be happy to answer them.

CHAIRPERSON PFANNENSTIEL: Thank you. It seems like a really fundamental project. I am sort of surprised that it is the first in the nation. It sort of shocked me to see that, I thought everybody was doing this. You mentioned that other agencies are working with us. Are they putting in money or is this all our money?

MS. PITTIGLIO: Yes, money and equipment.

CHAIRPERSON PFANNENSTIEL: Can you tell me how the breakdown -- the $500,000 s from PIER. Do you know how much the others are contributing?

MS. PITTIGLIO: I do not have that

1 information, unfortunately.

2 CHAIRPERSON PFANNENSTIEL: Okay.

3 MS. PITTIGLIO: I know that our previous

4 contract, the one that we are going to end in

5 March was for $660,000.

6 CHAIRPERSON PFANNENSTIEL: Do we have --

7 Well, are there other questions?

8 MS. JONES: We will provide the

9 additional detail for you.

10 CHAIRPERSON PFANNENSTIEL: Yes, thank

11 you.

12 COMMISSIONER ROSENFELD: I just want to

13 make a very positive comment too. I remember back

14 in the old days when we had great calculations

15 about how catalytic converters were going to clean

16 up the Los Angeles Basin and so on. And then when

17 we did real ground truth we discovered there were

18 a lot of clunkers out there putting out a lot of

19 gases we didn't know about. So nothing like

20 ground truthing. I hope this unearths some

21 scandals.

22 CHAIRPERSON PFANNENSTIEL: Now Art.

23 COMMISSIONER ROSENFELD: I'm happy to

24 move the item.

25 COMMISSIONER BYRON: Second.

1 CHAIRPERSON PFANNENSTIEL: All in favor?
2 (Ayes.)
3 CHAIRPERSON PFANNENSTIEL: Thank you
4 very much.
5 Item 7 has been moved to the December 3,
6 I'm sorry, I should have said that at the
7 beginning, the December 3 Business Meeting.
8 Item 8. This is an informational item
9 taking no action today regarding proposed adoption
10 of regulations regarding home energy ratings. The
11 regulations will not be adopted today; rather,
12 revised language, 15 day language, will be
13 released for review and comment by the public
14 immediately following this hearing. Good morning,
15 Ms. Lam.
16 MS. LAM: Good morning, Commissioners.
17 My name is Helen Lam; I am with the Buildings and
18 Appliances Office. This is an Efficiency
19 Committee information item and I am here to answer
20 any administrative or procedural questions that
21 you may have.
22 CHAIRPERSON PFANNENSTIEL: Thank you.
23 Now I think that just for the benefit of the other
24 Commissioners, this is an item that will be taken
25 up at our meeting subsequent to 15 days from now.

1 MS. LAM: Correct.

2 CHAIRPERSON PFANNENSTIEL: But this is a

3 notice period. And I don't see, I don't have any

4 blue cards. I'm sorry, I do have a blue card.

5 Somebody wanted to speak on this, very good. Jeff

6 Chapman for California Living Energy.

7 MR. CHAPMAN: Thank you very much,

8 Commissioners and staff and ladies and gentlemen.

9 To introduce, I am Jeff Chapman with California

10 Living Energy. And today I am also speaking for

11 the nonprofit group, CalHERS.

12 Since the late 1970s the California

13 Energy Commission has accomplished more in saving

14 the state of California energy than any other

15 state agency in this country. I will not bore you

16 with the data of how our carbon footprint has been

17 reduced, although we want to reduce it more. How

18 energy has been saved, the benefits of homeowners

19 in saving energy and also commercial buildings

20 saving energy. And also the fact that you have

21 accomplished your goals.

22 In this process you have stuck to a very

23 strict policy. You have had a plan that's worked

24 and you have become the envy of every state in

25 this nation in terms of energy use and the way

1 energy is managed. And you also have become the
2 envy of even other countries.
3 My comments today are in the nature of
4 an inquiry, which is far different from anything
5 else. So I am simply asking a question. And the
6 question will focus on one of the ways you have
7 made sure energy has been saved and builders have
8 done an excellent job. And that is your
9 implementation of the third-party system. We know
10 that system has worked. We also know that you
11 have listened to many challenges from groups,
12 special interest groups, from lots of different
13 sources of input and even from lawyers.
14 You know from your experience that this
15 independent verification process of implementing
16 Title 24 calculations vis-…-vis HERS requirements
17 has indeed been very successful. The independent
18 verification promotes integrity and minimizes
19 vested interest groups from doing the kinds of
20 things they would like to do for their interests.
21 As most of you are aware the Energy Commission is
22 now investigating a nationwide corporation for
23 possible violation of this conflict of interest in
24 third-party testing.
25 What I would like to inquire about, and

1 simply inquire, is in the language of HERS II in
2 Section 8.2 there is an option now for indeed
3 performance contractors to do the work at an
4 existing residence. To provide either work and/or
5 additions like windows. Maybe not total work but
6 windows and other things. And also to be
7 certified to be their own rater, to do their own
8 rating. That would seem to fly in the face of
9 what you have done for so many years to accomplish
10 in keeping rating a third-party, separate issue.
11 And I guess from my experience in doing
12 depositions and also from the outside looking into
13 the legal system, they are always looking for one
14 thing and it is called precedent. Precedent. And
15 when they find precedent they come after that
16 weakness and challenge the system to try to win
17 their client's case. Not usually based on truth
18 but on precedent.
19 And from the way the economics are, it
20 would be much wiser for my clients to take that
21 precedent of saying, well Energy Commissioners,
22 you have already allowed the performance
23 contractors to do their own rating and to certify.
24 Now I want -- As a nationwide builder I want you
25 to allow my employees to be trained as HERS raters

1 and they can do the rating for my company. That's
2 a possibility. Not a threat, a possibility.
3 As an Employee of California Living
4 Energy we have enjoyed this relationship for
5 years. I guess we have been through three just
6 since 2000. I have enjoyed meeting staff members
7 and the interactions and the acceptance and the
8 kindness.
9 And as a member of CalHERS I would like
10 to suggest to you that you uphold the third party
11 standard and not allow the performance based
12 contractors to be rated and to do their own
13 inspections in keeping tune with what you have
14 always upheld. I thank you so much for your time
15 and for your interest and getting input from you.
16 Thank you.
17 CHAIRPERSON PFANNENSTIEL: Thank you,
18 Mr. Chapman, we appreciate your comments.
19 Mr. Pennington, did you have a comment? Did you
20 move up to the --
21 MR. PENNINGTON: I was only here in case
22 you wanted some response from staff or a reaction.
23 CHAIRPERSON PFANNENSTIEL: Would you
24 like to make a response?
25 MR. PENNINGTON: Sure. What we have

1 done in these regulations is try to establish a
2 range of delivery approaches that we can use to
3 achieve home energy ratings and energy efficiency
4 improvements in homes. And we have tried to
5 incorporate the range of delivery mechanisms that
6 exist in the marketplace now and to allow those to
7 continue to be used and allow those to expand in
8 the future.
9 There are two very distinct models for
10 delivering energy assessments and improvements
11 that exist in the marketplace today. There's a
12 model that has an independent third-party that
13 does the assessment and the recommendations are
14 passed on and it is open to the homeowner to try
15 to deliver those if they wish.
16 A second model is an emerging model that
17 has what is termed a billing performance
18 contractor who is involved not only in the
19 assessment but also in the delivery and
20 implementation of the improvements.
21 Both of those models have their
22 advantages and disadvantages. The model related
23 to the building performance contractors delivering
24 the work and doing the assessments is that there
25 is a potential conflict of interest where the

1 assessment could cause the improvement
2 recommendations to be the work that the contractor
3 is prepared to deliver and disregard other
4 improvement possibilities.
5 We have been concerned about conflicts
6 of interest in the past and we have addressed
7 those and required a separation between the
8 evaluator of work and the installer of work. We
9 have done that in the building standards and
10 that's what Jeff is referring to.
11 In this case we think that the model of
12 using the building performance contractor has very
13 strong advantages. We are actually getting work
14 done and actually accomplishing real things and
15 motivating the homeowner to act. And that is a
16 weakness with the model of just making
17 recommendations and kind of leaving it up to the
18 homeowner to act.
19 But we recognize that there are
20 potential conflicts that can arise out of that.
21 So as a result we have specifically identified
22 building performance contractors as one possible
23 delivery mechanism that would be a program that
24 would be especially approved by the Energy
25 Commission and that we would expect extra quality

1 assurance to be done on that work.
2 We would expect that the
3 comprehensiveness of the evaluation would be
4 assessed through quality assurance. We would
5 expect that there would be a disclosure of the
6 contractor that they are in the situation where
7 they are both the assessment provider and the
8 installer. And so we have tried to cover for the
9 potential conflicts that can arise out of that
10 situation and tried to address them.
11 CHAIRPERSON PFANNENSTIEL: Thank you,
12 Bill. This will be back in front of us in a
13 couple of Business Meetings. I guess December 17,
14 as I see it.
15 MR. PENNINGTON: Correct.
16 CHAIRPERSON PFANNENSTIEL: And we will
17 go back through it at that time. But thank you
18 for your comments.
19 MR. PENNINGTON: Sure.
20 CHAIRPERSON PFANNENSTIEL: Moving then
21 on to Item 9, possible adoption of the Electricity
22 and Natural Gas Committee's report, An Assessment
23 of California's Nuclear Power Plants: AB 1632
24 Committee Report. Assembly Bill 1632 directs the
25 Energy Commission to adopt this assessment in

1 November 2008 and include it in the 2008
2 Integrated Energy Policy Report Update.
3 Ms. Byron.
4 MS. BYRON: Good morning, Chairman
5 Pfannenstiel and Commissioners. I am Barbara
6 Byron, Project Manager for the AB 1632 Assessment.
7 This morning we offer for adoption the
8 report entitled An Assessment of California's
9 Nuclear Power Plants: AB 1632 Committee Report.
10 This report was prepared in response to
11 Assemblyman Sam Blakeslee's Assembly Bill 1632.
12 It provides findings and recommendations to policy
13 makers and stakeholders regarding Diablo Canyon
14 and San Onofre.
15 I'd like to give you just a brief
16 overview of the Committee Report beginning with
17 some background on AB 1632 and the report process
18 that we followed and then just summarize some of
19 the key findings -- report recommendations.
20 Just a quick review. AB 1632 requires
21 assessments of the potential impacts of a major
22 disruption of large baseload plants. And under
23 the definition of the bill, which is 1700
24 megawatts or larger baseload plants, Diablo Canyon
25 and SONGS are the only plants that meet these

1 criteria.
2 The bill requires assessments of the
3 vulnerability of these plants to a major seismic
4 event or plant aging.
5 It requires that these assessments be
6 adopted with the 2008 IEPR.
7 And that subsequent updates in future
8 IEPRs are required as new data on potential
9 seismic hazards emerge.
10 In addition the bill requires an
11 assessment of potential impacts of a disruption on
12 reliability, public safety and the economy.
13 An assessment of the costs/impacts of
14 nuclear waste accumulation and other major policy
15 issues related to these plants.
16 The report process that we followed:
17 Almost two years ago we began this process through
18 a competitive bid process in which we selected a
19 contractor which led a multi-disciplinary team;
20 and the contractor was MRW and Associates.
21 We had an extensive public process that
22 included three public workshops and written
23 comments by stakeholders on draft reports.
24 And another key characteristic of this
25 study was they wanted it to be independent. We

1 provided detailed data requests to the plant
2 owners but the study team did not meet with plant
3 owners or interested parties.
4 We also established a Seismic
5 Vulnerability Advisory Team that provided periodic
6 review of the seismic assessment.
7 And now just a brief summary of some of
8 the key recommendations. With respect to seismic
9 vulnerability the report recommends that Southern
10 Cal Edison should develop an active seismic
11 hazards research program for San Onofre similar to
12 PG&E's long-term seismic program.
13 The report also recommends that the
14 utilities should use three-dimensional seismic
15 reflection mapping and other advanced techniques
16 at both plant sites and report on their progress
17 and updated seismic assessment in the IEPR 2009.
18 Additional recommendations related to
19 seismic vulnerability include that in upcoming
20 IEPRs PG&E and Edison should provide updates on
21 their seismic research efforts including tsunami
22 hazard assessments; provide assessment of the
23 degree to which non-safety-related plant
24 components comply with current seismic standards;
25 and provide assessments of the seismic

1 vulnerability implications of evolving seismic
2 standards since these plants designed and built.
3 And then finally, we are asking for them
4 to provide an evaluation of the implications for
5 California's plants of the 2007 Kashiwazaki-Kariwa
6 earthquake in Japan. And that is the earthquake
7 that the largest nuclear power plant in the world,
8 which is over 8,000 megawatts, remains shut down
9 over a year later.
10 With respect to plant aging: The Energy
11 Commission should continue to closely monitor NRC
12 actions and reviews of Diablo Canyon's and SONGS'
13 performance.
14 And the Energy Commission should monitor
15 safety culture lapses at SONGS and required
16 Southern Cal Edison to report on progress in
17 developing and maintaining a strong safety
18 culture.
19 With respect to the impacts of a major
20 disruption for one of these plants: We noted that
21 CAISO studies on aging power plants and once-
22 through cooling should be completed as soon as
23 possible to determine whether further studies on
24 unplanned outages are needed.
25 The Energy Commission, the Public

1 Utilities Commission and CAISO should further
2 evaluate uncertainties of extended outages at
3 Diablo Canyon and San Onofre and identify needed
4 replacement resources.
5 With respect to nuclear waste
6 accumulation: Nuclear waste accumulation at these
7 plant sites has been a long-term concern. San
8 Onofre and Diablo Canyon will run out of spent
9 fuel storage capacity just before the plant's
10 current licenses expire and a low-level waste
11 disposal facility is not available to accept low-
12 level waste from San Onofre and Diablo Canyon
13 except for Class A waste which is the lowest
14 radioactivity class.
15 Our report recommends that during the
16 Public Utilities' decommissioning proceedings the
17 utilities should provide estimates of disposal
18 costs and the amounts of low-level waste and spent
19 fuel to be generated and disposed through plant
20 decommissioning and through a possible 20 year
21 license extension.
22 And finally with respect to license
23 renewal. We included a recommendation related to
24 license renewal. We noted that Diablo Canyon and
25 San Onofre have operated for about half of their

1 40 year operating licenses. Their licenses will
2 expire in the mid-2020s. Both plant owners are
3 exploring the feasibility of seeking 20 year
4 license extensions.
5 And we are recommending that the Energy
6 Commission, with the Public Utilities Commission,
7 should develop a plan for reviewing the overall
8 costs and benefits of nuclear plant license
9 extensions, the scope of the evaluation and
10 criteria for the assessment.
11 Included in this review should be plant
12 safety culture and maintenance; waste storage,
13 transport and disposal plans; seismic hazards;
14 comparison with generation and transmission
15 alternatives; and contingency plans for long-term
16 outages.
17 We note in the report that the State has
18 the authority to set electricity generation
19 priorities based on economic, reliability and
20 environmental concerns. The Public Utilities
21 Commission has the authority to fund and oversee
22 the utilities' plant relicensing feasibility
23 studies in California.
24 The Public Utilities commission
25 establishes a framework for considering the cost-

1 effectiveness of license renewal. As such the
2 CPUC required in PG&E's 2007 general rate case
3 that PG&E incorporate the Energy Commission's AB
4 1632 assessment findings and recommendations in
5 PG&E's license renewal feasibility study, which is
6 due in 2011.
7 And that concludes my presentation.
8 CHAIRPERSON PFANNENSTIEL: Thank you,
9 Ms. Byron. Certainly a very useful and
10 comprehensive report, you are to be commended. In
11 working with your consultants I think you have
12 done really an excellent job of answering Assembly
13 Member Blakeslee's questions.
14 The only question I had in going through
15 it was what role did the NRC play in putting this
16 report together? Clearly they have the ultimate
17 safety responsibility and how did they interact
18 with you and your team?
19 MS. BYRON: At the very beginning of
20 this study Commissioner Byron -- excuse me,
21 Commissioner Boyd, who is the State Liaison
22 Officer to the Nuclear Regulatory Commission,
23 wrote the NRC a letter and informed them of this
24 study and requested their cooperation to identify
25 some key people that would be able to review parts

1 of the report and provide some assistance.
2 And they replied by sending us the names
3 of people who were involved with license renewal,
4 waste disposal and there's one other. Anyway,
5 they were very helpful. As we had questions we
6 were able to contact their staff and run things
7 past them.
8 They didn't provide formal comments on
9 the report but we did informally hear from them
10 that they basically concurred with the report and
11 thought it was a good general, easily read
12 presentation of the federal role versus state
13 role.
14 CHAIRPERSON PFANNENSTIEL: So there was
15 nothing in the report that you heard from them
16 that they challenged or thought was outside of the
17 state authority?
18 MS. BYRON: No.
19 CHAIRPERSON PFANNENSTIEL: Thank you.
20 Are there other questions? I have some people who
21 might want to speak to this. Would you like to
22 hear from them first before commenting?
23 COMMISSIONER BYRON: Sure.
24 CHAIRPERSON PFANNENSTIEL: From Southern
25 California Edison, Michael Short, VP of Nuclear

1 Engineering and Technical Services.
2 MR. SHORT: Good morning, Commissioners.
3 Thank you for the opportunity to speak.
4 SCE, Southern California Edison, concurs
5 with most of the report's recommendations and we
6 are currently working on the ways and means to
7 fulfill them. We want to recognize that some of
8 these may require additional resources than those
9 that we currently have available to us so we will
10 speak to that in the future once that information
11 becomes available.
12 I do want to comment on one aspect of
13 the report. I didn't see it in Ms. Byron's
14 presentation but the report does speak to the
15 current arrangement of spent fuel in the spent
16 fuel pools at San Onofre. And we wanted to point
17 out our belief that rearranging that fuel provides
18 no significant improvement in margins to plant
19 safety. So that particular recommendation we
20 would argue is not cost-effective.
21 COMMISSIONER ROSENFELD: Excuse me. Can
22 you talk a little closer to the mic.
23 MR. SHORT: How is that? Is that
24 better?
25 COMMISSIONER ROSENFELD: Yes.

1 MR. SHORT: Lastly, yesterday we did
2 provide some clarifying information on the ability
3 to store spent fuel at San Onofre in our dry cask
4 program in the interest of providing a full and
5 complete record.
6 That is the extent of my comments. Once
7 again thank you for the opportunity to speak and
8 we look forward to working with you in the future.
9 CHAIRPERSON PFANNENSTIEL: We thank you
10 for your comments and appreciate it.
11 Does PG&E have any comments? I see --
12 Yes. Mr. Galati for PG&E.
13 MR. GALATI: Hello, Scott Galati
14 representing PG&E. Thank you.
15 First and foremost we think that this
16 process was very collaborative. We also think
17 it's some very difficult, tough issues. I think
18 your staff and the consultant team that you picked
19 are to be commended. I know that we absolutely
20 drowned them with information.
21 And when the Draft Consultant Report
22 came out and the Committee Report it was clear
23 that that information was sifted through and both
24 the consultant team and the staff actually spent a
25 lot of time so we really appreciate that. They

also were responsive and engaged with us during our public workshops and we think that that is sort of a model on how processes should continue at the Energy Commission.

We look forward to participating with you on any updates to this as well as other proceedings. I wanted to give you an update. The reason I filled out a blue card is I understood that we might be asking for updates so I appreciate you calling us up.

As you know we are participating with USGS in an ongoing monitoring program. We have a long-term geologic program. During the workshops Dr. Cluff and Dr. Abrahamson came in and had quite a bit of contact with the Committee and had a good exchange about the program that we are doing.

As part of that ongoing program with PG&E, which we are doing in conjunction with the US Geological Service, a pattern of seismic activity was found that suggests a potential offshore fault near Diablo Canyon of which we were previously unaware. It is the purpose of these studies and this seismic activity was found.

Our initial evaluation shows that this potential fault will not exceed our existing

1 seismic design. Therefore the result of any
2 potential ground motions would be minor, have
3 limited impact on Diablo Canyon.
4 Now it will take up to a year for us to
5 verify that this in fact is a seismic fault. But
6 even if that is confirmed, we wanted to let you
7 know that the data right now currently available
8 suggests that it is smaller than the Hosgri Fault,
9 it is shorter in length than the Hosgri Fault, and
10 any activity will be lower than the Hosgri Fault,
11 and therefore it is within the design basis of the
12 plant.
13 And I want to let you know something
14 else too. That we had discussions with Assembly
15 Member Blakeslee to inform him of this
16 information. And during those conversations he
17 pointed out that comments that we had written on
18 the Draft Committee Report had some strong
19 language about seismic uncertainty. I wanted to
20 let you know that as much as it pains me to say
21 the fault is mine in this particular instance. We
22 were rushing at the end to put our comments
23 together --
24 COMMISSIONER BYRON: Which fault would
25 that be, Mr. Galati?

1 (Laughter)
2 MR. GALATI: Why does it pain me?
3 COMMISSIONER BYRON: No, which fault
4 would that be that you are taking responsibility
5 for?
6 MR. GALATI: It's not a newly discovered
7 fault. It is the fault that is apparent and
8 standing before you with a tie on many occasions.
9 (Laughter)
10 MR. GALATI: We put together our
11 comments, we sent it out for review. Dr. Cluff
12 and Dr. Abrahamson commented that I had used some
13 strong words. I used some strong words about the
14 report dealt with the seismic uncertainty of the
15 Hosgri Fault. We believe that the seismic
16 uncertainty -- that there isn't any seismic
17 uncertainty about the Hosgri Fault. The way I
18 wrote that is I talked about seismic hazard and
19 seismic setting. And obviously you can never know
20 all of the uncertainties about the seismic
21 setting, that's why we continue to monitor, that's
22 why we continue to study.
23 I wanted to make sure that I corrected
24 that orally to you. We talked to staff about it
25 and we will be following it up in writing to make

1 sure you understand that we are not suggesting
2 that everything there is to know about the seismic
3 setting in that part of the world is known now,
4 therefore no need to continue to work. Which I
5 think we have established a very long record of
6 continuing to work to understand the setting. So
7 I apologize for that mistake and we will be
8 correcting that on the record.
9 CHAIRPERSON PFANNENSTIEL: Thank you,
10 Mr. Galati. Are there questions?
11 Thank you so much for your time.
12 Other questions of Ms. Byron or
13 discussion of the report? Yes, Commissioner
14 Byron.
15 COMMISSIONER BYRON: Well I have some
16 material to go through, I hope you'll be patient
17 with me. I think you may all know that Ms. Byron
18 and I are not related. However, the nuclear
19 responsibilities today seem to fall to the Byrons.
20 Commissioner Boyd I'm sure wanted to be
21 here today. Unfortunately he is not able to. But
22 I did talk to him yesterday. He is on the other
23 side of the International Time Zone so I guess it
24 was his tomorrow, which would be today. Anyhow, I
25 took advantage of the opportunity and asked him

1 how tomorrow looked and he said it looked good.
2 So I just want you all to know that today will be
3 a good day.
4 CHAIRPERSON PFANNENSTIEL: Did you buy
5 stocks today?
6 (Laughter)
7 COMMISSIONER BYRON: Commissioner Boyd
8 is indeed the State's nuclear officer. I may have
9 said that incorrectly but he carries that water
10 here at the Commission. I am the Presiding Member
11 of the Electricity and Natural Gas Committee and
12 also, of course, the Presiding Member on the IEPR.
13 So we oversaw the AB 1632 Report as part of the
14 Electricity and Natural Gas Committee. I have a
15 few observations and comments I would like to
16 make.
17 First I would like to draw to the
18 Commissioners' attention the adoption order, which
19 is a rather lengthy one, and my perspective on
20 some of the key findings.
21 As Ms. Byron indicated, AB 1632 was
22 written by Assembly Member Blakeslee. It is an
23 extremely important bill which directs the
24 Commission to assess the vulnerability of
25 California's large baseload plants.

1 These two units -- I'm sorry. These two
2 plants, Diablo Canyon and San Onofre, represent
3 about four gigawatts. As Commissioner Rosenfeld
4 always refers to that as four gigs. To the
5 vulnerability to a major disruption from an
6 earthquake, plant aging, and/or I would
7 characterize another possibility, a licensing
8 event that could happen elsewhere in the country
9 or the world that could affect these plants.
10 As Ms. Byron indicated, in July of '07
11 there was a major earthquake at the Kashiwazaki-
12 Kariwa Power Plant. Which I believe is five units
13 that, as she indicated, is about a little over
14 eight gigawatts of power. This is the largest
15 single site power plant in the world, I believe
16 not just nuclear, and it has not been operating
17 since then.
18 There has been a lot of scrambling in
19 Japan to make replacement power for those missing
20 units and it would be a similar issue here. So
21 the reliability and the potential vulnerability to
22 a major disruption is extremely important to this
23 Commission and to the State.
24 Now we also know that PG&E and Southern
25 California Edison are exploring the feasibility of

1 seeking an additional 20 year license extension
2 for these plants. This would extend their
3 licenses into the 2040s. The role of the State in
4 the license renewal decision relates to the
5 State's electrical generation priorities based
6 upon economic, reliability and environmental
7 concerns.
8 So the Public Utilities Commission has
9 established a framework for considering the cost-
10 effectiveness of the Diablo Canyon license
11 renewal. The PUC has approved PG&E's request for
12 funding for their license renewal feasibility
13 study and has required PG&E to defer its work on
14 its own feasibility study and associated spending
15 until after this commission issues the AB 1632
16 findings and conclusions. Further, the PUC
17 required PG&E to incorporate the findings and
18 recommendations of the Energy Commission's AB 1632
19 study in PG&E's own study.
20 Therefore I have as my expectation, and
21 I think it should be the Energy Commission's
22 expectation, that the studies recommended in the
23 AB 1632 Committee Report for you today includes
24 that seismic studies will be included in PG&E and
25 Southern California Edison's license renewal

1 feasibility studies. And will be reported to the
2 PUC as part of their license renewal feasibility
3 study.
4 So as part of the upcoming IEPR
5 assessment beginning with the '09 IEPR PG&E and
6 Southern California Edison should report to the
7 Energy Commission on the status and results of
8 their seismic vulnerability research assessment
9 and license renewal feasibility studies.
10 Particularly in light of the disclosure that
11 Mr. Galati just made to us here a few moments ago.
12 I have had recent conversations myself
13 with Assembly Member Blakeslee, and as I
14 indicated, I talked with Commissioner Boyd. In
15 light of those conversations and the disclosure
16 Mr. Galati has made today, the AB 1632
17 requirements -- I'm sorry, I got myself wrapped up
18 there. In light of these disclosures and those
19 conversations the Commission -- forgive me. Yes.
20 We offer a number of changes that we would like to
21 make to the report. They are not terribly
22 significant. They are mostly the deletion of
23 some, what I would characterize as conditional
24 clauses.
25 I call to your attention on page six the

1 second bullet. There is a recommendation. In
2 line one we recommend insert -- I would like to
3 insert, quote: "recommends that" after Energy
4 Commission. So it would read, Energy Commission
5 recommends that.
6 And we would delete, "in cooperation
7 with other appropriate state agencies and in
8 coordination with PG&E, should evaluate the degree
9 to which using." I would like to insert the word
10 use before, quote:
11 "three-dimensional geophysical
12 seismic reflection mapping and
13 other advanced techniques to
14 explore fault zones near the Diablo
15 Canyon site. PG&E should report on
16 their progress and their most
17 recent seismic vulnerability
18 assessment for Diablo Canyon in the
19 2009 IEPR."
20 End quote. And that would be inserted after
21 advanced techniques.
22 Also a change on line four. I will read
23 this entire thing so it makes sense. On line four
24 delete, quote: "should be pursued, if warranted,
25 by a cost-benefit analysis."

1 So although it sounds like a substantial
2 change, really the substantive aspect of it is the
3 deletion of the conditional clause, "should be
4 pursued, if warranted, by a cost-benefit
5 analysis." So the recommendation now should read,
6 quote:
7 "The Energy Commission
8 recommends that PG&E should use
9 three-dimensional geophysical
10 seismic reflection mapping and
11 other advanced techniques to
12 explore fault zones near Diablo
13 Canyon. PG&E should report on
14 their progress and their most
15 recent seismic vulnerability
16 assessment for Diablo Canyon in the
17 2009 IEPR."
18 Similarly we will make a change on page nine, the
19 second bullet. And this is a similar change with
20 regard to Southern California Edison. I think
21 what I will do in the interest of time is just
22 read to you what the resulting text would now
23 read.
24 CHAIRPERSON PFANNENSTIEL: And excuse
25 me, Commissioner Byron.

1 COMMISSIONER BYRON: Yes.
2 CHAIRPERSON PFANNENSTIEL: I just want
3 to make sure. These changes are all available,
4 are they not?
5 COMMISSIONER BYRON: That's a good
6 question. Are these available?
7 CHAIRPERSON PFANNENSTIEL: Not yet?
8 MS. BYRON: They are not but I can make
9 copies and put them out for everybody.
10 CHAIRPERSON PFANNENSTIEL: Yes, they
11 should be in writing for everybody to see.
12 COMMISSIONER BYRON: Well, for
13 completeness then, the other recommendation would
14 be of the same nature applying to Southern
15 California Edison on page nine. Lines ones
16 through four would now read, quote:
17 "The Energy Commission
18 recommends that Southern California
19 Edison should use three-dimensional
20 seismic reflection mapping, other
21 techniques and a permanent GPS
22 array for resolving seismic
23 uncertainties for SONGS. SCE
24 should report on their progress and
25 their most recent seismic

1 vulnerability assessment for SONGS
2 in the 2009 IEPR."
3 As I said, there is a long adoption order. I
4 would just bring to your attention the requirement
5 in that adoption order that as new seismic data
6 becomes available both PG&E and Southern
7 California Edison would expedite their geophysical
8 studies and report back to this Commission.
9 Commissioner Boyd and I have also agreed
10 to take this up in the '09 IEPR, which in fact if
11 I recall from the Assembly Member's legislation,
12 SB 1632, it also requires periodic updates as new
13 data or new understanding of potential seismic
14 hazards emerge.
15 So I apologize for the length of all
16 these changes. A lot of this information just
17 came to light recently. I applaud PG&E for coming
18 forward and disclosing the discovery of some
19 additional potential seismic hazard data. But I
20 think these changes are warranted. And if there
21 is no other public comment I would like to make a
22 couple of other notes. Maybe it would be a good
23 opportunity to open it up for public comment
24 again.
25 CHAIRPERSON PFANNENSTIEL: Is there

1 further public comment based on the changes
2 Commissioner Byron just read into the record?
3 Seeing none, go ahead.
4 COMMISSIONER BYRON: Well, I note as
5 well that Mr. Short indeed corrected, I should say
6 clarified a letter correction to our report dated
7 November 17. My take from that letter was that it
8 primarily identified as well that Southern
9 California does have sufficient space for spent
10 fuel storage. And we note that here today.
11 Let's see. I think that's really -- I
12 apologize that I am reading a lot of this, I
13 wanted to get it correct. But that concludes my
14 remarks, Madame Chairman. I think it was a
15 substantial effort on the part of many.
16 Participation in a number of workshops.
17 And certainly I would like to commend
18 Barbara Byron, I think she has done an excellent
19 job. I hope you are not thinking of retiring any
20 time soon, Ms. Byron. I've heard some rumors.
21 MS. BYRON: Well, we shall see.
22 COMMISSIONER BYRON: And it is not very
23 many people at the Energy Commission that have a
24 continuing relationship with Assembly Members such
25 as Assembly Member Blakeslee.

1 I think it is also worth noting the
2 state, particularly San Luis Obispo County, is
3 very fortunate to have him. He is obviously
4 extremely engaged and knowledgeable on this
5 subject. But more importantly, he is engaged on
6 the issue of public safety so I think we all
7 benefit as a result of that. In addition to
8 writing the legislation I think he has really made
9 sure that this report is up to the highest
10 standards.
11 CHAIRPERSON PFANNENSTIEL: As it appears
12 to be.
13 COMMISSIONER BYRON: So I would like to
14 move the item with those changes. And also thank
15 my fellow Commissioner Boyd who has also been very
16 engaged in this issue.
17 CHAIRPERSON PFANNENSTIEL: So you have
18 moved the adoption of the record.
19 COMMISSIONER ROSENFELD: Second.
20 CHAIRPERSON PFANNENSTIEL: It has been
21 moved and seconded. All in favor?
22 (Ayes.)
23 CHAIRPERSON PFANNENSTIEL: Thank you.
24 Thank you, Barbara.
25 CHAIRPERSON PFANNENSTIEL: Then moving

1 to Item 10, possible adoption of the 2008
2 Integrated Energy Policy Report Update.
3 Ms. Korosec.
4 MS. KOROSEC: Good morning, Chairman
5 Pfannenstiel, Commissioners. I am Suzanne
6 Korosec. I am the lead for the Integrated Energy
7 Policy Report.
8 As you know the Energy Commission is
9 required by Senate Bill 1389 to prepare this
10 Integrated Energy Policy Report every two years in
11 odd numbered years with an update prepared in the
12 off years.
13 Today I am asking for your consideration
14 and approval of the IEPR Committee Final 2008 IEPR
15 Update. I will provide a brief description of the
16 various topics and recommendations in the report
17 followed by an opportunity for questions from the
18 dais and then turn it back to the Chairman to take
19 public comment.
20 I do want to note that we have errata
21 for Chapters 1, 2 and 5 of the report. Several of
22 those have been posted one has not that just came
23 in just before ten o'clock today. However, copies
24 of all of those are out on the table in the foyer
25 and the final errata list will be posted for

1 parties to see them all in one place.
2 I would also like to acknowledge all the
3 hard work from the staff that went into this. We
4 could not have done this report without all of
5 their good input.
6 I want to thank all the stakeholders who
7 sat through many workshops. I think we had 13
8 workshops by the end of the process.
9 I want to thank our sister agency, the
10 California Public Utilities Commission for
11 collaborating with us on this report and providing
12 feedback, often on a very short turnaround time.
13 We do appreciate that.
14 And I want to thank the IEPR Committee
15 for all of your good direction and for your
16 patience as we hammered this report together.
17 The 2008 IEPR contains six chapters that
18 covers the topics that are listed here. The first
19 topic was selected by the Committee because they
20 felt that it is important, given the potential
21 contribution of renewables to meeting the State's
22 greenhouse gas reduction goals, to understand how
23 the electricity system will need to be structured
24 to support these higher levels of renewables while
25 still maintaining system reliability and

1 stability.

2 The topics for Chapter 2 and 3, the

3 energy efficiency and the Energy Commission's

4 demand forecast and electricity procurement issues

5 were both identified in the 2007 IEPR as needing

6 further exploration in the 2008 Update.

7 And the topics for Chapters 4 and 5 are

8 assessments of the State's nuclear plants, which

9 we just heard about, and the PUC's Self-Generation

10 Incentive Program. Both of these were required by

11 statute to be included in the 2008 Update.

12 Finally for Chapter 6, because this

13 report is an update we wanted to provide a

14 progress report on key recommendations that were

15 made in the 2005, 2006 and 2007 IEPRs.

16 So for Chapter 1, this describes some of

17 the concerns with moving to a higher level of

18 renewables that were raised by parties in various

19 workshops that we held on this topic. The first

20 barrier that is discussed in the report is

21 transmission, particularly the lack of access to

22 renewable resource areas in the state and

23 environmental land use and public opposition

24 issues associated with building new transmission.

25 The report also talks about legal and

1 regulatory barriers to joint transmission projects
2 between investor- and publicly-owned utilities.
3 These projects may be necessary to reach certain
4 areas of the state that have renewable resource
5 areas to help us meet our RPS goals.
6 The second barrier that was identified
7 is the difficulty in integrating large amounts of
8 renewables into the system, particularly
9 intermittent renewables like wind, while
10 maintaining system reliability. This is going to
11 require some form of backup, either fossil plants
12 or energy storage or additional renewables to
13 maintain system stability. And we also need to
14 understand the amount of ramping and regulation
15 that will be needed to maintain the operational
16 stability with the increased levels of renewables.
17 The third barrier is the effect on
18 meeting our 33 percent goal of contract delays or
19 cancellations and the associated concerns about
20 the lack of transparency about how renewable
21 procurement decisions are being made.
22 The fourth barrier is the uncertainty
23 and concern about what effect that higher levels
24 of renewables may have on electricity prices and
25 electricity rates.

1 And finally, there are environmental
2 issues that are associated with building large-
3 scale renewables, particularly in sensitive areas
4 of Southern California.
5 The IEPR Committee made a number of
6 recommendations to address these barriers. I
7 won't go over all of them, I'll just highlight a
8 few of them that I think are the most important.
9 First, the Energy Commission should identify ways
10 to reduce the legal and market obstacles to joint
11 transmission projects.
12 Second, because transmission is such an
13 important issue the Committee believes that we
14 really should increase the amount of funding that
15 is devoted to transmission-related research and
16 development up to a level of $60 million per year.
17 That's about a ten-fold increase from what we
18 currently have right now.
19 The Committee also recommends that we
20 should use the 2009 IEPR to identify the amount
21 and location of new fossil generation that will be
22 needed to support renewables. And that we work
23 with the California Independent System Operator to
24 better understand the amount of ramping and
25 regulation that is going to be needed with these

1 higher levels of renewables.
2 Regarding renewable procurement. The
3 Committee recommends that if a utility plans to
4 build or purchase its own generating facilities,
5 renewable procurement proposals should be
6 reviewed, selected and ranked by independent
7 parties, not by the investor-owned utilities.
8 In addition, the Committee recommends
9 that the PUC should immediately implement standard
10 contract prices or feed-in tariffs for facilities
11 smaller than 20 megawatts to provide financial
12 certainty for developers and to help these
13 facilities get built and on-line quickly to ensure
14 that we meet our renewable targets.
15 The Committee also recommends that we
16 should work with parties and the PUC to better
17 understand the potential cost impacts of a higher
18 target of renewables.
19 And finally, we need to continue our
20 collaborative efforts within the Renewable Energy
21 Transmission Initiative with the Department of
22 Energy and the Bureau of Land Management to ensure
23 that new renewable facilities, and the associated
24 transmission to access those facilities, is built
25 in locations with the least environmental impact.

1 At the same time we feel the PUC should
2 direct the IOUs to consider potential delays in
3 projects because of environmental concerns when
4 they are selecting projects and RPS contracts.
5 The errata for this chapter that was
6 available out on the table is reflecting the
7 recently signed Governor's Executive Order
8 instituting a 33 percent RPS level and talking
9 about some of the activities that will be done to
10 ensure that the environmental permitting is
11 streamlined for facilities in that area of the
12 state.
13 Chapter 2 covers the issue of how energy
14 efficiency savings are accounted for in the Energy
15 Commission's demand forecast. Our demand forecast
16 is the official statewide forecast that is used in
17 many venues, like the PUC's procurement proceeding
18 and the ARB's scoping plan for greenhouse gas
19 reductions.
20 During development of the 2007 IEPR
21 parties identified the need to better understand
22 what is and is not included in our forecast in
23 terms of energy efficiency savings. One of the
24 major concerns was how efficiency savings are
25 attributed in the forecast, particularly whether

1 and how savings from uncommitted programs, such as
2 future standards or unfunded energy efficiency
3 programs, are embedded in our forecast.
4 The Energy Commission agreed that this
5 is a concern and during development of the 2008
6 IEPR Update we began the process of clarifying the
7 savings that are incorporated in the forecast.
8 Going forward we are going to be working
9 with Itron, who is being funded by the PUC, they
10 are graciously helping us with that in a major
11 effort to improve the forecasting of efficiency
12 savings. And the staff have also established a
13 multiparty working group to work through this
14 issue with parties and make sure that everybody
15 understands what is in the forecast and that that
16 is made more clear.
17 The chapter also reports on progress
18 that has been made to date by utilities, both
19 investor- and publicly-owned, towards achieving
20 the statewide goal of all potentially achievable,
21 cost-effective electricity and natural gas
22 efficiency savings.
23 The recommendations in this chapter: The
24 Committee recommends that we continue to address
25 the potential overlap between efficiency savings

in our forecast and the assumed savings that are used in energy efficiency program planning.

We will also continue the efforts with the working group that I mentioned to improve the demand forecast in the 2009 IEPR cycle.

We also recommend that independent efforts to evaluate alternative methods of forecasting as part of the 2009 IEPR be continued.

And finally, we believe that the Energy Commission needs to continue working with the publicly-owned utilities to understand how they estimate their energy efficiency potential and set their targets. And encourage them to identify available funding sources other than the limited public goods charge funds that are available for this effort to help them meet their efficiency goals.

I will just note that there is errata for this chapter that clarifies the data that is included in Table 2 in the chapter that shows efficiency savings. This data is based on the 2007 demand forecast. And I want to acknowledge that these numbers are likely to change as we refine and improve our energy efficiency measurement and attribution during the 2009 IEPR

1 process.
2 Chapter 3 covers electricity
3 procurement. The 2007 IEPR discussed the need for
4 improvements to the current electricity
5 procurement process. This included having the
6 utility plans use common assumptions to allow
7 comparison between utilities, making sure that
8 they adequately address ratepayer risks like
9 higher volatile natural gas prices, that they
10 extend over a longer time period, and that they
11 incorporate environmental impacts and risks. And
12 also that they use a social discount rate to value
13 future fuel costs.
14 Chapter three also reports on progress
15 that's made towards implementing these
16 recommendations, discusses how the current
17 procurement process could be improved, and also
18 talks about issues surrounding aging power plants
19 and plants that use once-through cooling.
20 Recommendations on long-term
21 procurement: The Committee recommends that -- We
22 acknowledge the progress that the PUC has made in
23 improving procurement and we recommend that our
24 staff continue to collaborate with the PUC in that
25 process; recommend that the 2009 IEPR include an

1 assessment of long-run uncertainties and
2 electricity demand and natural gas supplies and
3 prices.
4 After exploring the use of a social
5 discount rate in utility procurement plans the
6 Committee recommends that we not use such a rate
7 in the planning at this point since we are moving
8 towards a portfolio approach that appears to be
9 addressing the issue of future fuel cost risk in
10 these plans. But the Committee does recommend
11 that the PUC should reconsider this when they are
12 refining how bids are evaluated in future
13 procurement solicitations.
14 Regarding aging and once-through cooling
15 plants: The Committee recommends that in the 2009
16 IEPR we evaluate the impacts of continued reliance
17 on these plants and that we get a better
18 understanding of how adding high levels of
19 renewables to the system will interact with our
20 desire to reduce the dependance on these plants.
21 We also need to look at impacts on
22 system reliability of removing these plants or
23 repowering them; and what transmission upgrades
24 might be needed to allow renewables to replace
25 these once-through cooling plants.

1 The Committee recommended -- excuse me,
2 committed in developing in the 2008 IEPR to
3 conduct a 2009 IEPR, to conduct a public process,
4 and to work with the PUC to develop a bid
5 evaluation and selection process that reflects a
6 number of procurement principles.
7 These are outlined here. Basically that
8 it should be fair and objective, be transparent.
9 Bids should be reviewed and ranked and selected by
10 independent parties. For example, the PUC or
11 independent evaluators using publicly available
12 criteria.
13 Bid assessments should be based on
14 appropriate costs and non-cost criteria and
15 consider environmental impacts and the likelihood
16 of attaining required permits and prior success of
17 bidders in fulfilling contract and non-contract
18 offerings.
19 The process should encourage -- excuse
20 me, should be conducted in an efficient way.
21 Avoid unnecessary administrative and transaction
22 costs that might discourage market participants
23 and impose greater costs on ratepayers.
24 Should expressly identify how the bid
25 evaluation process considers project permitting.

1 And that it should protect commercially
2 competitive information.
3 Chapter 4 is on the nuclear assessment.
4 I won't go over this since we just went over that
5 in pretty heavy detail. I do want to note that
6 because this chapter in the IEPR summarizes the AB
7 1632 report we will make conforming changes to
8 this chapter in line with the errata that
9 Commissioner Byron identified for that report.
10 Chapter 5 summarizes the evaluation
11 required by Assembly Bill 2778 of the CPUC's Self-
12 Generation Incentive Program. This legislation
13 requires the Energy Commission to evaluate the
14 costs and benefits of expanding eligibility for
15 the program to include renewable and clean fossil
16 distributed generation technologies.
17 When this program was established in
18 2001 eligible technologies included microturbines,
19 small gas turbines, wind turbines, solar
20 photovoltaics, fuel cells and internal combustion
21 engines. With the advent of the California Solar
22 Initiative the PV technologies were removed from
23 the program and as of January 2008 only fuel cells
24 and wind technologies are eligible for the
25 program.

1 The evaluation was done by TIAX, LLC
2 under contract to the Energy Commission using data
3 on more than 1,000 systems that was provided by
4 the utilities. And the evaluation looked at
5 environmental, macroeconomic and grid impacts.
6 Based on the evaluation the IEPR
7 Committee recommends that eligibility for the
8 Self-Generation Incentive Program should be based
9 on overall efficiency and performance of systems
10 regardless of fuel types.
11 Also recommends that the PUC should
12 consider re-instituting technologies that use non-
13 renewable fuels and renewable fuels like landfill
14 gas, digester gas or biodiesel.
15 Recommend that because these systems
16 often provide locational benefits, that the PUC
17 should require IOUs to meet some portion of their
18 distribution system upgrades by installing
19 distributed generation or combined heat and power
20 system in areas that provide these locational
21 benefits to the system.
22 There were errata published for this
23 chapter as well that basically just made it more
24 clear that we are recommending that systems that
25 use non-renewable fuels should be eligible for the

1 Self-Generation Incentive Program.
2 The final chapter of the IEPR Update
3 provides a status report on 45 key recommendations
4 from past IEPRs. The progress on the various
5 recommendations is characterized as substantial,
6 on-track or needs improvement. In the interest of
7 time I am not going to go through any of these
8 recommendations but just cover them generally.
9 We have made substantial progress on
10 recommendations related to energy efficiency and
11 transmission, on certain procurement-related
12 recommendations.
13 We are mostly on-track for
14 recommendations on demand response activities,
15 natural gas, transportation, petroleum
16 infrastructure, nuclear energy and the water/
17 energy connection.
18 And we need some significant improvement
19 in some procurement recommendations, many of the
20 renewable recommendations, some land use and some
21 distribution system recommendations.
22 So that is a very, very high level and
23 fast overview of the '08 Update. Are there any
24 questions from the dais?
25 CHAIRPERSON PFANNENSTIEL: Thank you,

1 Ms. Korosec. If there aren't direct questions
2 from the dais I am going to ask for public
3 comment. And then we can come back and see if
4 there are questions or further comment from here.
5 The only blue card I have is Manuel Alvarez from
6 Edison.
7 MR. ALVAREZ: Good morning,
8 Commissioners. Manuel Alvarez, Southern
9 California Edison.
10 Actually I just have a couple of points
11 I want to bring to your attention. First of all I
12 would like to express our appreciation for our
13 participation in this 2008 IEPR. I think we found
14 the process fairly acceptable. And though we had
15 13 hearings and a lot of controversies during the
16 course of the process I think we end up in a very
17 comfortable place.
18 We want to acknowledge your work on the
19 renewable area and actually echo our support for
20 the work that you have laid out there for the --
21 specifically the integration work and efforts
22 going on and your recognition of the many issues
23 that confront the renewable arena, transmission
24 and as they were relayed in Suzanne's
25 presentation.

1 I want to bring to your attention one
2 other item that wasn't presented and it is kind of
3 a current affair and that's the current financial
4 crisis that this country faces. I think it
5 started to surface at the end of the process and I
6 think you heard some at least preliminary comments
7 about not much concern about the impacts of the
8 credit crisis that is going on today in this
9 country. But I think as you look at the news that
10 has unfolded over the last month and the status of
11 the financial markets I think it is definitely an
12 issue that should be on your agenda for the 2009
13 process.
14 Just as a side note. This morning as I
15 was preparing for this activity I noticed that
16 General Motors was down to $1.53 a share. And one
17 of the highlights I noticed in the news this
18 morning was a short summary of some of the solar
19 projects, solar companies' stocks, and those were
20 actually down also. So it was just something that
21 I would like to draw to your attention to make
22 note of for the 2009 process.
23 The final item I want to bring to your
24 attention is a longstanding item that we have
25 discussed and deliberated on and that is the

1 procurement process. I just want to highlight one
2 item in your recommendations I would like you to
3 take note. And that is the recommendation for the
4 evaluation of the bid selection process during the
5 procurement process.
6 I would like to suggest and offer for
7 your consideration that the notion of an
8 independent evaluation, while identified in your
9 report, should also take note of the need for
10 collaboration between the Energy Commission and
11 the CPUC and any independent evaluator that is
12 ultimately identified.
13 I know this issue of collaboration tends
14 to cause strain in the system at times, not only
15 on procurement but also with greenhouse gases, as
16 we heard about in other forums. But I think the
17 coordination we would like to see and the
18 requirements that take place provide valuable
19 assistance for everybody in the procurement
20 process.
21 And then I would like to also note your
22 recognition on the continuing subject of
23 confidentiality and your recognition of the
24 appropriateness of keeping confidential certain
25 commercial information during this process. And I

1 know that will be a subject of further discussion
2 later on. Thank you.
3 COMMISSIONER BYRON: Mr. Alvarez, thank
4 you for your thoughtful comments. Those are very
5 good and I have noted all of them.
6 With regard to the procurement process
7 and your suggestion about cooperation with the
8 PUC. I would also add the Independent System
9 Operator. The Chairman and I met with Yakout
10 Mansour on the subject, amongst others, last week,
11 and discussed the importance of procurement and
12 setting up the requests for offers properly.
13 Their organization is interested and sees the need
14 for further cooperation.
15 MR. ALVAREZ: I would agree with that.
16 I tend to forget about them because they tend to
17 be so integrated in terms the procurement and
18 operations process that at times I tend to think
19 that they are actually involved more so than they
20 are in terms of planning.
21 COMMISSIONER BYRON: Well, and perhaps
22 they are and we are not aware of it. But
23 Mr. Mansour indicated that we will work more
24 closely on this particular subject as part of the
25 '09 IEPR.

1 Also I did take some time, since you
2 brought it up, in working with the Public
3 Utilities Commission I met with a number of PUC
4 Commissioners on this particular recommendation
5 and they are very receptive to working with the
6 Commission and the input that we have.
7 Of course it is their process but I
8 think they are open, very much so, to seeing it
9 become more transparent and more useful to the
10 state in making sure we procure and see these
11 projects built. While, of course, keeping in mind
12 the lowest cost to consumers. I appreciate your
13 comments and we are working on that, on all of
14 them, but I just wanted to make note of that
15 particular one.
16 MR. ALVAREZ: In fact I would just like
17 to make one comment because I was reminded about
18 Commissioner Boyd, even though he is not here
19 today. This notion that it is their process. I
20 think we all recognize that it is the State's
21 process. And it is the coordination and
22 collaboration of the entire State of California
23 and the participants in that process that are at
24 stake here, not merely a single agency.
25 COMMISSIONER BYRON: One more note if I

1 may. I thank you very much. I did meet with
2 Southern California Edison, the executives there,
3 as well as with the other three investor-owned
4 utilities a number of months ago and solicited
5 their input at the highest level with regard to
6 the IEPR and received their commitment for
7 participation in this and future IEPRs. So I
8 thank you and your company for that.
9 MR. ALVAREZ: Thank you.
10 CHAIRPERSON PFANNENSTIEL: Thank you,
11 Manny. Other public comment? Ms. Treleven
12 representing PG&E.
13 MS. TRELEVEN: Good morning,
14 Commissioners. I am Kathy Treleven, PG&E.
15 I would first like to thank the staff
16 and the Committee for the impressive work of this
17 Update, bringing it into being. It seems like
18 each update cycle gets a little closer to being a
19 full IEPR. And was it only 13 workshops?
20 (Laughter)
21 MS. TRELEVEN: I would particularly like
22 to thank Suzanne Korosec for her organization and
23 availability and her diplomacy in dealing with our
24 concerns.
25 Second, PG&E wants to note our

1 appreciation for the highlighting of the work that
2 needs to be done to bring even the most recently
3 contracted renewables forward and integrated into
4 our system. We have the same list of things from
5 transmission to environmental siting to addressing
6 the Governor's new workshops and working groups on
7 our list. And we will be there with the staff
8 working with you and many others.
9 On the question of procurement in
10 general. We will be back in the 2009 IEPR. We
11 believe that the procurement process has improved
12 over time and is a good one for assessing
13 viability for bringing forward the most cost-
14 effective and the best resources to meet our
15 reliability needs. And we will be with you in the
16 2009 IEPR to talk about further changes.
17 And just one additional note. It this
18 interest in reliability that will also bring us
19 back the Monday after Thanksgiving for the
20 workshops to really delve into the energy
21 efficiency issues tied up with the demand
22 forecast.
23 If there is a double counting of energy
24 efficiency in the demand forecast then the
25 forecasted need is too low and we don't get enough

1 resources. And PG&E has a strong interest in
2 rolling our sleeves up and helping to resolve that
3 issue, looking at the Commission's standing models
4 and alternative forecasting methods.
5 Thank you for the opportunity to make
6 these short comments and we will be back next
7 year.
8 CHAIRPERSON PFANNENSTIEL: Thank you,
9 Kathy. Other public comment on the IEPR?
10 Comments from Commissioners? I have a
11 few but let me offer -- Let me, before we turn to
12 the Presiding Commissioner on the IEPR, let me
13 first offer words of appreciation to the people
14 who worked so hard on this IEPR. And I want to
15 start with Suzanne again. This was a grand
16 experiment. We have a permanent IEPR staff and
17 most of the year she was it. Then she was hiring
18 staff and putting people together. Just
19 incredible both organizational skills and great
20 depth of knowledge of content made such a
21 difference. This was my third IEPR and she
22 certainly made it my easiest one. Again, only 13
23 workshops? It seemed like a lot more.
24 (Laughter)
25 CHAIRPERSON PFANNENSTIEL: It was

1 really, though, incredibly -- we moved a lot more
2 smoothly than the others have.
3 I also want to thank the rest of the
4 staff. There was a large staff effort in each of
5 these subject. People put in extra time and it
6 showed in the quality of the work.
7 I also wanted to add thanks to the
8 stakeholders. There were many participants in
9 these workshops and we went out of our way to give
10 people an opportunity to review drafts and review
11 reports and come in and give us comments and
12 people took us up on that. That made the product
13 a lot better.
14 Clearly Commissioner Byron and Laurie
15 Ten Hope were the driving forces behind this
16 product being as really as sharp, as focused, as
17 meaty as it is, both in the planning of it and
18 then the bringing it right down to the very last
19 detail. I know because Jeff and I have been
20 working on the detail since early hours this
21 morning.
22 In a grander scope, this IEPR is really,
23 it is an update of the loading order. It takes
24 the three parts of the loading order and looks at
25 what we need to do to make that work. It takes

1 energy efficiency and looks at how are we
2 estimating it and is that correct. It looks at
3 renewables and says, if we are going to move
4 farther with renewables than we have than what do
5 we need to do? Let's get ready to do that.
6 And then it looks at the fossil
7 procurement in terms of, is this working correctly
8 to give the State both the most efficient and the
9 least cost procurement results that we need.
10 Really, really important for us. This
11 is not an academic exercise, this is really moving
12 forward in the loading order.
13 Let me digress a little bit onto the
14 question of the energy efficiency in the forecast.
15 Because I really think that fundamentally we need
16 to get that right. If there is anything in this
17 report that is slightly disappointing to me, is
18 that it feels we haven't moved a long ways from
19 where we were last year at this time in adopting
20 the '07 IEPR. Where we identified the question of
21 our forecast and how we incorporate energy
22 efficiency into the forecast as a really important
23 element of what we do.
24 And when you think about it, it is
25 really one of the most fundamental roles the

1 Energy Commission plays. We have prepared the
2 statewide electricity demand forecast. And that
3 forecast is used for many purposes throughout the
4 state, reliability being one but many others. We
5 need to get that right.
6 So we need not only to make sure that we
7 know that it is right. And I think to a large
8 extent we do feel that we have it right. We have
9 to convince the other stakeholders, the rest of
10 the state has to have the same confidence in that
11 forecast that we have. So that when others use it
12 and rely on it they have to understand it
13 fundamentally well.
14 We need therefore to be able to
15 communicate what we do, explain it, work with
16 others, bring them into our process. So
17 communication of what we do is I think more
18 important than it has been played up.
19 It is possible that in fact we need to,
20 we need to think about doing the forecast
21 differently. We have been doing it the same way
22 for a long time and it has worked to where we are
23 now. But it may be time to rethink the analytical
24 base for the forecast. Or at least to rethink it
25 to the point of deciding that what we have is the

1 best that we should have.
2 And I direct this to our Executive
3 Director as we go through the effort to improve
4 this process. And I know we are kicking it off.
5 December 1 is, in fact, a year after we adopted
6 last year's IEPR where we said we were going to
7 approach this. We need to look at this clearly as
8 not an academic exercise but fundamental to the
9 Energy Commission's mission.
10 And I will put in there a plea that we
11 really see this as trying to get to 100 percent of
12 cost-effective energy efficiency. It is the goal
13 we adopted last year. We set it out for
14 ourselves. I don't see that term anywhere in the
15 chapter that's in front of me now. So we need to
16 be thinking about this as our next big step. And
17 I will trust this to the '09 IEPR Committee and
18 its Presiding Member, who I know will carry this
19 forward.
20 So with that, again thanks to everybody
21 who made it a very successful update, a very
22 strong, positive and meaty update. Commissioner
23 Byron, have you comments?
24 COMMISSIONER BYRON: Thank you, Madame
25 Chairman, yes I do. Unfortunately I have a few of

1 them.
2 It is an amazing process, what we do
3 here at the Energy Commission on these Integrated
4 Energy Policy Reports. Fortunately, the easy part
5 is that as the Chairman of this Committee I get to
6 build on some very substantial work and good
7 recommendations from prior IEPRs. I think it is a
8 lot easier to stand tall on the work of others and
9 the Commissioners that have preceded me in this.
10 And I do take your charge seriously. We
11 will continue to work on improving these
12 forecasting approaches in the '09 IEPR. We would
13 be myself and Commissioner Boyd.
14 I would like to extend my thanks to the
15 Chairman who has brought her experience and
16 expertise and guidance to our completing this. By
17 the way, if we approve it today it will be on
18 time. I don't think we could have done it without
19 you, I appreciate it very much.
20 And I would also like to put on the
21 record the fact that we anticipate that we will
22 get that coveted Governor's response that is
23 required by the legislation that is extremely
24 important to the people of the state. This
25 Commission develops this policy through a public

1 process and the Governor's response really helps
2 to focus and direct this agency or this Commission
3 and the other Commissions and agencies of the
4 State on the right topics going forward. That
5 will be extremely important and we will work to
6 see if we can get that response.
7 I will thank briefly Ms. Korosec and her
8 staff, all of whom I haven't even had a chance to
9 meet yet we have been so busy, for an excellent
10 job. And I am very fortunate to have you and this
11 newly structured group to take on this
12 responsibility.
13 But like I said, this is just the
14 warmup, the Update. We have got to go through a
15 much more arduous process because we will be
16 digging into some of these subjects in much more
17 detail than we were able to as part of this
18 Update.
19 Most of all it is important to thank the
20 parties. My sense is that everyone that
21 participates in the IEPR, and participates for
22 that matter in Energy Commission activities, is
23 getting spread rather thin. I am very conscious
24 of that. I think probably a lot of folks are at
25 the Air Resources Board on other subjects.

1 But as difficult as it is we definitely
2 need your continued involvement, particularly as
3 we go through the integration of renewables issue.
4 That would be in response -- as we brought it up
5 in the earlier IEPR. But as you'll see, we have
6 got some changes even that are required in this
7 IEPR as a result of an Executive Order that came
8 out this week.
9 So having said that I would like to go
10 through those changes. I think it can be done
11 rather briefly. The first one is an errata that
12 Ms. Korosec has prepared that is primarily needed
13 in response to the Executive Order that the
14 Governor signed on Monday. Two of my fellow
15 Commissioners were present and aware of this
16 certainly.
17 I am generally convinced that the four
18 changes that Ms. Korosec has outlined in the
19 errata address all the places in the IEPR that are
20 necessary to demonstrate our awareness and
21 incorporation of the requirements to that
22 Executive Order. Ms. Korosec, would you like to
23 add anything else with regard to this errata?
24 MS. KOROSEC: No, I think that you have
25 characterized it correctly.

1 COMMISSIONER BYRON: So I hope I don't
2 have to read all these.
3 MS. KOROSEC: No, these will be posted
4 and they have been posted for people to look at so
5 they are available. And we will compile all of
6 the errata that you have there, the three separate
7 sheets, into one single sheet for the parties to
8 see what the difference is.
9 COMMISSIONER BYRON: Good. Well of
10 course we will open this up to comment if there's
11 any comments as a result of these changes.
12 The second errata I'd like to address
13 would be the one that addresses Chapter 5. And I
14 don't think these are very extensive. You can
15 tell there's two places where we are trying to
16 correct an omission that is consistent with
17 previous IEPR recommendations. And that is that
18 we make sure that the full benefits of ultra clean
19 and low emission and essentially non-renewable
20 fuels such as natural gas are incorporated once
21 again into the Self-Generation Incentive Program.
22 I also would comment, although it
23 doesn't require a change to the IEPR. You may
24 recall that there was some legislation earlier
25 this year, I believe presented by Senator Kehoe.

1 There is some concern regarding the cost of a
2 Self-Generation Incentive Program Evaluation
3 Report that was included in that legislation.
4 There may be some misconception. It is
5 really good to do these kinds of evaluations
6 because, as you know, we are spending public goods
7 money here. I think we could call it ratepayer
8 monies. And it is good to test the effectiveness
9 of how effectively we spend those funds for
10 efficiency gains.
11 But I would like to make sure that
12 everyone understands that the money for such
13 studies do not, as I understand it, come from the
14 general funds. The Energy Commission is a special
15 funded agency and funds for such studies come from
16 our energy surcharge and I think that did have
17 some effect on that legislation.
18 Having said that, I would like to put
19 forward the errata for Chapter 5 for your
20 consideration. Ms. Korosec, anything to add on
21 Chapter 5?
22 MS. KOROSEC: No.
23 COMMISSIONER BYRON: Okay. The other
24 one, Madame Chairman, I am going to need some help
25 on because of your longstanding involvement and

1 expertise on this. And that is, that we do have
2 some concerns that were raised around the energy
3 efficiency chapter. Could I ask if you could take
4 us through this.
5 CHAIRPERSON PFANNENSTIEL: Sure.
6 Specifically Chapter 2, page 40, and then there is
7 a table on page 41. And what we are proposing is
8 some language that would characterize what is in
9 that table. The table purports to show energy
10 efficiency savings and it is broken down by
11 programs and standards and then market effects and
12 then a total for both past and historical years.
13 The point really is that the attribution, the
14 breakdown of that is exactly what we are going to
15 be working on going forward as we reevaluate our
16 models and our processes.
17 So we are proposing some language that
18 will really characterize this as a work in
19 progress. This is based on our 2007 demand
20 forecast. But the allocation among those columns
21 in Table 2 are likely to change as we go forward.
22 So we have a paragraph, which I won't read into
23 the record, that is available in print outside,
24 and then Suzanne said it will all be posted
25 shortly, that would make that distinction.

1 COMMISSIONER BYRON: So my suggestion
2 would be to see if we have any additional
3 Commissioner or public comment on these proposed
4 changes.
5 CHAIRPERSON PFANNENSTIEL: Are there
6 further comments based on these errata? Yes,
7 Commissioner Douglas.
8 COMMISSIONER DOUGLAS: Well, very
9 briefly. I did sit in on a number of the IEPR
10 workshops, although not nearly all 13. And I also
11 wanted to add my voice in appreciation to the
12 staff and also to the IEPR Committee for staying
13 on top of all of this material and helping us get
14 this report out. I think it is excellent and I
15 will be pleased to support it.
16 CHAIRPERSON PFANNENSTIEL: You will get
17 your chance too.
18 (Laughter)
19 COMMISSIONER DOUGLAS: I'm sure I will.
20 COMMISSIONER BYRON: I think this might
21 be a good time just before I make a motion to
22 approve. This is a somewhat unique IEPR in that
23 we have done a dedication. And with the
24 Commission's approval I would like to read the
25 dedication as well as comment.

1 "This report is dedicated to
2 the memory of Jane Hughes Turnbull,
3 June 13, 1932 to October 18, 2008.
4 With gratitude for her tireless
5 devotion and invaluable
6 contributions to the development of
7 California's energy policies on
8 behalf of the League of Women
9 Voters and all the residents of
10 California."
11 I think many of you knew Jane. She was
12 an extraordinary woman who we will very much miss.
13 She represented the League as well as California
14 in general before this Commission and before the
15 PUC and who knows elsewhere.
16 She not only did that but she worked
17 tirelessly to help educate the constituents of
18 this state through the League.
19 I know I had opportunity to attend some
20 of the workshops that she organized. She also
21 provided excellent input to this Commission. And
22 she did it all for free, having been a volunteer.
23 I understand that even up until the time of her
24 death she was working on comments that she wanted
25 to present on this report to the Commission. I

1 believe she was even on the phone on one of our
2 Committee Workshops shortly before her demise.
3 I had opportunity to attend her memorial
4 service a couple of weekends ago. I can tell you
5 she has a wonderful family. It was quite humorous
6 at times but energy was a big part of her life.
7 Many people spoke to that topic. And I felt
8 compelled to break a rule and that is that I never
9 speak on behalf of Commissioners. But in this
10 case I felt relatively confident that I could say
11 that when Jane Turnbull talked all the
12 Commissioners listened.
13 So having said that I also indicated to
14 her husband, Stan, that we would, with my
15 Commission's approval, dedicate this to Jane. And
16 I hope that is all met with agreement here today.
17 CHAIRPERSON PFANNENSTIEL: Thank you,
18 Commissioner Byron. And then with that would you
19 like to move adoption with the errata?
20 COMMISSIONER BYRON: I do. It is with
21 some pride and thankfulness I would like to move
22 the Commission's approval of this 2008 IEPR
23 Update.
24 COMMISSIONER ROSENFELD: Second.
25 CHAIRPERSON PFANNENSTIEL: All in favor?

1 (Ayes.)
2 CHAIRPERSON PFANNENSTIEL: Thank you.
3 Thank you, Ms. Korosec.
4 MS. KOROSEC: Thank you.
5 CHAIRPERSON PFANNENSTIEL: Minutes.
6 Approval of the Minutes of the November 5 Business
7 Meeting.
8 COMMISSIONER ROSENFELD: I move the
9 minutes.
10 COMMISSIONER DOUGLAS: Second.
11 CHAIRPERSON PFANNENSTIEL: All in favor?
12 (Ayes.)
13 CHAIRPERSON PFANNENSTIEL: The minutes
14 are approved. Thank you, Harriet.
15 Commission Committee Discussion. Any
16 discussion? Yes.
17 COMMISSIONER DOUGLAS: I thought -- As
18 Commissioner Byron mentioned the signing of the
19 Executive Order on Monday I thought I would say
20 something about it.
21 CHAIRPERSON PFANNENSTIEL: Yes, thank
22 you.
23 COMMISSIONER DOUGLAS: Chairman
24 Pfannenstiel and I were both present. And it was
25 a very big day, I think, for both energy policy in

1 California and for this Commission because it gave
2 us a tremendous, new to-do list that we are going
3 to be working through very, very quickly.
4 CHAIRPERSON PFANNENSTIEL: Be careful
5 what you ask for.
6 COMMISSIONER DOUGLAS: That's exactly
7 right, be careful what you ask for. On Monday
8 Governor Schwarzenegger signed an Executive Order
9 calling for a 33 percent by 2020 RPS requirement.
10 The Legislature was very well represented.
11 Senator Steinberg was there. Assembly Members
12 Krekorian and Blakeslee were both there. In fact
13 the CEO of Edison and San Diego Gas and Electric
14 and a representative from PG&E all spoke. LADWP
15 and SMUD were both present. We had really a
16 tremendous turnout.
17 The Executive Order very clearly
18 recognized the responsibility of California state
19 agencies to do our part in making 33 percent RPS
20 achievable and in particular gave the Energy
21 Commission and our partners the Department of Fish
22 and Game a number of action items on the siting of
23 renewable projects. These include developing a
24 natural community conservation plan beginning with
25 the Mojave and Colorado deserts in order to ensure

1 both timely siting and long-term conservation of
2 desert species.
3 We are also going to -- We were also
4 charged with, jointly with Department of Fish and
5 Game, designating high priority renewable
6 development areas within which projects would get
7 certain benefits in our siting process,
8 particularly a shorter time frame.
9 This is only possible to the extent that
10 we are able to designate low conflict, high value
11 land. And then if we know in advance that the
12 environmental risks and mitigation associated with
13 that land are low we can be relatively sure that
14 we can get through our siting process with fewer
15 complexities and more quickly. It will involve,
16 obviously, potentially prioritizing some of these
17 projects as well in our time line.
18 We have still got to -- We have got some
19 work to do in thinking about how to proceed with
20 that and the question of whether legislation would
21 be necessary or helpful to really make it work.
22 But we have been directed, I believe, to begin
23 with this in February so we will -- obviously we
24 are thinking about it now.
25 The Energy Commission has also been

1 charged to develop a best management practices
2 manual for siting of desert solar projects. And
3 again this is particularly important right now I
4 think because the siting of desert renewable
5 projects faces our Commission with issues that we
6 really don't confront when we, when we site
7 natural gas plants.
8 There's different types of environmental
9 issues, different scale sometimes of environmental
10 issues. And there is also a very wide range of
11 different solar technologies, all of which have
12 slightly different footprints and impacts. And so
13 I think this will be helpful as the beginning, not
14 the end of public dialogue on how to make siting
15 both faster and easier and also environmentally
16 sound.
17 There were two MOUs signed. One was
18 between the Energy Commission and Department of
19 Fish and Game creating an interagency team that
20 will work on these renewable siting issues,
21 including the designations. And an MOU between
22 our new team and Bureau of Land Management Fish
23 and Wildlife Service.
24 Ideally we would really like to see eye-
25 to-eye with federal agencies on where renewable

1 infrastructure should go in the state and what the
2 mitigation package should be and the long-term
3 mitigation package should be that goes along with
4 the siting. So this was a very important first
5 step in creating that joint vision. And again,
6 the more we can do to coordinate with the federal
7 agencies the better off we will all be in terms of
8 meeting our RPS goals.
9 Chairman Pfannenstiel signed both of
10 those MOUs and I don't know if you have anything
11 to add but I wanted to point this out. And also
12 say that our siting staff already had a high
13 workload and this is adding to that workload. So
14 we will be talking to staff about our priorities
15 and how to make this all work and how to fulfill
16 the Governor's expectations.
17 CHAIRPERSON PFANNENSTIEL: Thank you,
18 Commissioner Douglas, for the summary. And thank
19 you for all your hard work. You have been the
20 Energy Commission's lead negotiator, if you will,
21 in putting this together for many months now.
22 Your dedication and your faith that it would
23 finally work out paid off. What was signed, both
24 the MOUs, but largely the Executive Order, was
25 just really good product after all of that.

1 COMMISSIONER DOUGLAS: I will say that I
2 think both Panama Bartholomy, my advisor, and I
3 lost a lot of credibility over the months by
4 telling people that it would be out within the
5 next week or two. And we probably said that --
6 CHAIRPERSON PFANNENSTIEL: I was waiting
7 to see it on Earth Day this year.
8 COMMISSIONER BYRON: That merits a
9 comment. I don't think there is a problem that it
10 took as long for this to get out. If it had come
11 out quickly without the preparation and effort
12 that had gone into it I think we would be dreading
13 it. But this Commission is ready for this
14 Executive Order. In fact I think unlike maybe
15 some other Executive Orders we had a lot of
16 opportunity for input to this. So I applaud this
17 Commission and this Governor for this Order. I
18 think it is extraordinary.
19 But it does have a number of dates when
20 things need to get done. I turn to the Executive
21 Director. I have already gotten a notice this
22 morning that the Deputy Director of the Siting,
23 Transmission and Environmental Program --
24 Division, I'm getting used to the new name,
25 already wants a meeting to prioritize work. So it

1 is definitely going to add to the workload. But
2 these are the right things that this Commission
3 recommends that we be working on. Do you want to
4 speak to that?
5 MS. JONES: We have a number of workload
6 concerns and issues. We are stepping up to be
7 able to do the work that is envisioned in the
8 Executive Order and we just need some priority
9 calls from Commissioners on how we go about that.
10 CHAIRPERSON PFANNENSTIEL: We can do
11 that.
12 COMMISSIONER BYRON: I commend you too,
13 Commissioner. I think it is extraordinary, this
14 Executive Order, and I thank you for your work on
15 it.
16 COMMISSIONER DOUGLAS: Well thank you.
17 And I also agree that actually the product got
18 better over time. The staff has been tremendous
19 in across the board being willing to step up and
20 take this on, given everything else that is on
21 their plates.
22 CHAIRPERSON PFANNENSTIEL: Thank you.
23 I know it is getting late. Let me just
24 mention that -- I guess it is worth more than a
25 mention but we don't have real time for it, that

1 Commissioner Rosenfeld and I spent the last two
2 days down in Southern California at the Governors
3 Climate Change Summit, hosted by our governor but
4 involving governors of several United States and
5 states from other countries. We had governors
6 from Brazil, Mexico.
7 COMMISSIONER ROSENFELD: Two or three
8 states in Brazil.
9 CHAIRPERSON PFANNENSTIEL: That's right.
10 And Canadian provinces and China and India. I
11 think there were something like 900 people at the
12 summit. It was amazingly well-focused on what can
13 be done by the sub-national governments to make
14 climate change real and to make the actions that
15 we have to take coordinated and science-based and
16 well-developed.
17 It was surprising that something like
18 this maybe hasn't been done before because there
19 was such an outpouring of a lot of work that has
20 been done separately. So bringing it together
21 really heightened both the need and the effort
22 underway currently.
23 It was a very impressive organization.
24 Beginning with an introductory video from
25 President-Elect Obama who addressed us and gave us

his sort of inspirational view of what needs to be done. It is the only time in my life I have seen a video get a standing ovation. And it was just spontaneous. The room just sort of erupted.

COMMISSIONER ROSENFELD: Well he specifically, specifically he said he favors an aggressive cap and trade program.

CHAIRPERSON PFANNENSTIEL: Right. He was quite affirmative of many of the policies so it was very good.

Other further Commission discussion?

Let's move on to Chief Counsel Report.

MR. CHAMBERLAIN: Thank you, Madame Chair. I do have a brief report today. I'll keep it brief since it is so late.

COMMISSIONER ROSENFELD: Bill, a little closer to the mic.

MR. CHAMBERLAIN: Okay. Is this better?

COMMISSIONER ROSENFELD: Yes.

MR. CHAMBERLAIN: As the Commissioner will recall, in 2002 the Legislature directed the Commission to adopt water use standards for residential clothes washers; and as you recall we had to file a petition for waiver of preemption with the Department of Energy.

1 Unfortunately in 2006 that petition was
2 denied and we have been in the process of
3 litigating with the Department of Energy on that
4 issue for the last two years.
5 On Monday I attended the oral argument
6 in the Ninth Circuit Court of Appeals on that case
7 and the argument was given on our behalf by
8 Jonathan Blees of my office. He did an excellent
9 job. The argument was before Judges Canby,
10 Wardlaw and Trager. These judges are all
11 appointees of President Clinton and President
12 Carter, which we viewed as a good sign, however
13 that is no guarantee that we would win the case.
14 There were two principal issues in the
15 case. The first one was whether the Ninth Circuit
16 Court of Appeals had jurisdiction at all, and the
17 second, of course, was the merits. Did the
18 Department of Energy commit the legal errors that
19 we contended that they had committed.
20 The Court seemed interested in both of
21 these and asked probing questions of both sides,
22 showing that they had all read the briefs and
23 absorbed a lot of the detail of the arguments made
24 in those briefs.
25 On the jurisdictional point the Court

1 certainly understood our contention that it makes
2 no sense for this case to be heard in the district
3 court first because the district court would be
4 considering the very same record before DOE that
5 the Court of Appeals is considering. There would
6 be the same standard of review, no fact finding is
7 required, and there would be considerable delay if
8 it went to the Court of Appeals.
9 Indeed even the government's attorney
10 conceded that this made little sense but he also
11 argued that unless Congress makes it crystal clear
12 on the matter that the matter can be heard in the
13 Court of Appeals, the rule of law is that it is
14 heard first in the District Court.
15 We argued to the contrary. That Supreme
16 Court precedent says that judicial review in
17 rulemaking matters is to be heard in the Court of
18 Appeals unless Congress has made it crystal clear
19 that they are to be heard first in the District
20 Court. And of course this particular federal law
21 doesn't address how 6297 waiver petition decisions
22 are to be judicially reviewed specifically. So we
23 believe that we should win that.
24 A magistrate had denied a motion to
25 dismiss this case that was filed by the government

1 but without prejudice to the merits panel
2 addressing it anew.
3 If the Court agrees with us on the
4 jurisdictional point, their questions really
5 didn't indicate very clearly what they would
6 decide on the merits. But they did indicate that
7 if they rule for California it is likely the
8 result will be some sort of order remanding the
9 matter to DOE with a deadline.
10 In fact, one judge in questioning
11 Mr. Blees about his contention that the Court
12 should simply order the issuance of the rule that
13 we want, which we considered to be perhaps our
14 most audacious argument, he said, you know,
15 wouldn't the appropriate remedy be to provide a
16 deadline of something like 90 days for DOE to take
17 action, consistent with the Court's decision.
18 And my own thinking was, I would accept
19 that, especially under the circumstances. The
20 worst case, I would say, would be that they would
21 send the matter back to the District Court. And
22 in that case we might find it better at this point
23 to simply file a new waiver petition.
24 Interestingly the Court did seem very
25 aware of the fact that a new administration would

be viewing this and might view it differently, although Mr. Blees pointed out that the head of this particular office has been in that job for three administrations now so there is no guarantee there.

Looking forward I think we should -- And I realize we have just talked about all the different things the Energy Commission has to do that are new. We might want to consider polishing our waiver petition in the event that we are not successful here and have to file a new one. It is also possible, of course, if we prevail, that the new administration would see this based on a remand from the Court.

If there are no questions about that the other thing that I would report to you is that I am looking for a Business Meeting sometime in the next few weeks, hopefully where all five Commissioners could be here and where the agenda is not too difficult because I have developed the presentation that I promised you some months ago about the Western Electricity Coordinating Council.

I think that you should know more about that organization because it is rapidly developing

1 into an organization whose tasks and policies are
2 more consistent now than they ever have been
3 before with those of this Commission in terms of
4 trying to ensure reliability but also prepare for
5 the future of a much higher renewable content in
6 our electricity.
7 CHAIRPERSON PFANNENSTIEL: Thank you,
8 Mr. Chamberlain. If you will work with Harriet on
9 scheduling that. There are two Business Meetings
10 left before the end of the year.
11 MR. CHAMBERLAIN: Right.
12 CHAIRPERSON PFANNENSTIEL: Maybe you can
13 get on either one of those.
14 MR. CHAMBERLAIN: I will be doing that,
15 thank you.
16 CHAIRPERSON PFANNENSTIEL: Thank you.
17 Executive Director Report.
18 MS. JONES: I'll make it very quick. I
19 wanted to join the Commission in expressing my
20 appreciation to Suzanne Korosec for her lead role
21 in the IEPR, she has been a blessing.
22 I would also like to acknowledge Terry
23 O'Brien who is the deputy director for the siting
24 division who was very helpful in terms of the
25 Executive Order, who has the highest historic

power plant siting workload but who has really stepped to the plate and is really allocating resources to reflect the priorities of the Commission and the state policies regarding renewables.

CHAIRPERSON PFANNENSTIEL: Here, here. Terry certainly gets my thanks and our endorsement. Thank you.

Leg Director Report.

MR. MARXEN: I have no report.

CHAIRPERSON PFANNENSTIEL: Thank you.

Public Adviser.

MS. MILLER: Just a couple of quick bookkeeping for you to be able to record.

We have got Lodi that is now data adequate so I am going to be assigning that in my office to my staff, Nick Bartsch. On December 1st I will be attending the Orange Grove prehearing conference here in Hearing Room B. Also on that day Associate Public Adviser Loreen McMahon will be in Imperial for the informational hearing and site visit for Solar 2. I will be at the Palmdale site visit on December 4.

And lastly I will say that we are getting ready for Marsh Landing and Willow Pass.

1 Notices will also be going out that first week of
2 December. And also on Friday, December 19 we have
3 the evidentiary hearing in Fallbrook for Orange
4 Grove. And someone from my office, it may not be
5 me because I will be in Pittsburg the night
6 before, but somebody from my office will be
7 attending that. And that's all I have to report,
8 thank you.
9 CHAIRPERSON PFANNENSTIEL: Thank you.
10 When Terry gets busy the Public Adviser's Office
11 gets busy.
12 MS. MILLER: And we have a member of the
13 audience that would like to make comment.
14 CHAIRPERSON PFANNENSTIEL: That's right.
15 MS. MILLER: Thank you.
16 CHAIRPERSON PFANNENSTIEL: We are now to
17 public comment.
18 MR. GALATI: I hate Public Comment
19 always being last, late in the hour, but I wanted
20 to, number one, congratulate you on the Executive
21 Order, acknowledge Commissioner Douglas for work
22 on the NCCP. But I wanted to raise two things
23 that I think that might be helpful. And again,
24 these comments are on behalf of me, not of my
25 clients.

1 Your SB 1059 transmission designation
2 authority. What is happening with RETI is
3 admirable and good and appreciated. It has to
4 happen that way. Once you get done with your
5 transmission line planning then there needs to be
6 some environmental review.
7 I know that the Commission would prefer
8 to have somebody come forward and say, please
9 designate this corridor. I don't see that
10 happening. So I would urge you to designate your
11 own and begin the environmental review.
12 And the reason I am trying to avoid this
13 is, what is happening with the Natural Community
14 Conservation Plan is wonderful and should have
15 happened five years ago so that we are here with
16 renewable plants that could take advantage of that
17 process being completed.
18 I don't want to have that same problem
19 with transmission. Having permitted the Blythe 1
20 and the Blythe 2 projects where there was no
21 transmission. Transmission coming, transmission
22 being thought of, environmental review going on,
23 it is very difficult. That's why one of those
24 plants is not built. So I would urge you to think
25 about the transmission designation process.

1 Now I recognize you do not have the
2 staff to do that. And so one of the things that I
3 would offer is for you to reach out to the private
4 development community to help either fund or to
5 help perform some of those duties. I know that it
6 is not something you are used to but I think there
7 may be enough interest from an association
8 perspective or a collaborative perspective to do
9 what needs to be done in this state for
10 renewables.
11 We all recognize the transmission
12 problem. But I think that the transmission
13 environmental siting problem is something that is
14 solvable if we have enough people. So again, I
15 recognize the siting staff is swamped and can't do
16 that work. But it doesn't mean that we shouldn't
17 try to figure out a way to do it. So I would --
18 It is an idea that I have been thinking about for
19 a while. I am not sure how to make it work. I
20 thought I would throw it on the table, maybe you
21 guys could figure it out.
22 CHAIRPERSON PFANNENSTIEL: Thanks Scott,
23 that's a very good idea. Commissioner Byron.
24 COMMISSIONER BYRON: Normally I don't
25 ask someone giving general comments questions but

1 -- I appreciate your encouragement on this. It is
2 the first time I have heard anyone outside this
3 Commission make the case or make a suggestion that
4 we pursue the corridor designation process here.
5 Can I ask, are you suggesting that because you
6 recognize this Commission's unique ability to do
7 that or do you see a strong need for it at this
8 point?
9 MR. GALATI: Both, Commissioner Byron.
10 I was very active in trying to make sure that
11 those regulations were meaningful, not on behalf
12 of a client but on behalf of the State of
13 California. I know that in order for that process
14 to work it must mean something and it must be a
15 true environmental review upon which tiering can
16 take place.
17 And I know that's not where those
18 regulations were headed. They got there, and I
19 think they got there largely because there were
20 other people who recognized how helpful that would
21 be to have a corridor designated so that the
22 environmental issues could be resolved in an
23 environmental process, whereas the CPCN issues can
24 be reviewed in the CPCN process.
25 When you combine the two, my experience

has been and I think the State's experience has been, is transmission siting is long, lengthy and unproductive. You have a unique opportunity I think that was envisioned by SB 1059. And I think that if you took that opportunity you could do more towards causing more renewables to be on-line than maybe any other action you could take.

COMMISSIONER BYRON: So besides educating the developers about the value of the process do you see any other thing that is impeding that from coming forward with applications?

MR. GALATI: I don't think that there are people who want to say, I will build that transmission line here. But if you designated one of several corridors I believe that there could be some collaboration and joint projects. There could be some independent, maybe even private projects. There might even be an investor-owned utility that says, that's a good corridor.

But remember what happens when somebody says, I will build that project there. If it is an investor-owned utility they are committing to the CPUC. They are committing to a long-term project. Is it in their plan? How is it

1 justified? It is cumbersome.
2 I don't think that is going to happen in
3 a short period of time. Typically what an
4 investor-owned utility does is sees where the
5 projects are coming and then sees who is going to
6 pay and then figures out how to do that. That's
7 how the process works.
8 The same thing with the publicly-owned
9 utility. There doesn't seem to be a large enough
10 publicly-owned utility to fund a 553 megawatt
11 solar project. But there certainly can be some
12 collaboration. And if they knew where the
13 corridor was and the developer said, I'll build to
14 get near that corridor, I think you will find
15 people step up and build that transmission.
16 COMMISSIONER BYRON: Well, I appreciate
17 your comments very much. In fact there are work
18 plans in the approval process, if not approved
19 already in this Commission, to indeed do that, to
20 self-apply and move forward on corridor
21 designation. So I appreciate your input on this.
22 But it will take a while. I was not pleased to
23 hear how long this process could take.
24 MR. GALATI: And I guess my second point
25 is, go ahead and designate some and if they are

not right they will fall out. And I understand that that seems like too much work. So I ask you to reach out to the development community or some other place for funding. Because I suspect there are others who feel as I do. That it is a worthwhile effort and everybody benefits.

But the idea to wait until we plan the perfect corridors, then go through the environmental review process on the perfect corridors, is a five to ten year process. I don't see it benefiting us. And I don't see some of my prospective clients saying, this is a good place for a power plant. It makes good environmental sense because I know there is possibly some transmission coming.

COMMISSIONER BYRON: Thank you.

CHAIRPERSON PFANNENSTIEL: Thanks, Scott. Further public comment?

Anything else before this Commission?

We will be adjourned.

(Whereupon, at 12:23 p.m., the Business Meeting was adjourned.)

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CERTIFICATE OF REPORTER

I, JOHN COTA, 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 25th day of November, 2008.