

BUSINESS MEETING  
BEFORE THE  
CALIFORNIA ENERGY COMMISSION

In the Matter of:                    )  
  )  
Business Meeting                    )  
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<b>DOCKET</b>	
<b>BUS MTG</b>	
DATE	<u>DEC 16 2009</u>
RECD.	<u>DEC 24 2009</u>

CALIFORNIA ENERGY COMMISSION  
HEARING ROOM A  
1516 NINTH STREET  
SACRAMENTO, CALIFORNIA

WEDNESDAY, December 16, 2009  
10:00 A.M.

Reported by:  
Peter Petty

COMMISSIONERS PRESENT

Karen Douglas, Chair

James D. Boyd, Vice Chair

Jeffrey D. Byron

Julia A. Levin

Arthur H. Rosenfeld

STAFF PRESENT

Melissa Jones, Executive Director

Jonathan Blee, Acting Chief Counsel

Loreen McMahon, Office of the Public Advisor

Harriett Kallemeyn, Secretariat

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Bill Pennington	1(I)&(J)
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Philip Misemer	9
Chuck Mizutani	10
Linda Spiegel	11
Carolyn Walker	12

Also Present:

**Also Present (\*on phone)**

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Joe Sparano, Western States Petroleum Association (WSPA)	3
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1 P R O C E E D I N G S

2 DECEMBER 16, 2009

10:09 a.m.

3 CHAIRPERSON DOUGLAS: Good morning. We will begin  
4 the meeting. Welcome to the California Energy Commission  
5 Business Meeting of December 16<sup>th</sup>, 2009.

6 Please join me in the Pledge.

7 (Whereupon, the Pledge of Allegiance was  
8 received in unison.)

9 CHAIRPERSON DOUGLAS: All right, we have a few  
10 changes to the Agenda before we begin. On Item 1, the Consent  
11 Calendar, Items 1I and 1J will be heard at the end, so they  
12 will be heard after Item 12.

13 COMMISSIONER BYRON: Madam Chair, I was curious to  
14 know if there might be any representatives from a number of  
15 the cities and counties that are listed in A through G; in the  
16 event they were here, they might also be interested in  
17 speaking.

18 CHAIRPERSON DOUGLAS: That is a very good idea --

19 MR. PENNINGTON: I do not think they are going to be  
20 here. We have talked to them and I think it is highly  
21 unlikely that anyone is here.

22 COMMISSIONER BYRON: Thank you.

23 CHAIRPERSON DOUGLAS: All right, so we will hear  
24 Items I and J at the end of the agenda, I and J of the Consent  
25 Calendar. Item 8 will be moved to the January 13<sup>th</sup> Business

1 Meeting Agenda. And with that, we will begin with the Consent  
2 Calendar.

3 COMMISSIONER ROSENFELD: I move the Consent  
4 Calendar.

5 VICE CHAIR BOYD: Second.

6 CHAIRPERSON DOUGLAS: All in favor?

7 (Ayes.)

8 That item is approved.

9 Item 2. Strategic Transmission Investment Plan.  
10 Possible adoption of the Strategic Transmission Investment  
11 Plan prepared jointly by the Integrated Energy Policy Report  
12 Committee and the Siting Committee as part of the 2009 IEPR  
13 proceeding. Ms. Grau.

14 MS. GRAU: Good morning. I am Judy Grau with the  
15 Commission Strategic Transmission Planning Office.

16 VICE CHAIR BOYD: Judy, is your mic on?

17 MS. GRAU: Yes, it is. Can you hear me?

18 VICE CHAIR BOYD: Barely.

19 MS. GRAU: First, by way of background, this is the  
20 third biennial Strategic Transmission Investment Plan. The  
21 first two were published in November of 2005 and 2007, as  
22 directed by Public Resources Code Section 25324. Those plans  
23 shed light on a number of transmission related barriers and  
24 made specific recommendations to overcome those barriers in  
25 the areas of transmission planning, corridor planning, and

1 corridor designation. They also recommended specific  
2 transmission project investments. More recently, the 2008  
3 Integrated Energy Policy Report update focused on the  
4 physical, operational, and market changes needed for  
5 California's electricity system to support a minimum of 33  
6 percent renewables by 2020. That report noted that the  
7 primary barrier to increased development of renewable  
8 resources continues to be lack of transmission to access these  
9 resources, particularly in remote areas of the state.

10 Building upon this record, a total of three workshops were  
11 held for this 2009 cycle, a staff workshop on transmission  
12 forms and instructions, and two Joint IEPR and Siting  
13 Committee workshops on pressing transmission activities and  
14 issues. We received updates from the Renewable Energy  
15 Transmission Initiative, or RETI, representatives on their  
16 Phase IIA efforts, we received updates from the California  
17 Independent System Operator on their 2009 and 2010 Annual Grid  
18 plans, and from Energy Commission staff in the Northern Tier  
19 Transmission Group on Western Regional Transmission  
20 Initiatives and Projects. We also had several roundtable  
21 panel discussions with stakeholders on topics that include  
22 facilitating coordinated statewide transmission planning to  
23 achieve renewable policy goals, valuing environmental  
24 decisions in transmission planning and permitting using a  
25 programmatic approach, vetting staff's straw man coordinated

1 statewide transmission planning process, and vetting staff's  
2 proposed transmission corridor designation selection  
3 methodology. The IEPR and Siting Committees then published  
4 their Joint Committees Draft Strategic Plan on September 28<sup>th</sup>  
5 and held a joint hearing on October 8<sup>th</sup>. The Committees  
6 received comments from 11 parties, all of which are available  
7 on our website. Those comments were considered by the joint  
8 committees and are included where appropriate in the joint  
9 committees' final version published on November 23<sup>rd</sup>. It is  
10 this joint committee's final version that is being considered  
11 for adoption today.

12           The committees make a number of recommendations and  
13 I want to mention here those that are deemed of highest  
14 priority. First is the Energy Commission staff will work with  
15 the recently formed California Transmission Planning Group, or  
16 CTPG, and the California ISO in a concerted effort to  
17 establish a 10-year statewide transmission planning process  
18 that uses the Strategic Plan proceeding to vet that plan, as  
19 described in Chapter 4 of the document, with emphasis on broad  
20 stakeholder participation. Another recommendation is that the  
21 Energy Commission staff will work with the California ISO  
22 (CAISO), CPUC, and publicly owned utilities to develop a  
23 coordinated statewide transmission plan using consistent  
24 statewide policy and planning assumptions. Next, the  
25 Commission staff will continue to participate in the renewable

1 energy action team's effort to streamline and expedite the  
2 permitting processes for renewable projects, while conserving  
3 endangered species and natural communities at the ecosystem  
4 scale in the Mojave and Colorado Desert Regions through the  
5 Desert Renewable Energy Conservation Plan. The Energy  
6 Commission staff will ensure that the generation findings in  
7 the Desert Renewable Energy Conservation Plan are considered  
8 in CAISO and CPUC transmission processes.

9           The Energy Commission, CAISO, and CTPG will  
10 prioritize transmission planning and permitting efforts for  
11 renewable generation and work on overcoming barriers and  
12 finding solutions that would aid their development and the  
13 first priority is placed on the 10 transmission projects  
14 supported by the Energy Commission in the two previous  
15 Strategic Transmission Plans. The second priority will be  
16 placed on the RETI Phase 2 renewable foundation and renewable  
17 delivery line segments that are categorized as least regrets  
18 because they are likely to be needed to meet growing energy  
19 demand, regardless of generation source, and that do not need  
20 new corridors. Also included in this second priority category  
21 are three other least regrets segments that do require new  
22 corridors, but are needed to complete links to the Northern  
23 California load centers. The third priority is to begin  
24 outreach for those least regrets RETI segments that require  
25 new corridors, and to begin developing phased solutions to

1 interconnect specific renewable zones as generators commit to  
2 developing power plants. A next recommendation is that the  
3 Energy Commission will continue support for ongoing RETI-  
4 related activities, including the Coordinating Committee,  
5 Stakeholder Steering Committee, and working groups, by  
6 providing appropriate personnel and contract resources. The  
7 Energy Commission staff will continue to coordinate with the  
8 RETI stakeholders group to incorporate RETI's new information  
9 in applying the method described in Chapter 6 of the Strategic  
10 Transmission Plan, to reach consensus on the appropriate  
11 transmission line segments that should be considered for  
12 corridor designation to promote renewable energy development,  
13 and finally, of our highest priority recommendations, the  
14 Energy Commission will continue participation in the Western  
15 Renewable Energy Zone process to ensure consistency with RETI  
16 results for both preferred renewable development areas, as  
17 well as environmentally sensitive areas that should be  
18 avoided.

19           And one final note, upon adoption of the report,  
20 staff is recommending a few changes to bring the document  
21 current to the date of publication. This includes, among  
22 other things, a few items that were discussed in the future  
23 tense in the Joint Committees' final version and a few other  
24 late breaking items, such as the California Transmission  
25 Planning Group now has a website: [www.ctpg.us](http://www.ctpg.us), and also there

1 has been some movement on the 10 recommended projects such as  
2 the Transbay Cable is now undergoing testing and should be  
3 commercial early next year, so things like that. Thank you.  
4 Do you have any questions for me?

5 COMMISSIONER BYRON: Ms. Grau, thank you very much.  
6 Commissioners, I think you all know, but the Strategic  
7 Transmission Investment Plan --

8 CHAIRPERSON DOUGLAS: I apologize, Commissioner  
9 Byron, I just remembered and found the card for -- I have one  
10 for Item 2. I have multiple piles of cards in front of me and  
11 let this serve as a reminder for anyone else who would like to  
12 speak to please fill out a blue card and indicate the item  
13 that you would like to speak on. Mr. Manuel Alvarez from  
14 Southern California Edison, this is the only card I have on  
15 this item.

16 MR. ALVAREZ: If it is the only card, you must have  
17 accomplished a lot in this cycle. Actually, I am here to  
18 support the staff's recommendations to the Committee's report.  
19 We actually found this particular cycle to be pretty rewarding  
20 in terms of the complexities the state faces for transmission,  
21 and we look forward to the Energy Commission's coordination  
22 with the Transmission Planning Group and continued effort to  
23 kind of resolve our transmission dilemma in the State of  
24 California. I guess the line I have been using lately is that  
25 everybody wants renewables, but nobody wants transmission, is

1 kind of the same thing as everybody wants to go to heaven, but  
2 no one wants to die. So I look forward to your efforts in the  
3 next year, and job well done. Thank you.

4 CHAIRPERSON DOUGLAS: Thank you, Mr. Alvarez. We  
5 have one person on the phone who would like to comment, Ron  
6 Dickerson.

7 MR. DICKERSON: Can you hear me?

8 CHAIRPERSON DOUGLAS: Yes, but please speak up. It  
9 is not easy to hear you.

10 MR. DICKERSON: Well, first of all, I want to thank  
11 you for the opportunity to comment on the process. I also  
12 want to say that the report, as I read it, is really well done  
13 and I do support that the Commission adopts it. I covered  
14 some issues in some written comments and I think Mr. Alvarez  
15 just kind of touched on them about everybody wanting  
16 renewables, but there are some costs to be paid. I feel like  
17 there have been issues that were touched on in this report  
18 regarding loading order, priority, and how those might be  
19 captured in the quality sought. I am also aware that the PUC  
20 has or is developing a framework to analyze the loading order  
21 resources and that they were going to apply it to the  
22 procurement process and the permitting process, but it seems  
23 like there is an uncertainty about the forecasting of these  
24 loading order options or the resources, and it seems to me  
25 that it would be kind of intuitive to consider how distributed

1 generation development scenarios might fit into the planning  
2 processes, and eventually provide another framework for some  
3 of that to be captured because it seems somewhat speculative  
4 in its nature at this point. Like I said, I do support the  
5 Commission's adoption of the SIP, but I would like to see how  
6 addressing and incorporating some of the loading order  
7 priorities in the future could be provided in any updates, or  
8 in any sort of ways forward, because it seems to me that we  
9 have got a really big resource in distributed generation that  
10 could be captured if there was some coordinated processes  
11 where planners were actually incorporating some of that  
12 analysis in their planning processes. Right now, I mean, it  
13 looks like there is a real bright line where transmission  
14 planners are not really looking at evaluating these non-wired  
15 alternatives in their analysis, and it seems as though this  
16 would be a great approach to assure that California meets its  
17 RPS goals. So, yeah, that is my thought. I do not know how  
18 they apply to what the Commission can do immediately, but I  
19 would like to see that become more clarified.

20 CHAIRPERSON DOUGLAS: Thank you for that.

21 COMMISSIONER BYRON: Yes, Mr. Dickerson, thank you  
22 very much. And I do not know who you are, but you certainly  
23 distinguished yourself in the last couple of days with your  
24 thoughtful comments. We appreciate them very much. You  
25 realize, of course, we do not do intervener compensation at

1 this commission?

2 MR. DICKERSON: I did not expect any. My  
3 compensation is when California gets to that point when we are  
4 really using a lot of renewables, and I think distributed  
5 generation is one of those key elements in that process. I  
6 understand that there may be an eventual determination that  
7 some transmission essential generation is going to be  
8 necessary in this process, but I think California needs to  
9 clarify how we capture some of those distributed gen  
10 resources, and I think transmission planning should include  
11 that analysis, that I think there are a lot of issues there.

12 COMMISSIONER BYRON: All right, thank you very much.  
13 And thank you, Mr. Alvarez, for coming forward in your support  
14 for this document. And of course, there were a number of  
15 participants, but we are not going to go through all of those.  
16 Ms. Grau did a very good job of summarizing the process that  
17 we have gone through. And I appreciate your comments, Mr.  
18 Alvarez, I think it was very positive, as well, and we have  
19 really benefited from the comments from Southern California  
20 Edison, and participation, as well as the other utilities.  
21 This step is a mandated report that is part of the IEPR. We  
22 are required to do this. When I say "IEPR," the Integrated  
23 Energy Policy Report, which we will take up next. And I think  
24 our staff did a stellar job of providing, and has done a  
25 stellar job in the past, in providing a comprehensive

1 compendium of all the transmission issues, the priority lines  
2 that are needed, and outlining an improved planning framework  
3 going forward. I believe this is one of the most  
4 underutilized and under recognized things we do here at the  
5 Energy Commission, among the very valuable things that we do.  
6 The Legislature has given us this responsibility and we must  
7 continue to make the most of it. This is a very good plan,  
8 and if we follow it, Commissioners, we can be successful in  
9 building the needed transmission to serve the growing and  
10 changing needs of this state. We have some real challenges in  
11 California getting transmission built, we have different  
12 agencies doing transmission siting, different than those doing  
13 the generation siting, a third agency responsible for much of  
14 the state's transmission grid operations, this is not a recipe  
15 for easy decision-making, or getting steel in the ground.  
16 This Commission, as well as our sister agencies, notably the  
17 PUC and the ISO, are committed to building the infrastructure  
18 that will allow us to achieve a minimum of 33 percent  
19 renewables and a low carbon electricity system. Despite our  
20 inefficient and crosscutting agency jurisdiction, we are also  
21 committed to working together and getting the infrastructure  
22 we need, however, I would like to make it clear that we will  
23 only be successful if two things happen, the agencies must  
24 continue to collaborate and work together, and we have got to  
25 have an inclusive stakeholder process where meaningful input

1 is solicited and utilized. For that reason, this Commission  
2 has been supportive of the Renewable Energy Transmission  
3 Initiative, or RETI, as a vehicle to hear from the diverse  
4 stakeholders, and also to empower that stakeholder process to  
5 come to a consensus. Consensus building is not perfect, it is  
6 not a perfect process, but it has been a remarkable effort by  
7 many. We are up to, I believe, 30 stakeholders now that  
8 participate in the RETI process, stakeholders whose voice is  
9 heard and considered and included where appropriate. Of  
10 course, not everyone will be satisfied, but when you must make  
11 a decision, and we must site additional transmission lines to  
12 access renewables, everyone must have a say. This SIP also  
13 recognizes and supports the newly formed California  
14 Transmission Planning Group, an acronym we all struggle with,  
15 the CTPPG, and I cannot believe that CTPG.us had not been  
16 taken already. The CTPG will take results from RETI and will  
17 look at opportunities to gain efficiencies by identifying  
18 joint projects with investor and publicly owned utilities, and  
19 do the engineering analysis on the reliability impacts. I met  
20 last week with the leaders of the CTPG and President Peevey,  
21 and I can tell you that they are all committed to an open and  
22 inclusive transmission planning process. RETI, however, is at  
23 a crossroads and President Peevey and I just sent a letter to  
24 the stakeholders, I believe it went out last night,  
25 encouraging their active engagement in CTPG, as well as the

1 CEC's Desert Renewable Energy Conservation Plan, or DRECP, and  
2 the PUC's Long-Term Procurement process.

3           Now, Judy began to outline a process that is put  
4 forward in this document to coordinate Strategic Transmission  
5 Planning going forward, I encourage you to look at it, it is  
6 in Chapter 4, I am not going to bore you with the details,  
7 however, I would like to. The key message is that we need to  
8 clearly articulate the products out of each planning exercise,  
9 the relationship to other planning forums, and conformance  
10 with all state policies, not just reliability, and allow ample  
11 opportunities for proactive stakeholder engagement. I believe  
12 we have made incremental progress on these fronts through the  
13 STP process, as well as through our Energy -- EAP -- Energy  
14 Action Plan. And also recently the Joint Visioning process  
15 that we discussed yesterday at the Energy Action Plan Meeting  
16 with the PUC and other agencies. There is a great deal of  
17 work ahead, and it is not confined to statewide planning.  
18 Transmission planning is a regional issue that requires  
19 continued engagement with the Western Energy Coordinating  
20 Council and the Western Governor's Association. I am heading  
21 to the WGA meeting -- winter meeting -- this afternoon in San  
22 Diego, where we will discuss transmission issues. We have a  
23 long load ahead of us and the STP is but a small but important  
24 piece in this puzzle. My thanks to the staff who diligently  
25 prepared it today for our adoption, Ms. Grau, thank you to you

1 and all of your team. With that overview, I of course welcome  
2 questions and discussion from my fellow Commissioners before I  
3 make a motion.

4 VICE CHAIR BOYD: If I might. As the second member  
5 of the IEPR Committee and thus somewhat involved in overseeing  
6 this, I want to commend Commissioner Byron for his dedication  
7 and diligence on the subject of transmission, in general, and  
8 in particular, today with ramrodding the effort to get the  
9 Strategic Transmission Investment Plan finished, we work hard  
10 at maintaining a presence in the transmission planning and  
11 implementation business, as is our business as a policy  
12 organization, and Commissioner Byron has done a marvelous job  
13 of planting our flag continuously in carrying this effort  
14 forward, be it the STIP itself, or RETI, or the alphabet soup  
15 of western regional organizations that are involved in this,  
16 he has pressed us forward; and, of course, he could not do all  
17 that without the incredible staff work support that he has  
18 gotten from the staff and from his advisors. So when he makes  
19 his motion, I will take great delight in seconding the  
20 approval of this.

21 CHAIRPERSON DOUGLAS: Commissioners, I would just  
22 like to chime in and thank Commissioner Byron for his overall  
23 leadership on this issue, which is one of the most important  
24 issues that the state faces in reaching its 33 percent  
25 renewable energy target and moving towards a lower carbon

1 electricity system, and in particular for your efforts on  
2 bringing this document together. I know that it was a long  
3 road, you had to work intensively with stakeholders, and our  
4 very strong staff team, so I appreciate your efforts and I was  
5 very pleased to hear support, strong support, from  
6 stakeholders voiced at today's meeting.

7           COMMISSIONER LEVIN: This is obviously going to be a  
8 very controversial vote. No, I too would like to add my  
9 thanks, having worked on RETI and the transmission issue prior  
10 to coming to the Commission, and since. I think the staff,  
11 Judy, your whole team has done a great job, and I also -- as  
12 much as he hates it, I want to acknowledge my advisor, Jim  
13 Bartridge, who has moonlighted on his own time, and additional  
14 time, and I think has been extremely helpful both to me in  
15 letting me know what is going on, and also in the development  
16 of the Strategic Transmission Investment Plan itself. I  
17 really appreciate, Jim that you did that on your own time, on  
18 top of everything else going on. I think you all have done a  
19 great job and I really hope that all of the collective  
20 agencies take the recommendations and continue to find more  
21 ways to work together to accelerate transmission development  
22 in the right places for renewables, for all of the reasons.  
23 So thank you for this great work, and Commissioners, as well.

24           COMMISSIONER BYRON: Thank you, Commissioners.  
25 Thank you for your kind remarks. Of course, this is not a

1 one-man operation, clearly, there are a lot of folks involved.  
2 I am going to take just a second and read off some names.  
3 Judy Grau, of course, I see is the glue behind this operation,  
4 Grace Anderson, Mark Hesters, Don Kondoleon, Melinda Merritt,  
5 Chuck Najarian, Ean O'Neill, Chris Tucker, Clara Laufenberg-  
6 Gallardo, Roger Johnson, Mignon Marks, and Jamie Patterson,  
7 and James Bartridge. I would like to thank you all very much.  
8 With that, may I move the item?

9 VICE CHAIR BOYD: Second.

10 CHAIRPERSON DOUGLAS: All in favor?

11 (Ayes.)

12 The item is approved.

13 Item 3. 2009 Integrated Energy Policy Report.  
14 Possible adoption of the Committee Final 2009 Integrated  
15 Energy Policy Report. Ms. Korosec?

16 MS. KOROSEC: Good morning, Commissioners. The item  
17 before you today is approval of the 2009 Integrated Energy  
18 Policy Report, or IEPR. As you know, California's Public  
19 Resources Code requires the Energy Commission to develop an  
20 IEPR every two years with an update in the intervening years  
21 to assess energy supply and demand and discuss major energy  
22 trends and issues that are facing electricity, natural gas,  
23 and transportation fuel sectors in California. The Report  
24 also provides detailed recommendations to address the  
25 challenges that are facing California's energy systems and to

1 ensure reliable, secure, and diverse energy supplies for the  
2 state.

3           The 2009 IEPR was developed through an extensive  
4 public process with workshops and hearings on a wide variety  
5 of topics that were identified in the IEPR Committee's Scoping  
6 Order that was released in January of 2009. Over the past  
7 year, the staff and the IEPR Committee have held 35 public  
8 workshops and hearings on those topics that were identified in  
9 the Scoping Order, and oral and written comments received at  
10 those workshops were incorporated into the staff and committee  
11 documents that provided the underlying information for the  
12 IEPR, as well as into the Draft IEPR itself and the proposed  
13 recommendations that are before you today. Like the 2007  
14 IEPR, the 2009 IEPR emphasizes the importance of the state's  
15 greenhouse gas emission reduction goals, but it also focuses  
16 on the many energy policies in place in California today, and  
17 how they affect energy users. It also provides the results of  
18 the Energy Commission's forecasts of energy demand, and  
19 focuses on the many infrastructure challenges that the state  
20 is facing in the 21<sup>st</sup> Century, particularly in the electricity  
21 sector. Finally, the report discusses how California can  
22 minimize the environmental impacts of energy production and  
23 use, while continuing to ensure that its citizens have  
24 reliable, secure, diverse, and economic sources of energy.

25           In terms of energy demand, we are seeing reduced

1 demand in all sectors as a result of the economic recession,  
2 but we also expect to see a return to or even increase in  
3 historic levels of demand growth as the economy improves. In  
4 the Electricity Demand Forecast adopted at the December 2<sup>nd</sup>  
5 Business Meeting, it shows overall energy consumption growing  
6 by 1.2 percent per year from 2010 and 2018, and peak demand  
7 growing 1.3 percent per year over that same period. On the  
8 supply side, the Energy Commission is experiencing a record  
9 high number of applications for power plants, with 30 projects  
10 under review, totaling about 12,000 megawatts. The PUC has  
11 also approved more than 10,000 megawatts of renewable  
12 contracts for the RPS with an additional 4,600 megawatts that  
13 are under review.

14           In the natural gas sector, our demand is down in the  
15 near term and, by 2018, is expected to be about 8 percent  
16 lower than our prior forecast in the 2007 IEPR; however, as  
17 the economy recovers, we expect to see the annual growth rate  
18 in natural gas consumption actually exceed the forecasted  
19 growth rate from the prior forecast. Natural gas supply was a  
20 major issue in the 2007 IEPR because production from  
21 conventional natural gas sources had declined in the late '90s  
22 and early 2000s. However, as natural gas prices have  
23 increased, so have exploration and production, and there have  
24 also been advances in driven technologies that allow recovery  
25 of natural gas from shale formations. There are also

1 potential new sources of supply from an existing liquefied  
2 natural gas facility that is in Baja, Mexico.

3           In the transportation sector, the recession has also  
4 had an impact on the demand for fuels. California's average  
5 daily gasoline sales for the first four months of 2009 were  
6 about 2 percent lower than the same period in 2008. Diesel  
7 fuel sales for the first three months of 2009 were close to 8  
8 percent lower than the same period in 2008, and demand for jet  
9 fuel showed a nearly 9 percent decline over that period. The  
10 initial years of the Energy Commission staff's forecasted  
11 demand for transportation fuels show a recovery from the  
12 recession and a resumption of historical growth patterns over  
13 time, but we see the mix of fuel types changing as the state  
14 transitions from using gasoline and diesel to using higher  
15 levels of alternative and renewable fuels. Annual gasoline  
16 consumption will decrease over the forecast period, which is  
17 2008 to 2030, while demand for alternative transportation  
18 fuels like natural gas and electricity will increase  
19 substantially, along with the number of compressed natural gas  
20 vehicles, full electric, and plug-in hybrid electric vehicles.  
21 Demand for renewable fuels is also expected to increase, as a  
22 result of both the implementation of the Federal Renewable  
23 Fuel Standard and the state's Low Carbon Fuel Standard. While  
24 there is currently an over-supply of ethanol domestically, it  
25 is likely to be temporary as the demand for ethanol increases

1 with implementation of the RFS regulations. We also expect to  
2 see an increase in biodiesel use.

3           On the supply side, we are seeing a decline in  
4 California's crude oil production, and the Energy Commission  
5 staff forecast shows an increase in crude oil imports over  
6 time, although the federal government has lifted the  
7 moratorium on drilling offshore, the coast of California, any  
8 significant production from offshore oil is at least a decade  
9 away, meaning that the state will continue to rely on imports  
10 for crude oil supplies. For alternative fuels, there is  
11 currently a surplus of ethanol in the U.S., which I mentioned,  
12 which has led to the closure of all of California's ethanol  
13 production facilities, that is, as the demand for ethanol  
14 increases because of the RFS regulations, California is  
15 expected to start importing more ethanol from Brazil since it  
16 has a lower carbon intensity than the Midwest ethanol, so it  
17 will meet the state's Low Carbon Fuel Standard requirement.  
18 Biodiesel production has also increased dramatically in the  
19 U.S. since 2005, and it appears that there will be enough  
20 domestic supply from biodiesel production facilities to meet  
21 the RFS2 blending requirements for several years.

22           The 2009 IEPR makes a number of recommendations to  
23 address energy challenges facing California energy sectors,  
24 and to help focus the state efforts, the IEPR Committee chose  
25 in the Executive Summary to focus on top priority

1 recommendations that they feel are needed going forward, and I  
2 will go over those briefly. Energy efficiency and demand  
3 response continue to be the state's priority resources for  
4 meeting new electricity demand; achieving all cost-effective  
5 energy efficiency is essential to achieving our GHG emission  
6 reduction goals, and also increases the reliability of the  
7 electricity system by reducing the need for new power plants  
8 and new transmission infrastructure. It also reduces energy  
9 costs for businesses and for residential consumers.

10           Strategies to achieve all cost-effective energy  
11 efficiency include increasing the state's building and  
12 appliance standards, along with better enforcement of those  
13 standards, and promoting the development of zero net energy  
14 buildings. To achieve the state's goals for zero net energy  
15 homes and businesses, the IEPR Committee recommends adopting  
16 and enforcing building appliance standards that put California  
17 on the path to zero net energy residential buildings by 2020,  
18 and commercial buildings by 2030. The IEPR Committee also  
19 recommends that the Energy Commission work with the PUC to  
20 develop and implement audit, labeling and retrofit programs  
21 for existing buildings that achieve all cost-effective energy  
22 efficiency.

23           Another efficiency issue in this IEPR is the effect  
24 on the Energy Commission's demand forecast from future  
25 efficiency programs and standards that are part of the state's

1 aggressive energy goals, but for which there are not yet  
2 committed programs or funding that is in place. The demand  
3 forecast only includes effects from committed or funded  
4 programs. But there is a need to estimate the incremental  
5 savings that come from future efficiency programs and  
6 standards that are reasonably expected to occur, but for which  
7 there are not yet committed program designs or funding in  
8 place. The Energy Commission staff began working on this  
9 effort in the 2008 IEPR update and it continued those efforts  
10 in the 2009 cycle, so going forward the IEPR Committee  
11 recommends that the Energy Commission work with the PUC and  
12 the investor and publicly-owned utilities to improve our  
13 ability to distinguish future efficiency savings from savings  
14 that are already accounted for in the demand forecast.

15           For renewable resources, California needs to  
16 continue to address barriers to increasing the amount of  
17 renewable energy in our supply mix. Resources are key to  
18 achieving our GHG emission reduction goals, but there are  
19 challenges that include integrating large amounts of renewable  
20 energy into the electricity system and certainty about the  
21 time line for meeting our RPS goals, the development of  
22 renewable facilities and the transmission that is needed to  
23 access those resources and potential environmental concerns  
24 with that, difficulty in securing project financing, delays  
25 and duplication in power plant siting processes, the time and

1 expense that is associated with new transmission development,  
2 the cost of renewable energy in a fluctuating energy market,  
3 and maintaining the state's baseline of existing renewable  
4 facilities.

5           As of 2008, California was at 10.6 percent  
6 renewable, and the investors and utilities were supplying  
7 about 13 percent of their total sales from eligible renewables  
8 on an aggregated basis. Clearly, we will not make the 2010  
9 goal of 20 percent renewables, and while both the investor-  
10 owned and publicly-owned utilities are showing progress  
11 towards meeting the RPS goals, we still have a long way to go.  
12 And given the Governor's Executive Orders requiring 33 percent  
13 renewables by 2020, we will need more aggressive efforts to  
14 meet our targets.

15           A related issue is the Governor's target of  
16 achieving 20 percent of the RPS for biopower resources. New  
17 biomass facilities face challenges from the high cost of  
18 emission controls and getting air permits, while existing  
19 facilities that provide a significant portion of the state's  
20 baseload renewable capacity face challenges from the  
21 expiration of production incentives funded by the public goods  
22 charge. And integrating high levels of renewables into the  
23 system is a challenge since the engineering realities of the  
24 system require certain operating characteristics for  
25 reliability. Various studies regarding the impacts of 33

1 percent renewables on the system have been completed, and  
2 others are in process, and these studies have clearly  
3 demonstrated the complexity associated with achieving our RPS  
4 goals.

5           To help achieve those goals, the Committee  
6 recommends that the Energy Commission, the Air Resources  
7 Board, the PUC, and the CAISO, continue to work together to  
8 implement a 33 percent renewable policy that applies to all  
9 load serving entities and retail providers. Further, the  
10 Committee believes that the state should pursue legislation to  
11 codify the 33 percent renewable target, identifying the  
12 Governor's Renewable Executive Orders to provide the necessary  
13 certainties to the market.

14           To speed up permitting of new renewable generation  
15 and the transmission needed to serve that generation, the  
16 Committee recommends that the Energy Commission work with the  
17 PUC, CAISO, the Federal Bureau of Land Management, the  
18 California Department of Fish and Game, and other agencies, to  
19 implement specific measures, including eliminating duplication  
20 between the agencies, shortening permitting timelines, and  
21 using planning processes like the Renewable Energy  
22 Transmission Initiative and the Desert Renewable Energy  
23 Conservation Plan.

24           To meet the Governor's goal for bioenergy resources,  
25 the IEPR Committee recommends that the Energy Commission

1 facilitates and coordinates programs with other state and  
2 local agencies to address barriers like regulatory hurdles and  
3 project financing, and that the Energy Commission also  
4 encourage additional research and development activities to  
5 reduce costs for biomass conversion, biopower technologies,  
6 and environmental controls.

7           Finally, the Committee recommends further analysis  
8 to identify solutions to integrate energy efficiency,  
9 Smartgrid infrastructure, and renewable resources that could  
10 include better coordination of the resource mix of renewables  
11 added to the system, as well as the timing of those resource  
12 additions, additional research and development on storage  
13 technologies, and a better understanding of which new, more  
14 flexible and efficient natural gas technologies would best fit  
15 into the electricity grid.

16           The next supply side resource in the state's loading  
17 order is distributed generation, which includes combined heat  
18 and power facilities. The Committee continues to emphasize  
19 the importance of CHP technologies, particularly given the  
20 ARB's Scoping Order goal of 4,000 megawatts of new CHP that  
21 will be needed to contribute towards our GHG emission  
22 reduction goals. During this IEPR cycle, the Commission  
23 developed a new study of market potential for these facilities  
24 that identified about 3,000 megawatts of CHP potential in the  
25 base case, and additional stimulus efforts and incentives on

1 alternative cases more than doubled that amount to 6,500  
2 megawatts, which is well in excess of the ARB's target. To  
3 achieve these levels of CHP penetration, the Committee  
4 recommends working with the ARB to remove market barriers to  
5 the development of CHP, and continuing to provide analytic  
6 support on CHP efficiency requirements and other technical  
7 specifications, so that CHP is more widely viewed and adopted  
8 as an energy efficiency measure.

9           Moving on to nuclear power plants, as part of the  
10 2008 IEPR Update, the Commission released the Assembly Bill  
11 1632 Report that evaluated the vulnerability of the state's  
12 nuclear power plants to outages because of seismic and plant  
13 aging issues. The report made a number of recommendations for  
14 additional studies that PG&E and SCE should undertake as part  
15 of their license renewable feasibility studies for the PUC,  
16 and directed the utilities to report on the status of their  
17 efforts in the 2009 IEPR. In addition, in June of this year,  
18 the PUC sent letters to both utilities, emphasizing the need  
19 to complete those studies as a part of their license renewable  
20 feasibility studies. The IEPR Committee therefore recommends  
21 that PG&E and SCE should complete all of the studies  
22 recommended in the AB 1632 Report and make their findings  
23 available for consideration by the Energy Commission, as well  
24 as for the PUC and the Nuclear Regulatory Commission during  
25 their reviews of the utilities' license renewal applications.

1           Transmission infrastructure is a key element of  
2 meeting the state's electricity needs, and as Ms. Grau  
3 mentioned, as part of each IEPR, we prepare a Strategic  
4 Transmission Investment Plan. She described that fairly  
5 completely, so I will just go past the recommendations, since  
6 she covered the top priority recommendations in her  
7 presentation.

8           So those are all pieces of the electricity system,  
9 and the 2009 IEPR also discusses the needs of the system as a  
10 whole, in terms of coordinated policy planning and procurement  
11 efforts to get rid of duplication and to ensure that planners  
12 and policy makers understand how statewide energy policy goals  
13 interact and potentially conflict. There are numerous  
14 agencies involved in electricity planning, and while there is  
15 some coordination, the Committee believes that much more is  
16 needed. As I mentioned, energy infrastructure is a key focus  
17 of the 2009 IEPR, particularly for the electricity sector.  
18 There are challenges to integrating the many policy goals in  
19 this sector, including reducing greenhouse gas emissions,  
20 using energy efficiency, demand response, and renewable  
21 resources, adding 3,000 megawatts of solar through the  
22 California Solar Initiative by the end of 2016, and increasing  
23 combined heat and power capacity by 4,000 megawatts. Next are  
24 other environmental goals, like retiring or repowering plants  
25 that use once-through cooling to reduce impacts on marine

1 life, retiring or repowering less efficient aging power  
2 plants, reducing the impacts of siting renewable power plants  
3 and transmission, and improving air quality in the southern  
4 part of the state.

5           The interaction of these goals will affect  
6 electricity infrastructure planning over the next several  
7 decades. Once-through cooling mitigation efforts will likely  
8 reduce the amount of flexible fossil resources that provide  
9 system reliability, and that can also support the integration  
10 of large amounts of renewable resources, so new plants will be  
11 needed to provide those services, however, the lack of  
12 available emission credits in Southern California will make it  
13 difficult to build new fossil power plants, which may result  
14 in the need to continue to operate older and less efficient  
15 plants. Transmission additions and upgrades will be needed to  
16 access renewable resources to meet our renewable goals, but  
17 there continue to be public concerns about the environmental  
18 land use cost and visual impacts of those lines.

19           Coordination of electricity and transmission  
20 planning processes among the state's energy agencies adds  
21 further complication, since to date these processes have been  
22 only loosely coordinated among the many agencies. We need  
23 tighter coordination among the agencies to address challenges,  
24 avoid unnecessary duplication, and ensure the use of  
25 consistent planning assumptions so that everyone is on the

1 same page. In addition, none of the energy agencies is  
2 looking systematically at the long-term future, particularly  
3 for transmission needs. The electricity demand may be very  
4 different 15 to 25 years in the future, for example,  
5 increasing as a result of additional transmission  
6 electrification, so it is necessary for transmission planning  
7 beyond the normal 10-year horizon to prevent short-term  
8 decisions from interfering with long-term needs.

9           The IEPR Committee believes it is essential to find  
10 ways to coordinate and streamline the collective  
11 responsibilities of the energy agencies in order to meet our  
12 energy goals, and they therefore recommend that the Energy  
13 Commission work with the PUC and the CAISO, along with other  
14 agencies and interested stakeholders, to develop a common  
15 vision of the electricity system and to guide infrastructure  
16 planning and development. Coordinated plans could be used to  
17 guide each agency's own infrastructure approval and licensing  
18 responsibilities, and that will maximize coordinated action to  
19 achieve our energy policy goals.

20           A related area of interest to the Committee is how  
21 the state should address the current hybrid electric  
22 procurement market and improve the procurement process for  
23 generation resources. This issue was not covered sufficiently  
24 in the 2009 IEPR due to resource constraints, but the  
25 Committee believes it is critical to state energy policy and

1 deserves fuller vetting. The Committee therefore invites the  
2 PUC to participate in a more complete evaluation of the  
3 existing hybrid market structure as part of the 2010 IEPR  
4 Update to identify possible market enhancements and changes to  
5 utility procurement processes to facilitate the emergence of  
6 merchant investment in the market.

7           In the natural gas sector, we still depend heavily  
8 on natural gas as an energy source, particularly for  
9 electricity generation, and we continue to import most of our  
10 natural gas, so it is therefore essential that we have a  
11 reliable natural gas delivery and storage infrastructure.  
12 California has increased its interstate pipeline delivery  
13 capacity, utilities have improved their ability to receive  
14 natural gas supplies, and utility and independent storage  
15 owners have enhanced their storage operations to meet future  
16 high demand conditions. However, California does receive this  
17 gas through interstate pipelines, and those pipelines serve  
18 other customers before reaching California, so there are  
19 concerns about whether increased natural gas demand for  
20 electricity generation upstream of California, as a result of  
21 either increased electricity demand or GHG reduction policies,  
22 will reduce the amount of natural gas that is available to the  
23 state. In terms of natural gas supplies, I mentioned earlier  
24 there are technological advances in exploration and drilling  
25 and shale formations that are increasing the supply of natural

1 gas from these resources, however, there are some  
2 environmental concerns related to shale gas development,  
3 including carbon emissions and possible groundwater  
4 contamination. To ensure that California has an adequate  
5 natural gas transmission and storage system, the Committee  
6 recommends that California continue to work with western  
7 states to ensure the development of a system with enough  
8 capacity and alternative supply routes to overcome any  
9 disruptions of the system. Also, the Committee recommends  
10 that the Energy Commission continue to monitor environmental  
11 impacts associated with shale gas extraction, and that the  
12 Energy Commission staff work with energy agencies in other  
13 states where shale gas development is occurring.

14           Moving on to the transportation sector, the 2009  
15 IEPR notes the importance of renewable and alternative  
16 transportation fuels in meeting our GHG emissions, as well as  
17 reducing dependence on petroleum imports and promoting  
18 sustainability, however, until new alternative vehicles and  
19 technologies are commercialized, petroleum will continue to be  
20 the primary fuel source for California's vehicles, so the  
21 state needs to enhance and expand existing petroleum  
22 infrastructure, particularly at in-state marine ports, while  
23 also working to develop an alternative fuel infrastructure.  
24 Petroleum infrastructure is strained at marine ports and  
25 throughout the distribution system and, with expected

1 increases in crude oil imports, the existing crude oil import  
2 infrastructure will need to expand to ensure continued  
3 supplies to refiners of feed stocks. Increased imports of  
4 crude oil will also result in more marine vessels coming in to  
5 California ports, and the need for more storage tank capacity  
6 at those ports, beyond what is already planned. And if  
7 offshore drilling is ever opened along the coast, that will  
8 require additional infrastructure, including platforms,  
9 pipelines, crude oil trunk lines, and pump stations. Also,  
10 because California imports a large amount of transportation  
11 fuel to Nevada and Arizona, demand growth in real estate could  
12 put additional pressure on California's refineries and on the  
13 petroleum marine import infrastructure.

14           For alternative fuels, there are a number of state  
15 and federal policies in place to encourage the use of  
16 alternative and renewable fuels. As I mentioned, the Low  
17 Carbon Fuel Standard, the Renewable Fuel Standard, there is  
18 also the recent waiver from the Federal Government allowing  
19 California to set initial levels under Assembly Bill 1493, and  
20 federal efforts to set higher fuel economy standards. To meet  
21 alternative and renewable fuel goals, the state will need to  
22 develop the infrastructure needed to support vehicles and  
23 refueling requirements. While low level blends of Ethanol and  
24 biodiesel can use the existing infrastructure, higher blends  
25 like E85 and B20 will require significant infrastructure

1 modifications. Therefore, to meet the RFS2 requirements for  
2 renewable transportation fuels, there will need to be a  
3 dramatic increase both in the number of E85 dispensers and  
4 flexible fuel vehicles. For alternative fuels like natural  
5 gas, the state already has more than 400 refueling stations in  
6 place, about a third of which offer public access, however,  
7 with the use of compressed natural gas vehicles forecasted to  
8 increase from about 17,000 in 2007 to more than 200,000 in  
9 2030, additional stations or home refueling appliances may be  
10 needed. As a number of electric vehicles on the market  
11 increases, utilities will need to develop procedures,  
12 standardize equipment and rates for users needs, and as a part  
13 of Senate Bill 626, the PUC is required to adopt rules by July  
14 2011 to help develop an infrastructure to overcome barriers to  
15 widespread use of plug-in hybrid and electric vehicles.

16           With the establishment of the Alternative and  
17 Renewable Fuel and Vehicle Technology Program, the Committee  
18 believes that California is well positioned to develop a  
19 system of sustainable, clean and alternative transportation  
20 fuels, and recommends that the state continue on its present  
21 course to implement these programs; however, the Committee  
22 also recommends that the Energy Commission collaborate with  
23 partner agencies and stakeholders to address regulatory  
24 hurdles and price uncertainty for alternative fuels,  
25 particularly biofuels, and that the state modernize and

1 upgrade its existing infrastructure to accommodate alternative  
2 and renewable fuel technologies as they are developed. Since  
3 petroleum will continue to be a primary fuel source, the state  
4 also needs to address petroleum infrastructure needs, both to  
5 preserve past investments and to expand through-put capacity  
6 in the state. And finally, consistent with the loading order  
7 concept of efficiency first, the Committee believes that  
8 transportation efficiency should be pursued through increased  
9 vehicle fuel economy standards and more sustainable land use  
10 processes in conjunction with local governments.

11 Another area where sustainability is important is in  
12 land use decisions. The 2009 IEPR discusses the importance of  
13 reducing vehicle miles traveled as a strategy in reducing GHG  
14 emissions, and the IEPR Committee believes that state agencies  
15 need to coordinate more closely to help local governments  
16 achieve the benefits of sustainable land use planning, both by  
17 improving outreach to local governments to understand the  
18 unique problems that they face before we adopt new policies,  
19 and by taking into account and addressing the fiscal realities  
20 that local governments are facing in this recession.

21 The Committee recommends that state agencies should  
22 collaborate with the Strategic Growth Council and local and  
23 regional governments to continue to conduct research, develop  
24 analytical tools, assemble easy-to-use data, and provide  
25 assistance to local and regional government officials to help

1 them make informed decisions about energy opportunities and  
2 undertake sustainable land use processes.

3           Finally, with the need to reduce greenhouse gas  
4 emissions associated with energy production and use,  
5 California will need innovative strategies such as carbon  
6 capture and storage. The 2007 IEPR focused on geologic  
7 sequestration strategies where carbon is captured and injected  
8 into underground formations like oil fields and gas fields,  
9 and there have been technological advancements since  
10 publication of the 2007 IEPR, and developers have expanded the  
11 focus from sequestering emissions associated with coal and  
12 petroleum coke to natural gas and refinery gas, which are the  
13 predominant fossil fuels used in California power plants and  
14 industrial facilities. So the IEPR Committee recommends that  
15 the Energy Commission continue its support and conduct carbon  
16 capture and sequestration research to demonstrate technology  
17 performance, facilitate interagency coordination to develop  
18 technical data and analytic capabilities that are needed to  
19 establish a legal and regulatory framework for this technology  
20 in California.

21           So that was a very quick overview of the detailed  
22 issues in the 2009 IEPR and the recommendations. There is an  
23 Errata for the 2009 IEPR, which was posted last evening and is  
24 available on the table out in the foyer. I will just go over  
25 those briefly. They include both corrections and changes that

1 have been made to respond to public comments that we received  
2 on this version of the draft. We are proposing several minor  
3 corrections related to nuclear plants, procurement in the  
4 hybrid market, and carbon capture and storage. We have also  
5 corrected the numbers for natural gas capacity for interstate  
6 pipelines and California production, and added language  
7 describing the potential impact on prices of natural gas  
8 demand exceeding reliable supplies. We have added air  
9 pollution to the list of environmental issues that the Energy  
10 Commission will monitor when looking at shale gas impacts, we  
11 have revised the language relating to once-through cooling  
12 mitigation in nuclear plants to make the IEPR consistent with  
13 the most recent draft once-through cooling policy document  
14 that was put out by the State Water Resources Control Board,  
15 and also clarify that the Energy Commission will review and  
16 comment on studies required in that policy regarding  
17 compliance implications and alternatives for the two nuclear  
18 facilities. We are also proposing to add language clarifying  
19 that, when working towards developing protocols for publicly  
20 owned utilities to provide information on their methods and  
21 assumptions in estimating and verifying annual efficiency  
22 savings, we will also include determining feasible AB 2021  
23 potential and targets as a part of that process. And, also,  
24 we have noted that the Energy Commission staff will establish  
25 the working group to provide a forum for discussions of

1 barriers and solutions for publicly owned utilities to capture  
2 all cost-effective energy efficiency. Finally, we are  
3 proposing language regarding efficiency in the demand forecast  
4 to make it consistent with language in the Energy Commission's  
5 adopted demand forecast report. And in the recommendations  
6 for coordinated electricity system planning, we have added  
7 language to clarify that the Energy Commission is in the  
8 process of reviewing and evaluating our current modeling  
9 methods and that we will initiate steps to incorporate  
10 improvements in those models in the 2011 IEPR cycle, after the  
11 identified changes have been tested and reviewed.

12           Now, we did receive some additional public comment  
13 early this morning from Northern California Power Agency  
14 expressing some concerns about our proposed Errata saying that  
15 we would establish a POU working group, that those comments  
16 are available out on the table, and they will be posted online  
17 on our website, as well.

18           So with that, I would be happy to answer any  
19 questions from the dais before we move to public comments.

20           COMMISSIONER BYRON: Madam Chairman, may I? Ms.  
21 Korosec, thank you very much. You went through a lot of  
22 material. Before we get into Errata questions and potential  
23 changes from the dais, I guess I would just like to add a  
24 little perspective, as well, before we get into what I might  
25 be consider to be the more minor points. There is a lot of

1 policy in this document. It is with a great deal of  
2 satisfaction that the IEPR Committee presents this to you this  
3 morning. I would like to just read something briefly here:  
4 "Overall, the report emphasizes the need to reduce energy  
5 demand, promote development of renewable energy resources,  
6 ensure development of cleaner fossil resources, give consumers  
7 more energy choices, builds on the necessary infrastructure  
8 that will continue to protect the state from future supply  
9 disruptions and high prices. En masse, the IEPR is  
10 evolutionary, not revolutionary, continues the trend of recent  
11 IEPR's, it will continue to provide the broad support and  
12 leadership for programs to promote distributed generation  
13 demand response, Smartgrid, renewable energy, energy  
14 efficiency, environmental improvement, and competitive markets  
15 for energy. From a policy-making standpoint, it is an  
16 essential tool to focus the next efforts where most needed and  
17 to use resources efficiently." Those were not my words, these  
18 are from an article -- a newsletter, actually -- the  
19 *California Onsite Generation Newsletter*, December 5<sup>th</sup>, a  
20 newsletter now I read cover to cover every time it comes out.  
21 I like this summary because I think it was from someone else's  
22 hand and, of course, we appreciate the perspective that they  
23 took there. I would like to emphasize one key aspect of this  
24 report, if I may, and then come back to Errata, and then  
25 changes and questions that may come up, as well as questions

1 from the public, if I may.

2           First of all, Commissioners, I apologize, we are  
3 about a month late in getting the IEPR to you, but I am  
4 pleased we will be addressing it before the end of the year in  
5 a time for consideration by the Legislature and the Governor  
6 for this next year. There are a number of major  
7 recommendations, the summary that I just read to you addresses  
8 many of them, but there is also continued effort to implement  
9 the loading order, with emphasis on efficiency and renewables.  
10 We also addressed many of the challenges in planning and  
11 building transmission lines to those renewables, and that  
12 continues to be a critical issue that we will be facing, going  
13 forward.

14           I would like to highlight one set of changes in the  
15 Committee Draft. Based upon the latest comments in the need  
16 assessment discussion, this is one of those areas where we  
17 received significant comments in the infrastructure planning  
18 section, several parties indicated that there was no need for  
19 a need assessment, or need conformance; we revised the section  
20 to retain the critical importance of improved analytical  
21 assessment to guide infrastructure planning and development,  
22 but we have chosen to defer the recommendation that is stated  
23 after analysis is complete, "conformance of the plan must be  
24 demonstrated in individual generation and transmission  
25 applications." We also embraced one party's suggestion that

1 the CEC hold workshops to flesh out these recommendations  
2 before calling for any legislative changes. In summary, we  
3 struck the language of need conformance and need assessment,  
4 and we dropped the recommendation to seek legislation;  
5 however, it is important to realize that there is an important  
6 need for this analysis going forward, and this Commission is  
7 committed to shape infrastructure and investment where it is  
8 most needed. There is also a number of other topics, as Ms.  
9 Korosec mentioned, that need further consideration, and we  
10 only really touched on in our IEPR, the hybrid market and  
11 competitive procurement, the role of distributed renewable  
12 generation in meeting our RPS, and renewable portfolio,  
13 regulation goals, and also renewable integration issues will  
14 continue to be more critical challenge as we go forward.

15           Madam Chair, thank you for allowing me to just frame  
16 what I think were important changes that we made. We also  
17 received a number of last minute comments and changes -- "last  
18 minute" does not characterize them -- the schedule was open  
19 until Monday night at 5:00, correct?

20           MS. KOROSEC: Correct, yes.

21           COMMISSIONER BYRON: And Commissioner Boyd and I  
22 reviewed all those comments in detail yesterday, and we  
23 completed an Errata which is before you. I believe there may  
24 be some concerns around the Errata because of last minute  
25 changes, but I do not believe any of them are substantial. We

1 did receive even this morning some concerns from the NCPA,  
2 Scott Tomashefsky at the Northern California Power Authority,  
3 and that was with regard to a proposed change in Errata page  
4 225. I believe that there is some miscommunication here, this  
5 is a very positive change to the document that was  
6 recommended. My recollection in workshops that the effort  
7 here was for publicly-owned utilities and investor-owned  
8 utilities to learn from each other on energy efficiency  
9 opportunities, that they could enact in each other's service  
10 territories. The notion of forming a working group is an  
11 added resource requirement on this Commission's part, that I  
12 think it would be very helpful to all the utilities to  
13 participate on a voluntary basis. I do not recommend taking  
14 it out unless there is objection from my fellow Commissioners.  
15 There may be some other concerns that you will hear from  
16 audience members, but I know from the note that I received  
17 from Mr. Tomashefsky this morning, they could not be here on  
18 short notice, so I wanted to include their comment. I would  
19 like to -- I have more to address, but I think it would  
20 probably be best that we open it up now to public comment  
21 and/or the dais, your preference.

22 CHAIRPERSON DOUGLAS: Well, let me at this point  
23 raise one change which I would like to put forward for  
24 consideration of the Commission, and then let's turn to public  
25 comment. And that is, on page 227, I would like to recommend

1 that we strike the first recommendation in the RPS Targets  
2 section and replace it with the following language: "The  
3 state should pursue codification of the 33 percent renewable  
4 target, drawing upon efforts that are underway to implement  
5 Executive Order S-21-09 and to accelerate the permitting of  
6 renewable energy infrastructure in California." The purpose  
7 of the proposed change is to recognize the value of analytical  
8 work that is underway, and also to acknowledge the tremendous  
9 efforts here at the Energy Commission, at the PUC, the ISO,  
10 the Department of Fish and Game, the federal agencies, BLM,  
11 Fish & Wildlife Service, to really find ways to facilitate the  
12 siting of renewable energy infrastructure here in California.

13 COMMISSIONER BYRON: Madam Chair, that sounds  
14 consistent with the recommendation that is there and I assume  
15 you have good reasons for making these elaborations at this  
16 point. Commissioner Boyd, any difficulty on your part?

17 VICE CHAIR BOYD: No, actually, as I listen to  
18 Suzanne talk about the recommendations we have made, I realize  
19 that we have been at this a long time, a lot of things that  
20 are recommended be done are actually underway, so to speak, so  
21 here is just another area where the language sounds to me like  
22 it is of getting current with activities that are underway in  
23 an area that is of very high profile in California,  
24 renewables. So it sounds fine to me.

25 COMMISSIONER LEVIN: Madam Chair, could you please

1 just read the suggested addition again?

2 CHAIRPERSON DOUGLAS: Yes. "The state should pursue  
3 codification of the 33 percent renewable target, drawing upon  
4 efforts that are underway to implement Executive Order S-21-09  
5 and to accelerate the permitting of renewable energy  
6 infrastructure in California."

7 COMMISSIONER LEVIN: Could I just suggest two words  
8 to add to that for clarity sake? "...to accelerate the  
9 permitting of renewable energy infrastructure and  
10 facilities...?"

11 CHAIRPERSON DOUGLAS: Absolutely.

12 COMMISSIONER LEVIN: Okay, and the rest of it.

13 CHAIRPERSON DOUGLAS: Very good.

14 COMMISSIONER BYRON: Thank you, we will add that to  
15 the motion when we get there.

16 CHAIRPERSON DOUGLAS: Very good. I have a number of  
17 cards from members of the public who would like to speak. I  
18 would like to ask for you to please keep your comments to two  
19 minutes or less, and I would also say that there is a member  
20 of the public who would like to address the Commission if he  
21 is able to stay to the end of this item, he would like to  
22 address us early because of travel difficulty. If you are  
23 able to stay until the end of the item, we will call you up  
24 after this item. Beginning with Mr. Sparano of WSPA.

25 MR. SPARANO: Good morning, Commissioners, members

1 of the audience, members of the CEC staff. I would like to  
2 enter into the record some brief comments. WSPA appreciates  
3 the recent work that has been done by the CEC to address the  
4 comments that we provided earlier in the IEPR review process.  
5 We are heartened that much of our input has been incorporated  
6 into the critical Executive Summary and Recommendations  
7 sections of the final IEPR. We continue to encourage the  
8 Commission to ensure that the realistic observations contained  
9 in the transportation fuels forecast are matched by  
10 recommendations that address the challenges facing all  
11 transportation fuels, including petroleum-based fuels. These  
12 challenges must be clearly identified in the Executive Summary  
13 and the Recommendations sections of the IEPR that will be read  
14 by key policy-makers. Both federal and state governments  
15 continue to provide incentives for the development and  
16 deployment of renewable and alternative fuels, however, there  
17 is still legitimate debate concerning the greenhouse gas  
18 impacts of some of those fuels and their source streams.  
19 Policy-makers must ensure that, while we develop and deploy  
20 future renewable and alternative fuels for California  
21 consumers, that state policies do not result in an energy  
22 supply gap. Government policy should be balanced and should  
23 not cause a reduction in available supplies of cleaner burning  
24 gasoline and diesel fuels before there are sufficient  
25 commercial quantities of renewable and alternative fuels to

1 fill the gap. California consumers in our state's economy  
2 must have access to abundant, reliable, and affordable future  
3 supplies of all forms of energy. With that, I would like to  
4 thank the Commissioners for responding. I spent a lot of time  
5 standing before the Commission testifying on four different  
6 Integrated Energy Policy Reports, and I am grateful that, in  
7 this particular instance, not only did the Commission listen,  
8 but acted aggressively to incorporate many of our comments.  
9 And for that, I am personally deeply appreciative of your  
10 efforts.

11 CHAIRPERSON DOUGLAS: Well, thank you very much. We  
12 appreciate that.

13 MR. SPARANO: All right, and if there are no  
14 questions, I wish you all a safe and happy holiday.

15 VICE CHAIR BOYD: Thank you, Joe.

16 COMMISSIONER BYRON: Thank you, Mr. Sparano.

17 CHAIRPERSON DOUGLAS: Sierra Martinez of NRDC.

18 MR. MARTINEZ: Hi, my name is Sierra Martinez and I  
19 am here representing the Natural Resources Defense Council.  
20 Thank you for this opportunity to speak at this meeting. We  
21 appreciate greatly the hard work that the staff has put in to  
22 the IEPR and recommend that the Commission adopt it. With  
23 respect to demand forecast, we appreciate the staff's effort  
24 to delineate energy efficiency in the demand forecast, and the  
25 inclusion of the demand forecast Errata which outlines the

1 uncertainties in the current forecast, and the areas that need  
2 further analysis. We also appreciate the inclusion in the  
3 IEPR, which generally qualifies the results by noting  
4 assumptions and the need for improved data and further  
5 analysis. This is especially important here since many people  
6 only read the IEPR and not the demand forecast. With respect  
7 to publicly-owned utilities energy efficiency, we strongly  
8 support increased transparency and efforts of the staff to  
9 provide a model protocol for the POU's to report information.  
10 We appreciate the addition to the proposed protocol of  
11 information on methodologies and assumptions for determining  
12 AB 2021 potentials and targets. This is necessary to  
13 understand the progress to achieving all cost-effective energy  
14 efficiency. We greatly appreciate the workshops that staff  
15 conducts to highlight the best practices and potential  
16 barriers to POU energy efficiency implementation and all of  
17 the ongoing efforts of the POU's to increase the energy  
18 efficiency programs and collaborate with key stakeholders. We  
19 appreciate and strongly encourage the Commission to adopt the  
20 recommendation that the Commission will convene a series of  
21 working meetings to focus on remaining policy issues and  
22 develop solutions to continue the POU's progress. We propose  
23 changing the words to "a series of working meetings" instead  
24 of "the working group" to take into consideration the staffing  
25 constraints at the Commission. With respect to OTC policy, we

1 support the interagency proposal to conduct a series of  
2 studies to examine the consequences of retiring OTC power  
3 plants in order to identify replacement options and to analyze  
4 those results to determine alternatives that are compatible  
5 with the AB 32 Scoping Plan. We also appreciate the removal  
6 of references to the wholly disproportionate exemption to  
7 accord with the State Water Board's revised draft of OTC  
8 policy. With respect to natural gas, we appreciate the  
9 inclusion of air pollution in the environmental analysis of  
10 natural gas production, especially in light of the recent  
11 controversy in Texas over air pollution associated with  
12 natural gas such as emissions of benzene, formaldehyde, VOCs,  
13 NO<sub>x</sub>, and particulate matter. These environmental impacts are  
14 equally deserving of analysis and discussion. In fact, the  
15 Texas Commission on Environmental Quality has recently devoted  
16 a website and database for collecting data on these dangerous  
17 air pollution associated with natural gas. In conclusion,  
18 NRDC appreciates the opportunity to make these comments at  
19 this meeting. I thank you for your time and am happy to  
20 answer any questions.

21 CHAIRPERSON DOUGLAS: Thank you, Mr. Martinez.

22 MR. MARTINEZ: Thank you.

23 COMMISSIONER BYRON: Mr. Martinez, I will add,  
24 though, that we did receive substantial comments from NRDC  
25 yesterday afternoon and we did address them in their entirety.

1 We do have to, however, call the play at some point, and  
2 yesterday at 5:00 was when we called it.

3 MR. MARTINEZ: We appreciate it.

4 COMMISSIONER BYRON: Thank you.

5 CHAIRPERSON DOUGLAS: Manuel Alvarez, Southern  
6 California Edison.

7 MR. ALVAREZ: Good morning, Commissioners. On  
8 behalf of Southern California Edison, I would like to support  
9 the IEPR this year. I think we have done a -- collectively,  
10 we have done a yeoman's job here; in fact, I think this  
11 document will serve as a guidepost as we look forward. It was  
12 not too many years ago in which Commissioner Boyd was having  
13 to wrestle with the day ahead market and the hour ahead  
14 market, and the difficulties of that, and in the first IEPR, I  
15 advised that examining that market is not long-term planning.  
16 I think this document puts us back on that road and, as we  
17 look forward, the issues you raise of land use, transportation  
18 planning, the once-through cooling issues, are all going to  
19 have to be integrated into some fashion, and this Commission  
20 actually is responsible for balancing those competing state  
21 needs. So I commend you and I look forward to our next step  
22 and our examination of the hybrid market which will definitely  
23 cause some interest in this agency. So with that, I thank you  
24 for your effort and am pleased to work with you.

25 COMMISSIONER BYRON: Mr. Alvarez, I would like also

1 to respond to your comments. We got tremendous participation  
2 from the Southern California Edison this year, we really  
3 appreciate that. Geographically, you are challenging for us,  
4 you know, we do not go down there and we ask you to come here,  
5 and we appreciate that very much. Commissioners, I did meet  
6 with executives from Southern California Edison on more than  
7 one occasion with regard to the IEPR, I also met with the  
8 other investor-owned utility executives, SMUD, LADWP, and  
9 members of Northern California Power Association and SCPPA,  
10 Southern California Public Power Association, and we got, I  
11 think, as a result of that outreach, tremendous commitment and  
12 participation. I know that they are not all necessarily happy  
13 with the conclusions here. Mr. Alvarez, I take your challenge  
14 on the hybrid market and I am glad that your company sees that  
15 as an issue that we also need to engage going forward, but,  
16 again, my thanks to you and your company.

17 MR. ALVAREZ: Thank you, Commissioner. I think it  
18 is a reflection of our participation and our democracy that  
19 one never gets exactly what they want, but hopefully we get  
20 what we can work with, and I believe we have a document here  
21 that we can work with. So I thank you.

22 COMMISSIONER BYRON: Good.

23 CHAIRPERSON DOUGLAS: Thank you.

24 VICE CHAIR BOYD: Thank you, Manuel, for no  
25 analogies like in your first -- I am not up to another

1 reference to death. And I just wanted to add my thanks to  
2 those of Commissioner Byron with regard to the work that we  
3 have all engaged in, and I appreciate your recognition of the  
4 fact that this is an important document and that is an  
5 important statement to us, and we look forward to you and your  
6 organization helping us make it an important document in the  
7 broader audience than just what we have here today. So thank  
8 you.

9 CHAIRPERSON DOUGLAS: Our next speaker, I have two  
10 people written down for Alliance for Nuclear Responsibility,  
11 David Weisman and Rochelle Becker. If I could ask you to --  
12 I hope that you either will have coordinated, or there is one  
13 person coming forward. Either way, welcome.

14 MS. BECKER: Thank you. And thank you very much for  
15 the IEPR Report. My name is Rochelle Becker and I am the  
16 Executive Director of the Alliance for Nuclear Responsibility.  
17 Since 2005, this Commission has acted responsibly to ensure  
18 that the state's continued reliance on aging nuclear reactors  
19 on the state's seismically active and eroding coast, and with  
20 an increasing footprint of high level radioactive waste stored  
21 on-site, is based on factual information. Yet, when PG&E  
22 ignored all CEC and legislative recommendations and  
23 directives, it implied that California's Democratic process  
24 was irrelevant. As the state's primary energy policy and  
25 planning agency, the public relies on the California Energy

1 Commission to provide oversight and guidance and, when  
2 necessary, enforcement of its Integrated Energy Policy Report.  
3 The Alliance for Nuclear Responsibility asks that this agency  
4 fully participate in PG&E's upcoming general rate case to  
5 guarantee that the state's energy policy is adhered to, and  
6 the state's future generation needs are based on fact and not  
7 coercion. PG&E's pre-Thanksgiving license renewal application  
8 surprise was a disservice to the local community and to the  
9 state. The CEC, who are charged with planning our future  
10 energy sources, and the CPUC, who are charged with just and  
11 reasonable rates for generation, can no longer rely on PG&E's  
12 implied commitment to comply with the IEPR, legislative, or  
13 CPUC directives. In fact, when the Alliance raised the  
14 probability -- now, a reality -- that PG&E would use its  
15 repair funding for a license renewal feasibility study, to  
16 unilaterally seek license renewal, the PUC responded [quote],  
17 "We have already addressed this concern by requiring PG&E to  
18 submit the study to the Commission as part of that application  
19 in 2011 on whether to proceed with license renewal. If PG&E  
20 fails to do so, we agree with PG&E's observation that the  
21 Commission has 'ample means to deal with PG&E's failure to  
22 comply with the Commission's order to file an application,' if  
23 that should ever come to pass." Unfortunately, the "ample  
24 means" were not delineated in the decision. PG&E appears to  
25 imply that the state should have no voice, yet this is only

1 true if the CEC and the PUC allow it. Those who live within  
2 the fallout zone of Diablo Canyon, and ratepayers who are  
3 charged with funding the continued operation of aging  
4 reactors, and taxpayers whose funding is diverted to  
5 supporting the operation of aging reactors on California's  
6 earthquake active and eroding coastal zones deserve to know  
7 that our homes, businesses and generation supplies will be  
8 reliable and affordable. Without the completion and review of  
9 CEC recommended and legislatively approved seismic and other  
10 1632 studies, the public and the state and future reliable  
11 generations are placed at risk. This Commission need only  
12 look at the impacts of the 2007 Earthquake in Japan to  
13 understand that ignoring seismic issues can be costly, and can  
14 result in reliance on polluting technologies and spot market  
15 prices. The Alliance for Nuclear Responsibility asks the CEC  
16 to make it clear to PG&E that its license renewable filing  
17 with the Nuclear Regulatory Commission is in defiance of the  
18 CEC, CPUC, and legislative actions, and that the application  
19 should be placed on hold until the state has decided that  
20 funding this application is in California's best interest.  
21 Thank you.

22 VICE CHAIR BOYD: Thank you, Rochelle. And I think,  
23 Mr. Alvarez, I will give you another message to carry back. I  
24 did not complement you and Edison vis a vis PG&E on the  
25 cooperation on nuclear; I am very disappointed, and I said so

1 in the Press, with what PG&E has done, and I think now it is  
2 time to single out Edison for their statement of wanting to  
3 collaborate and cooperate on all of the commitments and  
4 another utility has chosen, as Ms. Becker has indicated, to  
5 kind of go around behind us. I cannot speak for Commissioner  
6 Byron, but I for one know that there was great disappointment  
7 with that action. But we will address it in due time.

8 MS. BECKER: Are there any other questions? Okay.

9 CHAIRPERSON DOUGLAS: Thank you very much. Please.

10 MR. WEISMAN: David Weisman, Outreach Coordinator  
11 with Alliance for Nuclear Responsibility. I know that  
12 Commissioner Byron had mentioned that he did not want anymore  
13 depressing analogies, so I may -- when we received the news of  
14 this announcement -- and I am not a medical doctor, so I  
15 cannot make a diagnosis, but it appeared to me that perhaps  
16 the executives at Pacific Gas & Electric may be suffering from  
17 a case of premature application, and a spate of Viagra  
18 flooding our in-boxes, notwithstanding that that needed to be  
19 looked at, because what they are attempting to do, as you read  
20 in their response to your questions in the IEPR, is to look at  
21 and bring up issues of state's rights, and that is really what  
22 we are looking at here, is the Energy Commission's long  
23 history, going back to what Charles Warren had in mind decades  
24 ago, was to set up a process where the state's rights were  
25 respected in these areas, and attempts to use existing cases

1 such as the famous 1983 Supreme Court decision in Energy  
2 Commission v. PG&E, appear really on a more balanced  
3 examination to be groundless, and we think you have a right to  
4 defend our state's rights and obligations in this case. Thank  
5 you.

6 COMMISSIONER BYRON: Commissioner, I do not think we  
7 have given up the possibility of litigation from this  
8 Commission either, have we?

9 VICE CHAIR BOYD: Well, I would say we have not  
10 given up anything we have not talked about, so, true.

11 COMMISSIONER BYRON: Thank you both for your  
12 comments.

13 CHAIRPERSON DOUGLAS: All right. The next card is  
14 Dan Patry from PG&E.

15 VICE CHAIR BOYD: Serendipitous timing.

16 MR. PATRY: Thank you, Commissioner Douglas. Dan  
17 Patry on behalf of PG&E. PG&E would like to commend the  
18 Commissioners and staff on a thorough and comprehensive  
19 report, and appreciates the considerable amount of time and  
20 effort involved in such an undertaking. I should start by  
21 saying we recognize that, while the IEPR has made numerous  
22 recommendations, we are particularly appreciative for the  
23 inclusion of highlighted changes from the draft to the final,  
24 as well as highlighted recommendation pegged as priority items  
25 for the Commission going forward. It was really quite helpful

1 in our review process and hope that it served your needs in  
2 creating a more substantive response to the report. With  
3 regard to the recommendation that the CEC take a deeper look  
4 into procurement policy in the hybrid market in the 2010  
5 update, I note that for the draft IEPR workshop back in  
6 October, we brought some of our senior procurement folks in to  
7 discuss the issue, and we are always available to work with  
8 you to address any issues you may have. I would just suggest  
9 that any additional contextual information from the CEC  
10 regarding which specific areas of procurement policy are  
11 priorities for you would be very helpful. On the  
12 recommendation that the PUC be committed to imposing penalties  
13 for non-compliance with RPS mandates, while we are happy to  
14 see that that recommendation was de-accentuated, for lack of a  
15 better term, I would still suggest that the recommendation is  
16 a little misplaced. As we commented at the October workshop,  
17 it certainly is not for a lack of effort that we are where we  
18 are, and the need to assure compliance would suggest that the  
19 utilities are not doing everything they can to meet the  
20 state's goals. As the CEC understands as it faces its own  
21 statutory deadlines under Warren-Alquist, there are many  
22 external factors which ultimately affect outcomes; for us, if  
23 it is not CEQA, it is things like local lawsuits over visual  
24 impacts, noise, the Mojave Monument, and so on, that impact  
25 RPS. And I say this not to nitpick, but I would hope that the

1 flexible compliance period shows a little more sunshine, a  
2 little more hope on the horizon, and my point in saying this  
3 is that we are doing everything we can, if not by 2010,  
4 certainly by the flexible compliance period in 2013. We did  
5 note the Errata delivered last night and would only say that  
6 it has never for us been an issue of completing reports, nor  
7 sharing them, it has really been an issue of timing, and I  
8 believe our written comments bear that out. And finally, on  
9 the recommendation that the CHP ought to be viewed more  
10 broadly as an energy efficiency measure, CHP, depending on the  
11 application, displaces some fuel, where energy efficiency and  
12 renewables for the most part displace fuel and emissions in  
13 their entirety, and I would encourage the CEC to look deeply  
14 at the kind of loading order implications of that. So with  
15 that, I appreciate your time and I will answer any questions  
16 you may have.

17 COMMISSIONER BYRON: Mr. Patry, thank you. Thank  
18 you for being here today and for your comments, and also PG&E,  
19 Commissioners, was very helpful and responsive to requests of  
20 the IEPR Committee in bringing personnel forward, as Mr. Patry  
21 indicated.

22 MR. PATRY: Thank you.

23 COMMISSIONER BYRON: With regard to this issue of  
24 penalties for not meeting RPS compliance, I believe you  
25 mentioned flexible compliance -- I do not think that is in the

1 law, I think that is an artifact of the PUC's decision --

2 MR. PATRY: Correct.

3 COMMISSIONER BYRON: -- and we do not have the full  
4 benefit of the record -- I should say I have not reviewed the  
5 full record that has been brought forward as to how they made  
6 that decision -- and we are certainly seeing a lot of movement  
7 in the right direction and the issues that you brought up  
8 around why renewable contracts are not being put in place as  
9 quickly as we want, we are well aware of from this  
10 Commission's perspective, as well. But I do believe that the  
11 aspect of penalty for non-compliance for RPS is in the law,  
12 and maybe someone could clarify me on that, clarify my  
13 thinking on that if I am incorrect, but we did not make that  
14 one up.

15 MR. PATRY: Right.

16 COMMISSIONER BYRON: Okay.

17 MR. PATRY: Duly noted.

18 COMMISSIONER BYRON: Thank you again.

19 CHAIRPERSON DOUGLAS: Well, thank you for your  
20 comments. The last card I have is for Mary Lynch with  
21 Constellation and Western Power Trading Forum.

22 MS. LYNCH: Good morning, Commissioners, and thank  
23 you for letting me speak here today. My name is Mary Lynch.  
24 I am the Vice President for Energy Policy for Constellation  
25 Energy Resources. My brief remarks today are on behalf of

1 Constellation and also on behalf of the Western Power Trading  
2 Forum, a California trade association with members across the  
3 broad spectrum of competitive entities in the California  
4 energy industry. In the IEPR, the Energy Commission invites  
5 the CPUC to participate in a more complete evaluation of the  
6 existing hybrid market structures as part of the 2010  
7 Integrated Energy Policy Report update, to identify possible  
8 market enhancements and changes to utility procurement  
9 practices that would facilitate the re-emergence of merchant  
10 investment. The purpose of this evaluation is to address  
11 concerns about utility domination of infrastructure investment  
12 and its potentially harmful impacts on competitive wholesale  
13 and retail markets. Constellation and WPTF strongly support  
14 the undertaking of this evaluation. Current infrastructure  
15 investment, ownership and control resides to a very large  
16 degree with the investor-owned utilities and, as such, relies  
17 on utility rate base, or long-term cost pass-through contracts  
18 for cost recovery. When regulatory policies provide this form  
19 of regulatory cost protection to utility-based investment, the  
20 risks associated with merchant investment are simply too high  
21 and, more importantly, are unhedgeable and, as a result,  
22 merchant investment will not occur. As such, the idea that  
23 the market can be divided up between utility-owned generation  
24 and merchant investment is fatally flawed. California energy  
25 markets are making great strides towards re-establishing

1 workable and robustly competitive wholesale and retail  
2 markets. Progress is being made for establishing competitive  
3 markets for energy, ancillary services, capacity, renewable  
4 energy, and emissions management. This progress will provide  
5 improved price transparency and market liquidity that can  
6 support a re-emergence of merchant investment. We are also on  
7 the cusp of a small, but important transitional re-opening of  
8 retail competition as a result of the passage of SB 695. It  
9 is time for policy-makers to recognize, however, that progress  
10 towards competition will ultimately be thwarted if their  
11 policies maintain the current bifurcated asset investment  
12 infrastructure that is imbedded in the hybrid market. It is  
13 time to evaluate and implement changes to the utility  
14 procurement paradigm, that will better support competitive  
15 wholesale and retail markets, so that the benefits of  
16 competition and the innovation and downward pressure on prices  
17 that competition creates, can be achieved. Constellation and  
18 WPTF appreciate the IEPR's attention to this topic and look  
19 forward to working with you when the 2010 IEPR begins. Thank  
20 you.

21           COMMISSIONER BYRON: Ms. Lynch, I would like to  
22 thank you and I would also like to thank you and a number of  
23 other folks that came in and met with me, and we discussed  
24 these issues in more detail. I turn to my Commissioners and  
25 suggest that, if you get an opportunity to meet with Ms.

1 Lynch, WPTF, and a number of the other organizations that came  
2 in, it is very helpful on this particular subject. Thank you,  
3 Ms. Lynch, for your time, and I hope you will make more time  
4 for this Commission.

5 MS. LYNCH: We look forward to it.

6 COMMISSIONER BYRON: Thank you.

7 MS. LYNCH: Thanks very much.

8 VICE CHAIR BOYD: I look forward to you accepting  
9 Commissioner Byron's invitation. We have not met and talked,  
10 however, I have read your submissions and was impressed with  
11 them, and I am equally pleased with your comments today. We  
12 hear your message. We are concerned.

13 MS. LYNCH: Thank you very much. We look forward to  
14 working with you.

15 CHAIRPERSON DOUGLAS: Thank you. I believe this  
16 concludes the public comment, unless there are people waiting  
17 on the phone, there are not, so this concludes public comment.

18 COMMISSIONER BYRON: Madam Chairman, I do have some  
19 things I would like to say following my motion to adopt the  
20 2009 IEPR with Errata, and the proposed changes here at the  
21 Dais this morning. Altogether, I would like to make that my  
22 motion to adopt.

23 VICE CHAIR BOYD: Commissioner Byron was going to  
24 offer me an opportunity to speak before he made his --

25 COMMISSIONER BYRON: Oh, there will be time,

1 Commissioner, there will be time.

2 VICE CHAIR BOYD: There will be time?

3 COMMISSIONER BYRON: Absolutely.

4 VICE CHAIR BOYD: All right. Well, in that case,  
5 since you have made the motion, I will second the motion and  
6 reserve the right to make some comments.

7 CHAIRPERSON DOUGLAS: Very good. We have a motion  
8 and a second. And now we will have some comments.

9 VICE CHAIR BOYD: I will go first. Well, as the  
10 second member of this Committee, it has been frankly a  
11 privilege of mine to serve on this seventh IEPR that we have  
12 done. I have now done four IEPRs, one more than I thought I  
13 would ever have to do, but -- and I have either been Chair, or  
14 second member, and I recognize there is a big difference  
15 between Chair and second member, and I commend Commissioner  
16 Byron for his chairmanship. Serving on the Committee in  
17 either capacity is a challenge, sometimes very exhausting, but  
18 the staff knows that only too well because, if we are  
19 challenged and exhausted, they are doubly almost. But it is a  
20 lot of responsibility. And I want to return to the  
21 legislation that was referenced, and I am going to repeat  
22 something I have probably said for every IEPR final approval  
23 we have had, meaning this will be time number seven. I  
24 thought the piece of legislation that was initially offered by  
25 Senator Bowen, who at the time was on the Energy Committee in

1 the Senate, was basically brilliant. It was -- and she was  
2 joined by Senator Sher eventually as the co-sponsor of the  
3 Bill, it frankly was one of the bright spots, to me anyway, in  
4 what was otherwise a very dark time, i.e., the electricity  
5 crisis. And it was a recognition by the Legislature and even  
6 the Governor in signing the Bill, that we want to have the  
7 Energy Commission look at all energy issues, so maybe we can  
8 head off anything like this ever happening again in any energy  
9 area. And so was born the IEPR process, which in light of the  
10 fact that we do a major one every other year, every odd year,  
11 and the legislation authorized an intermediate, or intervening  
12 report on any issues that the Commission feels need to be  
13 continuously addressed, it provided basically almost a  
14 continuous forum for discussion of energy policy issues and  
15 concerns in California, and I still see it as that. The IEPR,  
16 frankly, touches all facets of energy, it raises important  
17 questions, it makes recommendations, it raises policy issues,  
18 and it is incumbent on us, and has been all the time, to see  
19 that these facts and recommendations are well known within  
20 both the Executive and Legislative Branches of California  
21 government, so it is incumbent upon this agency to follow-up  
22 and to follow through on all that has said, all the issues  
23 that are identified, all the policy issues that need to be  
24 debated, and certainly to take action as soon as reasonably  
25 possible on issues that are identified that are within the

1 purview of this agency to pursue. And as we have already had  
2 a little tiny bit of discussion today, that happens every  
3 time, and it is has happened this time, the vision  
4 recommendation in the IEPR, which was done quite some time  
5 ago, is already underway between the energy agencies, the land  
6 use issues have been raised, we already have engaged and  
7 created new staff and engaged more deeply in those activities,  
8 and we just need to do much more of that in the future. We  
9 have struggled, I think, to make the IEPR recognized as the  
10 policy document that it is, and we will just keep pushing that  
11 boulder uphill, but I think we have gotten the attention of  
12 more and more policy-makers to the need to pay attention to  
13 this document and what it says. I want to thank the  
14 stakeholders, all of them, who went through this process with  
15 us, including our friends in other state agencies who are  
16 getting more and more involved, like it or not, in the issues  
17 that we deal with. I mean, climate change is the biggest  
18 thing in the world, certainly in California, and you cannot  
19 say "climate change" in the same sentence or in the next  
20 sentence reference energy. So in everything we do, energy  
21 affects that issue. So thanks to the staff for their hard  
22 work and their dedication during these frankly very tough  
23 times, and I think everybody knows what I am referring to. It  
24 is tough to see people down here on furlough days, etc., etc.,  
25 but the folks here have really dedicated themselves to all the

1 issues that we have to address, and it is recognized and  
2 appreciated. I want to say a special thanks to all the  
3 advisors, but particularly the advisors to the two  
4 Commissioners, who historically always end up with the big  
5 burden in the IEPR process, but they help us fulfill our  
6 responsibilities. And on that point, I am going to take an  
7 unusual detour here for just a moment because there is a large  
8 audience, and when we are saluting people, we usually do it at  
9 the end of the meeting when there is virtually nobody left in  
10 the room, and I just want to point out that, you know, my  
11 advisor, Kelly Birkinshaw, this is his last day of work, he is  
12 retiring as of the end of this work day. And although he has  
13 agreed to show up occasionally around here and help out, I  
14 want to wish Kelly well. He has been at the Commission since  
15 1983, he has a wealth of experience, and I have really  
16 appreciated what he has done for me since he joined my office  
17 in May of 2008. Kelly is -- I really hate to see people  
18 retire so much younger than me, but Kelly and his wife are  
19 joining the Peace Corps and are pursuing another calling. I  
20 do not know if it is a higher calling than what we are engaged  
21 in, but in between he is going to do some scuba diving and do  
22 some skiing, as well, and he is going to come back here, he  
23 promised to help on a few projects -- the only one I will  
24 mention is the carbon capture and sequestration collaborative  
25 between the head of the DOE and National Energy Technology

1 Laboratory, and Commissioner Peevey, and President of the PUC  
2 and myself, Kelly has single-handedly carried this thing  
3 along, and I am not quite sure how we are going to do without  
4 him. So, in any event, Kelly, I just wanted to wish you well  
5 as part of my comments on the IEPR. I also want to mention  
6 that Barbara Byron, who also chooses to sneak away more  
7 quietly than you, has already retired, and she has been the  
8 nuclear -- the one and only nuclear staff of this agency for  
9 longer than I can remember, and I do not think she is even in  
10 the audience, but she was critical to the work on the IEPR  
11 this year and all prior years, and I am certainly going to  
12 miss her. So that is a very long comment with regard to the  
13 IEPR, but I think it is important to get all these issues out  
14 on the table, even the loss of one Kelly Birkinshaw.

15 MR. BIRKINSHAW: Well, Commissioner Boyd, thank you  
16 very much for your comments, and thank you all, Commissioners,  
17 and Chairman. It has been a long time here at the Commission  
18 and, you know, it is time for a new chapter and transitions in  
19 my life, but I look back with a lot of fondness on all of the  
20 folks that I have been able to work with here, and both people  
21 that I have been able to call as friends and colleagues, back  
22 to 1983. I have to say, I took note of your comments about  
23 some of the troubles that we find ourselves in, and I do worry  
24 about our state, and the well being of this Energy Commission.  
25 I came to the Commission in perhaps a more innocent time. I

1 do think it is going to require a lot of innovative and very  
2 strong leadership here, and probably going to test the mettle  
3 of all levels of management in this Commission. But that  
4 being said, I really have a lot of respect for the staff at  
5 the Energy Commission. I really have been fortunate to have  
6 all of you as my colleagues, those here and, frankly, those  
7 who have gone before you. And I hope you all have much  
8 success in the future. So thank you very much and I look  
9 forward to seeing you all at the Winter Fest here in just a  
10 few minutes.

11 VICE CHAIR BOYD: Thank you, Kelly. He tried to  
12 sneak away without recognition, like yesterday when we chose  
13 to embarrass yet another employee. So thank you for the  
14 opportunity to make that statement.

15 COMMISSIONER ROSENFELD: Can I just add one word of  
16 commendation? I think Commissioner Boyd said everything about  
17 the importance of this that has to be said, but I just cannot  
18 resist saying that, taking 30 something workshops and comments  
19 and boiling them down into 250 pages is a monumental job and a  
20 monumental amount of work, and I am very impressed.

21 VICE CHAIR BOYD: Well, I appreciate you bringing  
22 that up because I need to commend the Commissioner and the  
23 staff for cutting the number of workshops in half. The last  
24 time I did one of these, it was 60 public workshops, so it has  
25 been a much better process this time.

1 MS. JONES: Sixty-six.

2 CHAIRPERSON DOUGLAS: I will chime in and I agree  
3 with Commissioner Rosenfeld that Commissioner Boyd said all  
4 that needs to be said, but since not all of us have said it, I  
5 would just like to add my note of appreciation to the staff  
6 for hard hard work on this document, and also to the IEPR  
7 Committee for going through all of these workshops, for  
8 guiding this process, and for really putting a tremendous  
9 amount of work into this. Commissioner Byron, as Chair of the  
10 IEPR Committee has had to live with this document from its  
11 very inception and has put just a tremendous amount of time  
12 and energy into it, and we are at the culmination of that and  
13 we have got a document that we can be very proud of, that, as  
14 you say, moves us forward in so many directions, and I am very  
15 pleased to be in a position to strongly support and endorse it  
16 today, and thank the IEPR Committee for its hard work.

17 COMMISSIONER LEVIN: In the interest of time, I am  
18 just going to say ditto to everything said previously, but  
19 especially thank you to Commissioner Byron.

20 CHAIRPERSON DOUGLAS: And with that, we have a  
21 motion and a second, and all in favor?

22 COMMISSIONER BYRON: Madam Chair, I call for the  
23 question here.

24 (Ayes.)

25 CHAIRMAN DOUGLAS: The item is approved.

1           COMMISSIONER BYRON: Madam Chair, if you would  
2     indulge me for a moment, I know that -- I have a few things  
3     that I need to dole out as well, and I apologize to everyone  
4     because the clock is ticking for the Winter Fest.

5           The parties that participated really gave us a lot  
6     of thoughtful comments and concerns throughout this entire  
7     process. We had really good, active participation. And  
8     although the Energy Commission has the responsibility,  
9     together we formulated energy policy on behalf of the State of  
10    California today, and I thank you all. My thanks also to the  
11    Public Utilities Commission for their active participation,  
12    valuable comments and input. Commissioner Bohn was able to  
13    attend a number of the IEPR Workshops and his perspective and  
14    input is always invaluable. Many of our recommendations are  
15    directed at the Public Utilities Commission and their staff,  
16    and the dedicated staff and commissioners there have made  
17    substantial progress in implementing many of our previous  
18    recommendations, they may bristle at some, but they are  
19    extremely responsive and, for that, we are grateful. I would  
20    like to thank the staff, both the IEPR team and all of the  
21    technical staff. The first time we have had a dedicated IEPR  
22    staff, and whoever succeeds me as the IEPR Committee Chair  
23    will be very pleased to have them, as well. Ms. Suzanne  
24    Korosec, Lynette Green, Jennifer Williams, Carolyn Walker, and  
25    Donna Parro [phonetic]. I hope Donna is back from being sick.

1 They were tremendous and it was great to have them. As for  
2 the technical staff, I could start reading the acknowledgement  
3 page, it will give you a sense of the substantial undertaking,  
4 all the major contributors in this organization's name are on  
5 that page. I hope we did not miss anyone. But I am also not  
6 going to start rattling off additional folks, I will offend  
7 for overdoing, or I will offend for under-doing if I start  
8 there. But for those that provided significant support to  
9 this Commission and for this report, you know who you are, and  
10 you have my sincere appreciation. Also, there are some that  
11 are retiring and this may be their last IEPR, as indicated by  
12 Mr. Birkinshaw; for those, you have my special thanks for this  
13 year and for your many years of invaluable service to  
14 California.

15 I just want to say one or two more things. I have  
16 said this many times and I feel very strongly about this, this  
17 Commission is the right statewide organization with the  
18 expertise, ability and perspective to set state energy policy.  
19 But I will also add that I am not completely satisfied with  
20 the quality of our work this year; for a number of reasons, we  
21 did not apply sufficient resources and we will rightly so  
22 receive some criticism for this report. We will hear  
23 persistent criticism again on some issues such as not  
24 providing sufficient detail for our recommendations and proper  
25 attribution of energy efficiency savings, on and on and on.

1 But I take great satisfaction in the way the staff conducts  
2 themselves in public meetings, putting forth good analytical  
3 work sometimes with contractor support, soliciting and  
4 responding to comments, and then producing a document that  
5 continues to provide clear energy policy direction. It did  
6 not seem that long ago that California was without that  
7 direction. I do not know that there is another state that  
8 does this as well and gets energy policy any better than  
9 California.

10 I need to ask your indulgence for a few more things.  
11 To my staff, Tiffany Solorio, Kristy Chew, and Laurie ten Hope  
12 for your dedication and invaluable input and hard work, and  
13 also to Commissioner Boyd's staff, Sarah Michael, Kelly  
14 Birkinshaw, were extremely helpful, as well as all the  
15 Commissioners' staffs. And I would like to thank my associate  
16 IEPR Committee member, Commissioner Boyd, we spent many days  
17 together this past year, I enjoyed most all of them, your  
18 steady and guiding hand, I very much value your leadership on  
19 this Commission, thank you. And to the godfather of energy  
20 efficiency, Arthur Rosenfeld. You know, Art, I would like to  
21 dedicate this IEPR to you, it is likely your last one unless  
22 there is a Gubernatorial appointment surprise, certainly my  
23 last one, I would like to ask you for building a strong  
24 following throughout the world around a simple idea, energy  
25 efficiency, saving energy, you are a living legend, you give

1 everyone inspiration, you have demonstrated to all of us, even  
2 the youngest of Commissioners on this dais, that there is much  
3 we can contribute after we turn 40, after we turn 50, after we  
4 turn 60, after we turn 70, even after we turn 80. However,  
5 since you have now voted to adopt this document, I think it  
6 would be inappropriate to put a dedication page in there, so I  
7 have an alternative document that I would like to give you,  
8 Art, that you can read to your great-grandchildren. It is  
9 called, "When Santa Turned Green." And if I just may read the  
10 inscription here, it says, it is December 2009: "Dear  
11 Commissioner Art: We hear that you are a very good elf,  
12 spreading energy efficiency throughout the land and helping to  
13 save Planet Earth. How can we thank you enough? Regards on  
14 your retirement, Santa and the Author, Victoria Perla."  
15 Congratulations, Commissioner, on your time here. We are  
16 going to take every opportunity we can to say good bye to you,  
17 I am sure there will be more.

18 VICE CHAIR BOYD: You will be back next month, I  
19 understand, so you get more.

20 COMMISSIONER BYRON: You can read it to your  
21 grandchildren -- your great grandchildren.

22 COMMISSIONER ROSENFELD: I think you have got it  
23 wrong, I am going to be here the next Business Meeting.

24 COMMISSIONER BYRON: This is for Christmas.

25 CHAIRPERSON DOUGLAS: Thank you, Commissioner.

1 Keith Lewinger, are you still in the audience?

2 MR. LEWINGER: Barely.

3 CHAIRPERSON DOUGLAS: Barely. I hope we have not  
4 caused you to miss your plane. Commissioners, Mr. Lewinger  
5 asked to speak in public comment, but because he has to make a  
6 plane, and because he has sat through hours of a meeting in  
7 hopes of having an opportunity to address us, I would like to  
8 give him his time now.

9 MR. LEWINGER: Thank you, Madam Chair, members of  
10 the Commission. I will make this brief because otherwise I  
11 will miss my plane. I am Keith Lewinger, General Manager of  
12 the Fallbrook Public Utility District, you have heard in the  
13 past from my consultant, Steve Nielson. And I am here today  
14 to plead a case of fairness with you. Fallbrook PUD is trying  
15 to install a 1 megawatt solar facility at our waste water  
16 treatment plant in Fallbrook, which is in Southern California.  
17 We have applied under your 1 percent loan program and, in  
18 fact, we were one of the first half dozen or so applicants  
19 into that program back in September. In the first week of  
20 October, our application was deemed complete by your staff,  
21 and they were keeping it under review to clear up some  
22 questions that they had. Those questions were answered and  
23 the review was complete in mid-March -- or, I am sorry, mid-  
24 November -- but then there were some changes to the rules and  
25 we had to change the contractual arrangements in the

1 agreement, which we did, and we targeted your December 2<sup>nd</sup>  
2 meeting to bring the contract here for approval, but then in  
3 mid-November, new rules were put into the program, where NEPA  
4 and SHPA had to be met, these were rules that were not in your  
5 original announcement on your website, which we used and  
6 referred to when we submitted our application. Within two  
7 days of finding out that we had to meet these NEPA  
8 requirements, we got the proper documents in to you. We had a  
9 meeting with staff yesterday, where they told us that we had  
10 not submitted those documents, we looked up our e-mail records  
11 and, lo and behold, they did receive those documents, just had  
12 misplaced them, and I can understand that with all the  
13 documentation they are receiving, and that was sent off to  
14 DOD, or DOE, yesterday. However, in the interim, your staff  
15 has now deemed our application, rather than being under  
16 review, as incomplete, which means that we are out of the  
17 queue. And, as you know, this is a first come first serve  
18 program. I understand you have a 3 percent program, but the  
19 difference between 1 percent and 3 percent for a little  
20 district like mine is \$30,000 on each million dollars that we  
21 borrow -- that is \$60,000 a year, that is a lot of money for a  
22 little district like mine. All I am asking -- I am not asking  
23 for prior approval because I know all the documentation has to  
24 be approved by the federal government, the SHPA documentation  
25 has to be approved, the NEPA documentation has to be approved,

1 all I am asking is that you categorize my application as under  
2 review because you are the ones who changed the rules as to  
3 what was required for a complete application. Our application  
4 was deemed complete, then it was changed to incomplete because  
5 you changed the rules, or your staff did, or DOE did, or  
6 somebody did, as to what constituted a complete application.  
7 I have spent tens of thousands of dollars getting all the  
8 material in place to get this application to you, it was  
9 deemed complete, now it is deemed incomplete through no fault  
10 of ours. I am just asking for fairness.

11 CHAIRPERSON DOUGLAS: Commissioners, I wanted you to  
12 have the opportunity to hear from Mr. Lewinger and I will  
13 provide my understanding of what is at issue here, and I do  
14 see some staff in the audience who may want to come forward,  
15 as well. The Stimulus Act, while it contained some reference  
16 to NEPA, we did not have guidance on how NEPA would be applied  
17 in this case by DOE until after the guidelines were finalized  
18 and applications began to come in. In particular, what we  
19 needed to know was whether DOE would be satisfied with the  
20 fact that we were doing CEQA documentation on all of these  
21 projects, and also what categorical exemptions DOE would  
22 consider to allow projects to avoid the NEPA process, and,  
23 finally, how the NEPA process would be conducted. As it turns  
24 out, staff learned in late October that the categorical  
25 exemptions that we were to use would allow essentially energy

1 efficiency projects to move through as exempt, but these solar  
2 PV projects stand alone, not rooftop, solar PV projects are  
3 not categorically exempt, therefore NEPA documentation has to  
4 be produced, it has to be reviewed and approved by DOE, and  
5 there are also in many cases, although I do not know if it is  
6 true in this one, historical --

7 VICE CHAIR BOYD: Their review is underway, it will  
8 be complete within the next two weeks.

9 CHAIRPERSON DOUGLAS: -- there is also historical  
10 review. So the issue that we face is that, as we have moved  
11 forward to implement this program as expeditiously as  
12 possible, we have had to -- we have had to do so with the  
13 understanding that we did not always have all the information  
14 at our fingertips to be able to predict everything that could  
15 happen. Item 8 on the agenda, which we put off to the next  
16 business meeting agenda was similarly held up because it has  
17 not actually been able to complete the review, and that is why  
18 we have had to push it off. So I would like to ask Mr.  
19 Herrera to provide any clarifications or additions that --

20 MR. HERRERA: Good morning, Commissioners, Gabe  
21 Herrera, I am with the Commission's Legal Office. Mr.  
22 Lewinger is partially correct. There were a change of rules  
23 when the Commission got additional guidance from the  
24 Department of Energy on how the National Environmental Policy  
25 Act and the National Preservation Act was going to be

1 interpreted and applied by DOE. We were at a fork at the  
2 road, we had already gone out with the loan application  
3 process under which Fallbrook had applied for a loan. Our  
4 options were either to cancel the solicitation completely,  
5 return back all the loan applications, and tell folks that the  
6 process was going to start anew, and that they were going to  
7 have to reapply given these new rules and our understanding of  
8 the rules from the Department of Energy, or what we could do  
9 was go out with the letter. We understood that there could be  
10 some projects that could sail through the process fairly  
11 quickly because of the nature of the activity and that there  
12 were projects that were going to get hung up, these stand  
13 alone PV projects are the type of projects that are going to  
14 get stood up -- not stood up, they are going to get caught in  
15 the process and require additional review. And so, should the  
16 Commission then cancel the solicitation, start again, or go  
17 out with a letter informing individuals that additional  
18 requirements were needed to be satisfied, and then move as  
19 quickly as possible to those projects that could satisfy them  
20 quickly. And I think the option that was selected was the  
21 second round. It is unfortunate that Fallbrook is kind of  
22 caught in this situation, but it would not be in any different  
23 situation had the Commission started the clock again, canceled  
24 the loan applications and solicitation, and re-issued it once  
25 we knew what the rules were.

1           CHAIRPERSON DOUGLAS: Thank you, Mr. Herrera. As  
2 Commissioners know, we are under tremendous pressure to get  
3 money out on the street as quickly as possible, and that  
4 argues very strongly against canceling a solicitation and  
5 starting again, or earmarking certain applications as complete  
6 when we are not sure if they actually will be, or when they  
7 will be, and so these are some of the policy issues that this  
8 commission and working with staff will have to address.

9           MR. LEWINGER: And, Madam Chair?

10          CHAIRPERSON DOUGLAS: Please, go ahead.

11          MR. LEWINGER: All we are asking -- we are not  
12 asking for a waiver of these requirements, we will comply with  
13 all of these requirements, we are simply asking for a couple  
14 months to finish these requirements; if we do not meet them,  
15 take us out of the queue, but give us a couple months to  
16 satisfy these new requirements without taking us out of the  
17 queue. And we have no control over the SHPA review or the  
18 NEPA review, they are backlogged also.

19          MR. HERRERA: Commissioner, if I can comment on that  
20 point? That is one option the Commission could pursue, it  
21 certainly has discretion to do that, it would put at risk the  
22 ability to fund some of these projects that are fundable now  
23 quickly; there is the potential that, when DOE reviews the  
24 environmental documents that Fallbrook has submitted that it  
25 will require additional review, it could come back and say an

1 environmental study is required, it could jeopardize, I mean,  
2 that additional study, and that addition of time could  
3 jeopardize this project being able to be completed in time to  
4 take advantage of the money. And if the Commission puts the  
5 money out there, it is at risk that it might then lose the  
6 ability to use it for another viable project. I mean, there  
7 are some risks here.

8 CHAIRPERSON DOUGLAS: Are there questions? This is  
9 not a decision item, this has become --

10 VICE CHAIR BOYD: I do not have a question, I just  
11 have a statement and I think this is pathetic -- I am getting  
12 tired of hearing complaints about how slow the money gets out  
13 there, the President is upset, he ought to kick his own  
14 bureaucracy in the backside to move things along. I do not  
15 know what we can do and we will have to discuss this  
16 procedurally, internally. I hate it. All my career in  
17 government when the rules get changed, when the game has  
18 already started, so I sympathize with your dilemma, and I  
19 guess we will talk about what we can do to deal with these  
20 situations. DOE is giving us a black eye with their slowness  
21 and their scattered approach, in my opinion, to doing the  
22 process. Everybody seems to be afraid of their shadow. So  
23 the money, you know, the money is not getting out as it should  
24 to accomplish what was the original objective of economic  
25 stimulus. Enough said.

1           CHAIRPERSON DOUGLAS: I think I hear you. I will,  
2 though, add that, in fairness, just as we have had a huge job  
3 handed to us, the Department of Energy has certainly had a  
4 tremendous job handed to them, and so --

5           VICE CHAIR BOYD: Got to take risks or you do not  
6 get any rewards.

7           MR. LEWINGER: Madam Chairman, I do have some  
8 photographs I can leave with you, which show that this site is  
9 totally disturbed, it is part of a wastewater treatment plant,  
10 it has been part of a wastewater treatment plant for 25 years.

11          CHAIRPERSON DOUGLAS: Thank you. Please leave it  
12 with staff and it will be brought to the dais. I appreciate  
13 your being here today.

14          MR. LEWINGER: Thank you for hearing me.

15          CHAIRPERSON DOUGLAS: Thank you. Item 4. Avenal  
16 Energy Project, Docket 08-AFC-1. Mr. Fay.

17          MR. FAY: Thank you, Madam Chair, Commissioners.  
18 The committee responsible for considering the Avenal Energy  
19 Project's Application for Certification is offering for  
20 Commission consideration the presiding member's proposed  
21 decision or PMPD, which was published on November 10<sup>th</sup> of this  
22 year. The PMPD is based exclusively on substantial evidence  
23 from the record, established during the certification process.  
24 That record is summarized in the PMPD. The committee also  
25 prepared and served on all parties in the case on December 10<sup>th</sup>

1 an Errata document and that was based on comments received by  
2 the parties. The PMPD contains the committee's rationale on  
3 determining that the Avenal Energy Project complies with all  
4 applicable laws, ordinances, regulations, and standards, and  
5 that the project will impose no significant impacts on the  
6 environment. The PMPD recommends that, subject to the  
7 Conditions of Certification contained in the PMPD, the Avenal  
8 Energy Project should be licensed for construction and  
9 operation.

10 In brief summary, the Avenal Energy Project would  
11 construct and operate a 600 megawatt gas-fired power plant in  
12 the City of Avenal in Kings County. The project would be  
13 built on approximately 34 acres of a 148-acre site that is  
14 just south of the Fresno County line and approximately two  
15 miles east of Interstate 5. The proposed project site is  
16 within the City of Avenal town limits in an area zoned for  
17 industrial use, but is located approximately six miles from  
18 the City's residential and commercial districts. Current land  
19 use at the project site is irrigated agriculture, as is the  
20 surrounding land use. The PMPD also assesses the greenhouse  
21 gas emissions that are likely to result from the construction  
22 and operation of the project, and concludes that the Avenal  
23 Energy Project's GHG emissions will comply with all applicable  
24 laws and will not result in significant impacts. The PMPD  
25 also concludes that the project will be consistent with

1 California's ambitious GHG goals and policies. I would be  
2 happy to answer any questions you may have.

3 CHAIRPERSON DOUGLAS: Can we hear from the  
4 Applicant?

5 MS. LUCKHARDT: Good morning. This is Jane  
6 Luckhardt on behalf of the Applicant today and we received and  
7 four different comments have been sent in to the Energy  
8 Commission on the proposed decision since either just prior to  
9 or since the hearing on the Presiding Member's proposed  
10 decision. And what we would like to do is briefly go over  
11 those comments and provide our thoughts in response to those  
12 comments at this time. And before I do that, we would like to  
13 say that we appreciate the Errata that the committee has put  
14 together, a lot of it responded to comments that we made, and  
15 we appreciate the changes that were made there, so we do not  
16 have any concerns with the Errata. And now what I am going to  
17 do is go through the comments, there are four different  
18 comments, when I get to the last one, which was fairly  
19 extensive with the attachments, I will also ask Mr. Gary  
20 Rubenstein to go over all of the individual attachments that  
21 were included in that. That set of comments is approximately  
22 400 pages long.

23 COMMISSIONER BYRON: Ms. Luckhardt, if nothing, you  
24 have been exemplary in this process and we appreciate your  
25 efforts to respond to comments that were even received after

1 the dates they were due. There were interveners in this  
2 process that did not necessarily follow the orders that this  
3 committee handed out. I appreciate your efforts to address  
4 comments, I do not want to interrupt you again, but I will ask  
5 you to please be as brief as you can.

6 MS. LUCKHARDT: We will and we just intend to  
7 address the major points, so I understand that. The first  
8 comment was provided by Pacific Environment. They had  
9 essentially two major points, 1) they felt that this project  
10 was inconsistent with the RPS standard, the 33 percent  
11 standard, and is not needed. And I would simply point to, in  
12 response to that, Exhibit 203, which is the MRW & Associates  
13 Report on their framework for evaluating greenhouse gas  
14 implications. I believe that report adequately describes the  
15 need for additional gas-fired generation to help move  
16 California from where it is now to where it needs to be from a  
17 greenhouse gas emissions standpoint. So that is what I would  
18 refer to in response to the Pacific Environment comments.  
19 Those comments are also substantially similar to comments  
20 filed in this proceeding on June 8<sup>th</sup> of 2009. And then, moving  
21 on, the comments that were filed by the Center for Race,  
22 Poverty, and the Environment, which the Center for Race,  
23 Poverty, and the Environment is an intervener in this case,  
24 the comments should have been filed on November 30<sup>th</sup>, instead  
25 they were filed on December 10<sup>th</sup>, the end of the public comment

1 period, and they include CRP and other entities' comments on  
2 the prevention of significant deterioration permit at EPA  
3 Region IX. They had essentially three points that they  
4 raised, the first point had to do with concerns about BACT for  
5 both greenhouse gas and criteria pollutants; both of those  
6 issues have been addressed extensively in this proceeding,  
7 both staff and the district have evaluated BACT, that is  
8 included; for criteria pollutants, that is included in the  
9 decision and in the record, and the greenhouse gas analysis in  
10 this proceeding is extensive, as well. CRP also commented  
11 that it had concerns that there was an inadequate air quality  
12 impact analysis done in relation to this project, and those  
13 comments were previously made within the proceeding and were  
14 addressed predominantly at the hearing, itself, the  
15 evidentiary hearings, as well as by the FSA, the Final  
16 Determination of Compliance -- I am sorry, the FSA, the Final  
17 Staff Assessment, and through our testimony, and have been  
18 addressed in the final decision. There were comments filed by  
19 Rory Cox, those comments include Mr. Simpson's comments to EPA  
20 on the PSD Permit again and some additional information. In  
21 Mr. Simpson's comments, he expresses concerns about notices  
22 and other issues, many of the notice issues he had raised in  
23 the proceeding and have been addressed, and then he raises  
24 additional issues that are specific to EPA's review of the PSD  
25 Permit and not applicable here. And he, similarly to CRP, to

1 Center for Race, Poverty, and the Environment, raised concerns  
2 about the BACT, Best Available Control Technology analysis  
3 that was done in this case. As I previously mentioned, the  
4 Best Available Control Technology analysis was conducted by  
5 the district and staff, and presented at the evidentiary  
6 hearing. He expressed some concerns about construction  
7 impacts, those were also evaluated and addressed in the  
8 hearing. And finally, they expressed a concern about growth  
9 inducing impacts. Questions about growth inducing impacts  
10 from the project were raised by the Center for Race, Poverty,  
11 and the Environment during the evidentiary hearing process,  
12 and were addressed in the proposed decision. And then,  
13 finally, and I am trying to figure out how to do this briefly,  
14 Earth Justice filed an extensive letter that they had filed  
15 with EPA Region IX on the Prevention of Significant  
16 Deterioration Permit. That document and its appendices are  
17 very extensive. They made -- I will cover three major points  
18 that they made in their letter and then, at your pleasure, we  
19 can go through the exhibits, or not at this point. So let me  
20 cover the three points and then you guys can let me know if  
21 you would like Mr. Rubenstein to briefly go through the  
22 exhibits. I believe they go to about Exhibit J. It is  
23 approximately A to J. The first major point that is made by  
24 Earth Justice in its comments on the PSD Permit is that they  
25 believe that the draft PSD permit fails to address Best

1 Available Control Technology for CO<sub>2</sub>. We note that in this  
2 proceeding both the staff and the Air District, as well as the  
3 Applicant, analyzed and addressed impacts to CO<sub>2</sub> in the  
4 context of CEQA, which is applicable to this proceeding, and  
5 in the analysis, that is included in the FSA, was addressed at  
6 the evidentiary hearing, and is included in the PMPD. In  
7 addition, there was an extensive analysis of greenhouse gas  
8 impacts in the PMPD. There was some mention of a concern  
9 about the efficiency of this particular facility. We note  
10 that the FSA did evaluate efficiency, as it always does, and  
11 found that this project is comparable to other projects, other  
12 combined cycle projects. So the efficiency is comparable, it  
13 is not unduly inefficient. The second major point raised by  
14 Earth Justice was that the proposed permit -- this again is  
15 the PSD permit, fails to analyze Best Available Control  
16 Technology for nitrous oxides, carbon monoxide, and  
17 particulate matter. We note again that the district -- that  
18 is the San Joaquin Valley Air Pollution Control District --  
19 along with Commission staff did an extensive Best Available  
20 Control Technology analysis and that they concluded that all  
21 of the pollutants and impacts were fully evaluated in the FSA,  
22 and those conclusions are contained in the presiding member's  
23 proposed decision, and are supported by the analysis from the  
24 district and staff. And the final point raised by Earth  
25 Justice related to -- or at least contended -- that the

1 proposed PSD permit did not demonstrate that the project would  
2 not cause or contribute to violations of the National Ambient  
3 Air Quality Standards for ozone and particulate matter. We  
4 note that this is a very narrow regulatory issue in the  
5 context of the PSD permit, and how the PSD permit evaluates  
6 non-attainment pollutants. We note that, in the Energy  
7 Commission's process, as well as in the district's analysis of  
8 this project, that both of those analyses covered attainment  
9 and non-attainment pollutants, and they concluded that the  
10 project complies with applicable laws, ordinances,  
11 regulations, and standards, including the National Ambient Air  
12 Quality Standards, and that any potential significant impacts  
13 were mitigated. And now I will ask whether you would like to  
14 have Mr. Rubenstein go briefly through the appendices that  
15 were attached to the Earth Justice letter.

16           COMMISSIONER BYRON: Ms. Luckhardt, I am not sure if  
17 that is a question or a threat. The Commissioners -- the  
18 appearance of all these late comments give the impression that  
19 we were not thorough and exhaustive. I would like to ask Mr.  
20 Fay to come forward and address the issue of whether or not we  
21 indeed included and listened to and responded to all these  
22 comments in accordance with the law, or if we are just re-  
23 litigating this issue here once again. Mr. Fay, could you  
24 shed a little light on this for my fellow Commissioners, in  
25 hopes that we can get through this item on the agenda more

1 quickly?

2 MR. FAY: I think your characterization of re-  
3 litigating is accurate. For the last nearly two years, this  
4 proceeding has been before the public, and many of these  
5 commenter's, several that were actually parties in this case,  
6 received direct mail communications of all events, including  
7 workshops conducted by the staff, and hearings conducted by  
8 the committee. At all of these events, there were multiple  
9 opportunities to participate, to comment, and to actually  
10 influence the outcome of the process, and some of these  
11 interveners chose to intervene at the last minute, which of  
12 course naturally limited the time during this long process  
13 that they could participate. Nevertheless, the committee bent  
14 over backwards to get in all the comments that they chose to  
15 provide within the described time limits. So I think it is  
16 disingenuous for them to argue that matters were not covered  
17 or addressed, since they had every opportunity to address the  
18 record, and then the comments that they brought up , we  
19 believe, were addressed specifically in the PMPD. That does  
20 not mean that they did not choose to repeat some of those  
21 comments later, but I think that the committee has done a  
22 conscientious job of addressing the concerns that were brought  
23 before them, both by parties in the case, as well as members  
24 of the public who appeared and made public comments.

25 COMMISSIONER BYRON: Thank you, Mr. Fay. Madam

1 Chair, in the interest of time, and I feel badly in that Ms.  
2 Luckhardt and the Applicant have been so patient, listening  
3 through the first two or three items on our Business Meeting  
4 Agenda. I would like to go ahead and make the motion to adopt  
5 the Avenal Project, presiding members proposed decision, and  
6 the committee Errata that is dated December 10<sup>th</sup>, 2009, and  
7 seek a second, and then open for any discussion here at the  
8 dais so that we can proceed to a vote.

9 VICE CHAIR BOYD: I will second the motion.

10 CHAIRPERSON DOUGLAS: I will just add that, as the  
11 associate member on the committee, I support this decision.  
12 The committee went to Avenal, we had an evidentiary hearing,  
13 we addressed these issues in the PMPD that is before you, and  
14 I am personally satisfied with the way that we were able to  
15 address them.

16 COMMISSIONER BYRON: May I call for a vote?

17 CHAIRPERSON DOUGLAS: We have a motion and second.  
18 All in favor of approving this item?

19 (Ayes.)

20 The item is approved.

21 COMMISSIONER BYRON: If I may, before the Applicant  
22 leaves, I would just like to make a couple quick closing  
23 comments, just because this is one of the only opportunities I  
24 have to speak to you in this capacity. I would like to  
25 commend the Applicant, Ms. Luckhardt, the way they conducted

1 this, I thought, was very good. You are -- and we have other  
2 folks to thank, so let me do that also -- Gary Fay, our  
3 Hearing Officer, Madam Chairman, you joined me late as the  
4 second on this committee and I appreciate it very much. We  
5 had about 20 members of the public participate, I do not know  
6 how many interveners, but we had great public participation  
7 which I think really contributed to this case. And now we  
8 have given the Applicant what I consider to be a somewhat  
9 valuable and increasingly difficult to acquire approved permit  
10 from this commission. And of course, you have earned it in  
11 that you have a fully mitigated project, we appreciate this.  
12 I would like to ask if you could do us one favor, and that is  
13 will you please go build it now? Any comments?

14 MR. REXROAD: We will do our best to try, for sure.

15 MR. FAY: And, Commissioner Byron, I am sorry to  
16 interrupt, but just before the Applicant made their comments,  
17 I neglected to mention that we have Gabi Torres present, and  
18 she is a professional translator who helped us immeasurably,  
19 allowed some of those 20 members of the public to communicate  
20 effectively with the committee, even though their predominant  
21 language was Spanish --

22 COMMISSIONER BYRON: One of the members of the  
23 committee did not need a translator.

24 MR. FAY: Well, some of us were more able than  
25 others, but I certainly needed Gabi's help and she was

1 tremendous. She is here today and is available to assist  
2 anybody that needs help translating from Spanish to English to  
3 help the Commission understand their views, so I just wanted  
4 to get that in.

5 COMMISSIONER BYRON: Thank you.

6 MR. REXROAD: Once again, I thank you for the  
7 decision that you have made. I would like to make just a  
8 couple of short comments. I do not want to stand in the way  
9 of a party. I am Jim Rexroad, I am the lead developer for  
10 this project. First of all, the CEC staff has done an  
11 immeasurable amount of work and effort in their thoughtful and  
12 thorough review of this project, and they have had their share  
13 of adversity to get to this point, so I appreciate their  
14 efforts. Mr. Fay and his staff have done a fabulous job  
15 working through the portions of the hearings and those aspects  
16 of the project. The Commission has been very helpful in  
17 obviously putting us in a position where we can actually move  
18 forward with the project, and we are very thankful for that  
19 and thankful for the effort that has gone into that. And  
20 finally, we are very happy for the decision that we have  
21 received today and look forward to further working with the  
22 Commission and their staffs. Thank you.

23 COMMISSIONER BYRON: Good. Congratulations.

24 MR. REXROAD: Thank you, sir.

25 CHAIRPERSON DOUGLAS: Item 5. Negative --

1           COMMISSIONER BYRON: Are there more items on the  
2 agenda?

3           CHAIRPERSON DOUGLAS: Yes. Item 5. Negative  
4 Declaration for Energy Efficient Appliance Rebate Program  
5 Guidelines. Mr. Herrera.

6           MR. HERRERA: Good morning, Commissioners, Gabe  
7 Herrera from the Energy Commission. I am here with Lorraine  
8 White, who is with the Appliance and Process Energy Office,  
9 and we are here to seek approval of a Negative Declaration  
10 that was prepared in conjunction with an initial study to  
11 evaluate the environmental impacts associated with the  
12 proposed State Energy Efficient Appliance Rebate Program that  
13 hopefully the Commission will roll out. The State Energy  
14 Efficient Appliance Rebate Program will provide rebates to  
15 eligible residential consumers who purchase qualified Energy  
16 Star appliances. The program will be funded with money from  
17 the American Recovery and Reinvestment Act of 2009, pursuant  
18 to a \$35.2 million grant from the Department of Energy.  
19 Energy Commission staff conducted an initial study pursuant to  
20 CEQA to evaluate the environmental impacts of the program, as  
21 proposed by draft guidelines, which is the next item that the  
22 Commission will consider. The initial study and the Negative  
23 Declaration were published and filed with the State  
24 Clearinghouse pursuant to CEQA, and those documents were filed  
25 on November 10<sup>th</sup>, 2009, pursuant to Title 14 of the California

1 Code of Regulations, Section 15073(A). The public review  
2 process for the initial study and the proposed Negative  
3 Declaration can be no less than 30 days to satisfy their  
4 requirements. A public workshop was held on November 19<sup>th</sup>,  
5 2009, and that was to receive public comments on both the  
6 draft program guidelines and the initial study and proposed  
7 Negative Declaration. The initial study demonstrates that the  
8 State Energy Efficient Appliance Rebate Program, as proposed  
9 in the draft guidelines, will not have a significant  
10 environmental effect. In fact, it indicates just the  
11 opposite, it indicates that it will have a positive effect on  
12 the environment by replacing a significant number of  
13 inefficient appliances, by reducing electricity consumption by  
14 approximately 32 gigawatt hours, and 943 million gallons of  
15 water annually, and these energy savings could translate into  
16 emission reductions of approximately 15,000 metric tons of CO<sub>2</sub>  
17 and more than 10 metric tons of criteria pollutants. Energy  
18 Commission staff recommend that you accept the findings in the  
19 initial study and that you issue the proposed Negative  
20 Declaration.

21 COMMISSIONER LEVIN: I move the item and save my  
22 comments for the next agenda item on the substantive proposal.

23 VICE CHAIR BOYD: Second.

24 CHAIRPERSON DOUGLAS: All in favor?

25 (Ayes.)

1           The item is approved. Item 6. Energy Efficient  
2 Appliance Rebate Program Guidelines. Possible adoption of  
3 guidelines for the California State Energy Efficient Appliance  
4 Rebate Program. Ms. White.

5           MS. WHITE: Thank you, Commissioners. Good morning  
6 -- or afternoon, I should say. My name is Lorraine White, I  
7 am with the Efficiency and Renewable Energy Division. The  
8 item before you is the guidelines developed for the  
9 implementation of the State Energy Efficient Appliance Rebate  
10 Program, and these guidelines basically define how the Energy  
11 Commission will be implementing this program on behalf of the  
12 State of California. It specifies the eligibility rules, it  
13 defines the processes, in particular it outlines the claim  
14 process. The goal is to implement this program in the spring  
15 of 2010, at which time we will be able to make rebates  
16 available to consumers for refrigerators, clothes washers, and  
17 room air conditioners, and I ask that you consider the item  
18 before you and adopt it.

19           CHAIRPERSON DOUGLAS: Comments or questions?

20           COMMISSIONER LEVIN: On this item, I would like to  
21 thank Ms. White and Mr. Herrera for all of their work. Going  
22 back to some of the previous conversation about DOE, they were  
23 very late in getting out guidelines and I think, under the  
24 circumstances and given all of the different goals of ARRA, of  
25 the state, of our other work, Ms. White, you were incredibly

1 responsive and creative; when one thing did not work, you  
2 immediately looked to the next to make this move forward as  
3 quickly as I think anyone could have. I think you have done a  
4 phenomenal job, Mr. Herrera, too, much as I pester you because  
5 so many things are on your desk, I really appreciate you  
6 trying to move things through the bottlenecks. So I think you  
7 have done a phenomenal job on this. I just want to thank you.

8 MS. WHITE: I appreciate that. Thank you.

9 MR. HERRERA: Thanks.

10 CHAIRPERSON DOUGLAS: I would like to add my words  
11 of acknowledgment and maybe spell out, before Ms. White and  
12 others on staff really dug into this program, there was no  
13 state rebate program in California, state appliance rebate  
14 program. There are rebate programs that are run by the  
15 utilities. Our initial desire was to plug this into existing  
16 utility rebate programs that just did not make sense for the  
17 utilities and for, I think, fairly reasonable reasons, and so  
18 that required Ms. White and others on staff to come up with a  
19 Plan B, and the Plan B was the fairly daunting task of  
20 creating a California rebate program, and one that works  
21 quickly and allows us to get rebates out quickly, and meshes  
22 well with existing programs and secures significant cost-  
23 share, both from utilities and from retailers. And so putting  
24 all of this together has been a tremendous job. I do know  
25 that there are, in order to get this off the ground, there are

1 some significant additional heavy lifting that is before us,  
2 but I have got tremendous confidence in our staff team on this  
3 program, and we will lift, as need. So thank you.

4 MS. WHITE: Most certainly.

5 MR. HERRERA: Thanks.

6 COMMISSIONER LEVIN: I move the item.

7 COMMISSIONER ROSENFELD: Second.

8 CHAIRPERSON DOUGLAS: All in favor?

9 (Ayes.)

10 MS. WHITE: Thank you.

11 CHAIRPERSON DOUGLAS: Item 7. Amendments to  
12 Conflict of Interest Regulations. Possible adoption of  
13 proposed amendments to the California Energy Commission's  
14 Conflict of Interest Regulations in Title 20, California Code  
15 of Regulations, section 2402. Ms. Mayer.

16 MS. MAYER: Good afternoon, Chairman and  
17 Commissioners. I am Robin Mayer, Staff Counsel. For the  
18 record, I need to correct the statute's title on the agenda,  
19 it is titled the "Political Reform Act." The Commission  
20 proposes to amend the listing of designated positions at Title  
21 20, section 2402, Appendix subdivision 8, to include all  
22 current employee positions that involve the making or  
23 participation in the making of decisions that may foreseeably  
24 have a material affect on any financial interest as set forth  
25 in Subdivision A of section 87302 of the Government Code. It

1 is a fine time to lose my voice, I must say. These amendments  
2 also eliminate employee classifications no longer in use, they  
3 eliminate disclosure categories no longer considered  
4 applicable to a particular classification update and add  
5 division headings and job titles to reflect the current  
6 organizational structure of the Commission, and correct non-  
7 substantive errors. A Notice of Intention to Amend the Code  
8 was published in the California Register on October 23<sup>rd</sup>, 2009,  
9 following regulations of the Fair Political Practices  
10 Commission, Title 2, Section 18750(C); the amendments were  
11 the subject of a 45-day comment period. The public comment  
12 period opened on October 30<sup>th</sup>, 2009 and ended yesterday.  
13 During the comment period, the adopted amendments were widely  
14 circulated to Commission employees. Fortunately, the  
15 amendments proved non-controversial. Staff received two  
16 requests for additional information, but received no comments.  
17 I request the Commission to adopt the amendments as proposed  
18 and can answer your questions.

19 VICE CHAIR BOYD: I move approval.

20 COMMISSIONER ROSENFELD: Second.

21 CHAIRPERSON DOUGLAS: All in favor?

22 (Ayes.)

23 The item is approved. Thank you.

24 MS. MAYER: Thank you.

25 CHAIRPERSON DOUGLAS: Item 9. California Department

1 of Food and Agriculture. Possible approval of Contract 500-  
2 09-006 for \$993,284 with the California Department of Food and  
3 Agriculture. Mr. Misemer.

4 MR. MISEMER: Good afternoon, Chairman and  
5 Commissioners. I am Philip Misemer. I work in the Energy  
6 Research and Development Division in the Transportation  
7 subject area. The project before you brings together  
8 expertise from the Commission, California Department of Food  
9 and Agriculture, U.C. Davis, and the Growers Cooperatives to  
10 provide what we think will be needed information for  
11 California in its strategies to promote and implement  
12 alternative renewable fuels for the state. I particularly  
13 want to note the assistance from the Alternative and Renewable  
14 Fuels and Vehicle Technology Program staff, which helped us  
15 significantly in incorporating tasks that will provide  
16 information on sustainability of these crops, as well. I  
17 think this is information that will be beneficial to their  
18 program, as well as the state. This project will focus  
19 particularly on purpose-grown crops that are suitable to  
20 marginal lands, which are a growing problem, unfortunately, in  
21 the Central Valley and other areas, but could represent an  
22 opportunity to grow crops that would not compete with food  
23 crops. With that, I will hopefully be able to answer your  
24 questions and seek your approval of this project.

25 VICE CHAIR BOYD: I would move approval of the item

1 and just comment that, while the emphasis of -- well, our  
2 emphasis for quite some time in the bioenergy area has been  
3 use of waste stream, we nonetheless have embraced the idea  
4 that it is conceivable there would be opportunities for energy  
5 crops to be grown on marginal land, or lands that could even  
6 be rehabilitated by certain kinds of crops, crops that would  
7 not be foodstuffs, and we had fairly lengthy discussion, as  
8 the Chair may recall, in the approval of the investment plan  
9 for AB 118 of this very subject where there was initial  
10 negative reaction to the idea. But with the provision of a  
11 lot of information and knowledge about these possibilities,  
12 there was a positive response, so I am glad to see that we are  
13 moving in this direction, and fairly early on. In the  
14 Bioenergy Action Plan Working Group, we had discussions and we  
15 are now getting to the point of doing some work. Oh, that is  
16 a motion to approve the item. I thought I said that at the  
17 beginning, but I no longer even remember.

18 COMMISSIONER ROSENFELD: Second.

19 CHAIRPERSON DOUGLAS: All in favor?

20 (Ayes.)

21 That item is approved.

22 MR. MISEMER: Thank you.

23 CHAIRPERSON DOUGLAS: Thank you. Item 10.

24 Bevilaqua-Knight, Inc. Possible approval of Contract 600-09-  
25 007 for \$263,400 with BKI for the Energy Commission's

1 membership in the California Fuel Cell Partnership for three  
2 years. Mr. Mizutani.

3 MR. MIZUTANI: Chairman, I am Chuck Mizutani with  
4 the Fields and Transportation Division. We are seeking  
5 membership fees to be a continued member of the California  
6 Fuel Cell Partnership. We also see this as a very important  
7 forum for information exchange in specific relation to our  
8 Investment Plan process and our Alternative Renewable Fuel and  
9 Vehicle Technology Program.

10 VICE CHAIR BOYD: Again, I would move approval of  
11 this item and just comment that, 1) it went through  
12 Transportation Committee, 2) this agency is fuel neutral, is  
13 supportive of a diversified portfolio of fuels, and is showing  
14 no biases or prejudice by participating in many organizations  
15 that are interested in a single fuel. Membership in the  
16 Partnership has given us access to data that otherwise would  
17 be difficult to obtain since it, frankly, is confidential on  
18 the part of vehicle manufacturers and technology providers.  
19 So it has provided us a forum to debate the pros and cons of  
20 various approaches, as well as to get kind of information and  
21 data that frankly we need in preparing our recommended  
22 investment plans that are then vetted by our advisory  
23 committee and eventually put into action by this organization.  
24 So I strongly recommend that we continue this relationship.

25 COMMISSIONER ROSENFELD: Second.

1 CHAIRPERSON DOUGLAS: All in favor?

2 (Ayes.)

3 The item is approved. Thank you. Item 11. U.S.

4 Geological Survey, Southwest Biological Science Center.

5 Possible approval of Contract 500-09-020 for \$322,569 with the

6 U.S. Geological Survey, Southwest Biological Science Center to

7 research desert tortoise survival and reproduction at a wind

8 farm in Southern California. Ms. Spiegel.

9 MS. SPIEGEL: Good afternoon. Linda Spiegel with

10 the PIER Program. As most of you are aware, wind turbines can

11 impair species that fly within the air space of turbines, but

12 the footprints of wind farms are relatively minor compared to

13 other development types, and therefore ground dwelling species

14 can actually do quite well there. And, in fact, a study done

15 10 years ago showed that some tortoise population within a

16 wind farm called Mesa was thriving, the population was

17 thriving, while populations around them in other areas were

18 declining. And so the idea here is to go back 10 years later

19 and study the population once again to see if they are still

20 thriving and, if so, to figure out what might be causing that

21 to be, and then come up with some potential recommendations as

22 to how to manage wind farms to benefit the desert tortoise.

23 And this was approved by the R&D Committee.

24 CHAIRPERSON DOUGLAS: And, Ms. Spiegel, I just

25 cannot help but ask, why might it be that desert tortoises do

1 better on wind farms?

2 COMMISSIONER BYRON: I hope it is not dead birds  
3 that they are eating.

4 MS. SPIEGEL: No, there could be a lot of reasons,  
5 one is there is less road traffic, so there are going to be  
6 less vehicle kills, one could be that there is less foot  
7 traffic, so the people are not dropping off pet tortoises that  
8 have respiratory disease. The other thing is that some of the  
9 footprints like the turbine paths and the roads have the --  
10 the dirt is more friable there, and even in Altamont, it shows  
11 small mammals kind of prefer those spots, so it makes it  
12 easier there, they live in burrows. It could be something  
13 completely different that is promoting biomass, vegetation,  
14 which is key. One of the most critical elements to  
15 reproduction and survival is to have the food source, so it  
16 could be just that, like no grazing or something.

17 CHAIRPERSON DOUGLAS: Well, thank you. I for one am  
18 very interested in learning more about this issue.

19 COMMISSIONER LEVIN: Ms. Spiegel, I also just want  
20 to thank you for continuing your very important path of trying  
21 to better understand the interaction between wildlife and  
22 renewable energy facilities. Having worked with you on wind  
23 turbines and things that fly, I am glad to hear that ground  
24 dwelling species may be a little easier. I also want to  
25 recommend strongly that we make this -- the fact that we are

1 doing this research, and then the results of the research,  
2 widely known because I think it is a really important role of  
3 the PIER Program and the Energy Commission, generally, to  
4 continue to address and conserve wildlife while accelerating  
5 renewable energy development, and this is a critical piece of  
6 information for the Desert Renewable Energy Conservation Plan,  
7 for RETI, for a successful environmentally, you know, as low  
8 impact as possible, accelerated renewable energy development.  
9 So thank you, and spread the word widely to wildlife  
10 conservation groups, the Legislature, others, so they  
11 understand that we are doing this really important work.

12 MS. SPIEGEL: It could be that some of the findings  
13 could apply to the solar developments, depending on if they  
14 leave groundcover.

15 VICE CHAIR BOYD: Commissioner Levin, I think you  
16 ought to make a motion for that.

17 COMMISSIONER LEVIN: I would be happy to move for  
18 approval.

19 VICE CHAIR BOYD: Second.

20 CHAIRPERSON DOUGLAS: All in favor?

21 (Ayes.)

22 The item is approved. Item 12, Fruitridge Printing  
23 Co. Possible approval of Contract 150-09-002 for an amount  
24 not to exceed \$20,780 with Fruitridge Printing for offset  
25 printing of 1,500 copies of the 2009 Integrated Energy Policy

1 Report. Ms. Walker.

2 MS. WALKER: Good afternoon. I am Carolyn Walker on  
3 the IEPR team, and now that you have adopted the IEPR, I would  
4 like to ask your approval for a contract to print it.  
5 Specifically, we would like to ask approval for a contract  
6 with Fruitridge Printing for \$20,780, an amount not to exceed  
7 that, to print 1,500 copies. Those copies will be distributed  
8 to the Legislature, the Governor, of course, other  
9 stakeholders. We did offer the contract to OSP, the Office of  
10 State Printing, they did decline, we went out on an informal  
11 bid, and Fruitridge Printing came in as the lowest bidder, so  
12 we would like to ask your approval.

13 COMMISSIONER BYRON: Well, I hope that 1,500 is  
14 sufficient to cover my family, too. Ms. Walker, thank you for  
15 bringing this forward. I did not realize we have to do this,  
16 as well, until I saw the Business Binder, but, Commissioners,  
17 I would ask for your approval to print the IEPR.

18 VICE CHAIR BOYD: And I would be glad to second  
19 that.

20 CHAIRPERSON DOUGLAS: All in favor?

21 (Ayes.)

22 The item is approved. The IEPR will be printed.

23 MS. WALKER: Thank you.

24 CHAIRPERSON DOUGLAS: We will go now to Item 1I and  
25 1J, and Mr. Pennington, let me ask you, would it make sense to

1 take these up together?

2 MR. PENNINGTON: Yes.

3 CHAIRPERSON DOUGLAS: All right, then we will take  
4 them both up together.

5 MR. PENNINGTON: You might want to make your vote  
6 separately, but let's have the discussion together if that is  
7 okay. These are for approval of privately developed software  
8 for the 2008 Residential Building Energy Efficiency Standards,  
9 and we have been working diligently for some time with the  
10 developers of this software to get these programs in shape so  
11 that they can be used for the standards that go into effect on  
12 January 1<sup>st</sup>. And we have come quite some distance in getting  
13 them ready. We think that they are satisfactory for interim  
14 approval right now, we think that there is additional work  
15 that we need to conduct here. And one of the things that we  
16 have talked to both developers about is working together to  
17 cross-compare their coding so that we can get the energy  
18 results that they are predicting to be better in alignment  
19 between the two programs, and so that would be a major part of  
20 the effort that would be upcoming. There also will be sort of  
21 inevitable bug fixes that would be expected for software that  
22 is being released like this, and so we would be listening to  
23 what users have to say about their findings on the programs  
24 and getting those addressed also. So our recommendation is  
25 that these programs be approved for an interim basis until

1 March 31<sup>st</sup> and at that point they come back for final approval  
2 by the Commission.

3 CHAIRPERSON DOUGLAS: Thank you, Mr. Pennington.  
4 Mr. Raymer, you have been very patient this morning.

5 MR. RAYMER: Thank you, Madam Chair and  
6 Commissioners. I am Bob Raymer, a Technical Director and  
7 Staff Engineer for the California Building Industry  
8 Association. And my comments today are echoed also by the  
9 California Business Properties Association and the Building  
10 Owners and Managers Association, two very endearing commercial  
11 sector groups. First off, I would like to say that we  
12 strongly strongly support your approval of these two  
13 performance programs today. I would have to say on behalf of  
14 the residential industry, about 98 percent or greater of our  
15 production housing in California uses the performance approach  
16 done by these computer programs. Very very few homes still  
17 use a proscriptive path, and that has been the course of  
18 action for the last two decades. So with that, we support  
19 this. I would like to raise two issues, one long-term and one  
20 short-term. For the long-term, we need access to these  
21 approved programs six months -- at a minimum, six months --  
22 prior to the effective day, the preferable would be nine  
23 months. This really makes the transition from one set of  
24 standards to another very difficult for us. We understand  
25 that have been some problems, we understand the staff has been

1 burning the midnight oil, and they are to be commended for  
2 that, but we will be working with the staff over the next two  
3 to three years in hopes that, as we get to the next set of  
4 Energy Regs, that we have the compliance material well in  
5 advance; that really helps with transition. Now, the short-  
6 term problem, as Bill mentioned, interim approval would last  
7 until the end of March. That does raise the potential for one  
8 unfortunate problem, hopefully the bugs will be few and far  
9 between and they will be small bugs, not big ones, but in the  
10 event that there are one or more larger bugs that actually  
11 result in substantial variations in the end result, it could  
12 prompt the need for redesign. For example, if all of a sudden  
13 we find something hypothetically that says, well, instead of  
14 being able to comply with the 13 Sear, you have got to bump it  
15 up to a 14.5 or a 15. That raises the issue that, for  
16 production housing, builders will go ahead, get their designs  
17 done, they will then go to product purchasing agents, and  
18 arrange contracts for the various contracts that they build in  
19 these housing projects. You cannot change them mid-stream.  
20 You get the loans at the beginning of the project to handle  
21 this. I am concerned if we do encounter some large bugs, this  
22 could change the end result at which point what is going to  
23 happen to the remaining homes in the production housing  
24 project, they have started complying under Micropas, eight for  
25 example, and then the newer version of Micropas gets

1 certified. It does raise an issue. That will be something we  
2 can work with you over the next two or three months, we do not  
3 need to take the time now for it, but we do strongly support  
4 your approval today of this. Thank you.

5 CHAIRPERSON DOUGLAS: Thank you. Thanks for being  
6 here and thanks for sticking with us for the last four hours.  
7 Questions or comments by Commissioners?

8 COMMISSIONER BYRON: My only comment would be I do  
9 not think we need to separate the items, they were on Consent  
10 before and ready to go. I will move Items I and J if that is  
11 permissible, Mr. Chief Counsel.

12 MR. BLEES: As long as there is no other public  
13 comment on the item.

14 COMMISSIONER ROSENFELD: I second it.

15 CHAIRPERSON DOUGLAS: All in favor?

16 (Ayes.)

17 Items I and J are approved.

18 Item 13. Minutes. Approval of the December 2<sup>nd</sup>,  
19 2009 Business Meeting Minutes.

20 COMMISSIONER ROSENFELD: I move the Minutes.

21 MS. JONES: I am sorry, only the Commissioners who  
22 were present at that meeting can vote, so that would be  
23 Commissioner Byron and Commissioner Levin.

24 COMMISSIONER BYRON: Madam Chairman, I was present.  
25 I move the Meeting Minutes.

1 COMMISSIONER LEVIN: Second.

2 CHAIRPERSON DOUGLAS: All in favor?

3 (Ayes.)

4 The item is approved with two abstentions. Item 14.

5 Is there any Commission Committee presentations or discussion?

6 COMMISSIONER BYRON: Madam Chair, I have a comment I  
7 would like to make.

8 COMMISSIONER LEVIN: None from the IEPR Committee.

9 COMMISSIONER BYRON: This is not the IEPR Committee.  
10 Obviously, the audience grows much smaller. Yesterday we met  
11 with our friends at the Public Utilities Commission, the ISO,  
12 we had our Energy Action Plan Meeting, and maybe others would  
13 prefer to comment on that. I would like to just thank staff  
14 for all the preparation and time put into that. But I cannot  
15 pass up the opportunity to comment on something else that we  
16 learned recently, and that is that there is a possible loss of  
17 a very good Commissioner at the PUC, I think you all may know,  
18 as we read in the Press, that the confirmation hearing for  
19 Commissioner Chong will not be held. And another Commissioner  
20 is having his confirmation hearing today, I believe, at the  
21 PUC. That could also be contentious. And I think it goes to  
22 show that no appointee is immune from the political process.  
23 The last couple weeks for me on this Commission have been very  
24 difficult at times and I am reminded that we do not want to  
25 lose sight of what we are doing here, among other things

1 today, we adopted the state's latest energy policy report.  
2 This is important and essential work. The work of this  
3 Commission is paramount. I would like to tell my  
4 Commissioners that I renew my commitment to work on things  
5 that matter, maintain the integrity and stature of this  
6 organization, and do my best to ignore the politics.

7 CHAIRPERSON DOUGLAS: Thank you, Commissioner Byron.

8 Item 15. The Chief Counsel's Report.

9 MR. BLEES: Nothing today.

10 CHAIRPERSON DOUGLAS: Item 16. Executive Director's  
11 Report.

12 MS. JONES: Very briefly. I wanted to report that  
13 under our State Agency Program, the three-part Energy  
14 Efficiency Program, we have gotten Letters of Intent from over  
15 200 Applicants, totaling an amount of \$2 billion in requests  
16 for that program. So we have had quite a bit of success in  
17 attracting people for that program. I also wanted to remind  
18 everyone that the Energy Efficiency Conservation Block Grant,  
19 the application for those small jurisdictions that we will be  
20 providing grants for is due on January 12<sup>th</sup>, 2010. Thank you.

21 CHAIRPERSON DOUGLAS: Thank you, Ms. Jones. Item  
22 17. Public Advisor's Report.

23 MS. McMAHON: No Public Advisor's Report today.

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CERTIFICATE OF REPORTER

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this \_\_\_\_\_ day of December, 2009.

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PETER PETTY