BUSINESS MEETING

BEFORE THE

CALIFORNIA ENERGY COMMISSION

In the Matter of: )
)
Business Meeting )
)

DOCKET
BUS MTG
DATE AUG 24 2011
RECD. SEP 15 2011

BUSINESS MEETING

CALIFORNIA ENERGY COMMISSION

HEARING ROOM A

1516 NINTH STREET

SACRAMENTO, CALIFORNIA

WEDNESDAY, AUGUST 24, 2011

10:06 A.M.

ORIGINAL

Reported by:
Kent Odell

Commissioners Present

Robert B. Weisenmiller, Chair
James Boyd, Vice Chair
Karen Douglas
Carla J. Peterman

Staff Present:

Michael Levy
Rob Ogelsby
Jennifer Jennings
Renee Webster-Hawkins
Allan Ward
Adrian Ownby
Lynn Sadler
Jared Babula

| | Agenda Item |
|---|---|
| David Effross | 5 |
| Mary Dyas | 7 |
| Kourtney Vaccaro | 8 |

Interested Parties

| | Item # |
|---|---|
| Scott Galati, STA Development | 7, 8 |
| Alice Harron, STA Development | 7 |
| *Lorelei Oviatt, Kern County | 8 |
| Lisa Belenky, Center for Biological Diversity | 8 |
| Don Decker | 8 |

I N D E X

Page

Proceedings

Items

1. CONSENT CALENDAR 7

a. DIGITAL ENERGY, INC. Possible approval of Amendment 3 to Contract 400-07-026 with Digital Energy, Inc., for a one year no-cost time extension to March 31, 2013. The contract provides technical assistance and support to the Energy Commission's Bright Schools, Energy Partnership, and Energy Efficiency Financing programs.

b. CALIFORNIA INSTITUTE FOR ENERGY AND ENVIRONMENT. Possible approval of Amendment 1 to Contract 500-07-037 with the Regents of the University of California on behalf of the California Institute for Energy and Environment for a three-month no-cost time extension to allow completion of three of the seven projects.

c. CITY OF SOUTH EL MONTE. Possible approval of Amendment 1 to Agreement CBG-09-167 with the City of South El Monte to change the parking lot light retrofits to an induction technology, reduce the number of HVAC retrofits, and include additional interior and exterior lighting projects. The amendment includes a budget reallocation of $13,322 from the Non-Labor Contract Expenses category to the Contract Labor category and an increase of $5,665 in cost share from the City.

d. CITY OF CALABASAS. Possible approval of Amendment 1 to Agreement CBG-09-162 with the City of Calabasas, which provided funding for interior and exterior lighting upgrades at City facilities. The amendment revises the scope of work to reduce the number of retrofit projects from three to one, due to budgetary restrictions. The City will proceed with the Calabasas Tennis Center retrofit project. The total grant amount of $85,972 is unchanged.

I N D E X

Page

Items

1. CONSENT CALENDAR (Continued).

e. CITY OF SOUTH PASADENA. Possible approval of Amendment 1 to Agreement CBG-09-183 with the City of South Pasadena to change the scope of work. The original project scope included traffic signal upgrades and HVAC replacements. The revised scope of work has been changed to upgrades to City Hall to include: a cool roof system, wall insulation, HVAC equipment, ducting modifications, temperature sensors and controls and the retrofit of incandescent pedestrian signals to LED pedestrian signals. The revised project scope meets all EECBG program requirements and the grant total amount of $136,878 remains unchanged.

2. ENERGY COMMISSION COMMITTEE APPOINTMENTS. Possible approval of Energy Commissioner appointments to the Energy Commission's Standing Committees and Siting Case Committees. **POSTPONED**

3. ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANTS. Possible approval of allowing changes to the budget reallocation term in individual block grants to be made through the letter of agreement process in the terms and conditions. This change to the budget reallocation term will be made to individual block grants on an as needed basis. When utilized, the new budget reallocation term will allow all future budget reallocations under the block grant to be made through the letter of agreement process. 9

4. CRHMFA HOMEBUYERS FUND. Possible approval of Amendment 1 to Contract 400-09-016 with CRHMFA Homebuyers Fund (CHF) to add $6 million in funding to the contract and make budget adjustments to further implement CHF’s Moderate Income Sustainable Technology (MIST) Program. Of the $6 million in funding, $3.5 million is available immediately and $2.5 million is contingent upon funding availability and program performance. This American Recovery and Reinvestment Act (ARRA) Residential State Energy Program contract provides grants and low interest whole home energy efficiency and renewable generation retrofit loans with 15 year terms available to moderate income homeowners in CHF Member and Associate Member jurisdictions. (ARRA funding) 11

I N D E X


Page

Items

5. UNIVERSITY OF CALIFORNIA, RIVERSIDE. Possible approval of Contract 500-11-004 for $649,214 with the Regents of the University of California on behalf of the Riverside Campus. The project is to investigate production of substituted natural gas from wet organic waste using the process development unit-scale steam hydrogasification process. (PIER natural gas funding.)

6. ICF CONSULTING SERVICES, LLC. Possible approval of Contract 500-11-055 for $194,621 with ICF Consulting Services, LLC to develop and publish a strategic plan for the Public Interest Energy Research (PIER) program. (PIER electricity funding.) **POSTPONED**

7. BLYTHE SOLAR POWER PROJECT (09-AFC-6C). Possible approval of a Petition to Amend the Blythe Solar Power Project. Palo Verde Solar I, LLC has submitted a petition to modify the facility design and to modify the location of its transmission line to reflect the new proposed location of the Colorado River Substation. 14

8. RIDGECREST SOLAR POWER PROJECT (09-AFC-09). Consideration of the Committee Order After Hearing on Applicant’s Motion for Order Affirming Application of Jurisdictional Waiver and possible action to withdraw this matter from the Committee pursuant to Section 1204(c) of Title 20 of the California Code of Regulations. 23

9. Minutes: 39
   a. Possible approval of the August 10, 2011, Business Meeting Minutes.

Commission Committee Presentations and Discussion 39

Chief Counsel's Report 49

Executive Director's Report 50

Public Adviser's Report 50

Public Comment 50

Adjournment 50

P R O C E E D I N G S

AUGUST 24, 2011 10:06 a.m.

CHAIRMAN WEISENMILLER: Good morning. Let's start today's Business Meeting with the Pledge of Allegiance.

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

CHAIRMAN WEISENMILLER: Good morning. I want to talk about the agenda today and some of the shirts. So, first of all with the Consent Calendar we're actually going to deal with the Consent Items in two steps. I believe Commissioner Peterman will have a conflict so we're going to deal with that as a second Consent Calendar vote. So again, 1B will be held and—or held first for an additional vote today, and 1E is going to be held for a later business meeting. Now, in addition, we're going to hold Item 6 for a month or so. The reason for that is as we've been going through the PIER—PGC Reauthorization, one of the things that we've established—or reactivated is a PIER Advisory Committee. And one of the things the PIER Advisory Committee recommended to us was to put in a place a long term strategic plan. And so the notion that we've had is to tee this contract up and be ready to see what happens in the legislature on the

PIER Reauthorization so that if the PIER Reauthorization occurred we'd be ready to move forward on the strategic plan. And if it didn't occur, obviously we wouldn't go forward with the contract. Now, at the same time, given the fluidity and looking at the current version of the PIER Reauthorization, there will be a new advisory committee. The legislature does not talk about a strategic plan and so it seems at this point, discretion is better. And we will just hold back on this until after the legislature is passed. The Governor decides what to do with the legislation and we have a chance to confer with, presumably, the new advisory committee over whether or not the strategic process makes sense. So with that discretion, I believe we're ready to move onto the Consent Calendar unless any of the Commissioners wants to say something on that.

COMMISSIONER BOYD: No, I was just going to move therefore the Consent Calendar excluding Items B and E.

COMMISSIONER PETERMAN: I'll second.

CHAIRMAN WEISENMILLER: All those in favor?

(Ayes) The Consent Calendar excluding Items B and E passes unanimously. Let's look at the Consent Calendar for Item B.

COMMISSIONER PETERMAN: Chair, I'll have to recuse myself because I was employed within the last year by an institute that's funded through CIE.

CHAIRMAN WEISENMILLER: Okay.

COMMISSIONER BOYD: With that, Mr. Chair, I will move approval of Consent Item 1B.

COMMISSIONER DOUGLAS: Second.

CHAIRMAN WEISENMILLER: All those in favor?

(Ayes.) This Item also passes unanimously. I forgot when I was laying out the issues for this that we're going to also hold Item 2 until the next Business Meeting.

So with that, our next Item will be Item number three. And this is Energy Efficiency and Conservation Block Grants. Allan Ward

MR. WARD: Good morning, Commissioners. I'm Allan Ward with the Commission's Legal Office. I'm here today as part of the Commission's ongoing efforts to streamline and improve its procedure and practices for grants and contracts. Specifically, I'm requesting approval to make a change to the Commission's Energy Efficiency and Conservation Block Grants regarding budget reallocations. Budget reallocations are a simple movement of funds within an existing agreement using existing funds. They do not

increase the amount of the funds of the award. They do not increase the term of the award. And they do not substantially change the scope of work. They're just a simple movement of funds, of existing funds, within an existing budget.

The requested change is to allow us in the Block Grants to make all future budget reallocations through the Letter of Agreement process. The terms and conditions already allow the Letter of Agreement process to be used but only up to a capped amount. The cap is only in place because when the block grants were first approved language was borrowed from contract boilerplate and just inserted, however the cap does not apply to federally funded grants. These grants are federally funded and part of the American Recovery and Reinvestment Act and thus the cap wouldn't apply and it's just an unnecessary restriction.

Approving this change will decrease the length of time it takes to complete work under these grants. It will reduce the amount of time spent by Commissioner staff and grantees to make these simple budget reallocations and will assist in meeting the Commission goals of timely completing the ARRA projects.

And I'm happy to answer any questions.

CHAIRMAN WEISENMILLER: Commissioners, any questions or comments?

COMMISSIONER BOYD: No questions.

COMMISSIONER DOUGLAS: No questions.

COMMISSIONER BOYD: I would be glad to move the Item as a very positive step on the part of this Commission to improve the processing of its business and procedures.

COMMISSIONER DOUGLAS: I'm delighted to second the Item. Anything that we can do to make it easier for people to complete work and complete their projects is a good thing so I second the Item.

CHAIRMAN WEISENMILLER: All those in favor?

(Ayes.) This Item passes unanimously.

Let's look at Item number four which is CRHMFA Homebuilders Fund and this is ARRA funding. This is-- add $6 million in funding to the contract and make budget adjustments to further implement CHF's Moderate Income Sustainable Technology Program. Of the $6 million in funding, $3.5 million is available immediately and $2.5 million is contingent upon funding availability and program performance. Adrian?

MR. OWNBY: Good morning, Commissioners. My name is Adrian Ownby. I'm with the High Performance

Buildings Unit here in the Commission.

This is an Amendment to an ARRA SEP residential contract. The contractor, CHF, provides grants and low-interest loans for comprehensive energy efficiency and renewable generation retrofits to moderate income homeowners in 49 counties and two cities.

This amendment will realign and augment existing funding to support increased lending. Upon approval, program funds for loans will increase from approximately $9.5 million to a minimum of just over $17 million to a possible maximum of over $19.3 million.

The program currently has a loan pipeline of over $10.3 million in potential retrofit work. So this amendment is crucial to the program's continuation and continued success.

And I don't have anything more to add so if you have any questions.

CHAIRMAN WEISENMILLER: Commissioners, any questions or comments?

COMMISSIONER DOUGLAS: I'll just say that this has been a really successful program and we've been pleased to see the way the program has been able to reach moderate income people throughout large

portions, especially with some of the rural counties, and the energy efficiency improvements in these areas has been both valuable and good to see. This is one of our projects that has been quite successful. I'd like to Move Item four.

CHAIRMAN WEISENMILLER: I was going to note that, obviously, for this Commission implementing the ARRA grant program and its achieving funding of all the—or expenditure of all the funds is very important to us. And that as we go forward one of the things that we're looking at is sort of the performance of the various contracts and there are obviously that are some that are A students and some that are not. And it's going just to be able to shift funds to those A students so that we can continue to get more progress on both energy efficiency and jobs in the state. So we certainly welcome this shift and would look forward to more if necessary.

So do I have a motion to second—

COMMISSIONER BOYD: On that analogy, Mr. Chairman, I'll second the motion.

CHAIRMAN WEISENMILLER: Great. So we have a motion and it's been seconded. All those in favor?

(Ayes.) This Item passes unanimously. Again, thanks for your help.

The next Item is number five. University of California, Riverside. And this is $649,214 with the Regents of the University of California. This is PIER Natural Gas funding. David, do you want to describe it?

MR. EFFROSS: Good morning, Commissioners. My name is Dave Effross and I'm with the PIER Transportation Group.

This project is—

COMMISSIONER BOYD: David, you might move a little closer to the microphone. I'm not sure you're coming across.

MR. EFFROSS: I apologize.

COMMISSIONER BOYD: Ah, there you go.

MR. EFFROSS: This project is essentially continuing a project with CE-CERT that is currently wrapping up. That project was 500-09-008 which initially constructed the process demonstration unit for the steam hydrogasification reactor. This is a reactor that allows the creation of renewable natural gas from wet organic waste including sewage sludge, agricultural waste and, in this coming project, processed food waste.

The particular benefit of using wet organic waste is that one does not have to expand a lot of

energy and therefore energy drying the waste first. The water is used in the process. The renewable natural gas called by a term of chemical engineering or in this case substituted natural gas can then be put into a Fischer-Tropsch and turned into renewable diesel. And, in fact, they have created renewable green gasoline in the laboratory.

We have letters of support from Michael Eaves, Vice President of Technology Advancement at Clean Energy and Ronald O. Loveridge, the Mayor of Riverside who also sits on the South Coast Air Quality Management Board.

CHAIRMAN WEISENMILLER: Thank you. Commissioners, any questions or comments?

COMMISSIONER BOYD: My only comment, and I think my fellow Commissioners know where I'm coming from on this subject, this is a very positive research project that I've been following for a number of years and of course the rest is an area of great interest and concern to me and that is using our waste steam for energy.

I'm pretty familiar with this effort. Like all research efforts it's been a struggle. It's been underway for a long, long time. It's looking very promising and it would be very beneficial to

California if they realize who the outcomes from this project that they think they can realize. You heard the reference to diesel fuel and even green gasoline. This was, of course, reviewed by those of us who are members of the Research and Development Committee and we did recommend it for consideration by the full Commission. And David, I wish you luck with this one. I followed it fairly closely for a long, long time.

COMMISSIONER PETERMAN: I'll just echo Commissioner Boyd's statement and say that this is a very positive project for the state in terms of optimizing many of the environmental and transportation goals that we have. And I'm glad to see this project on the calendar. Should I make a motion?

COMMISSIONER BOYD: We need a second.

COMMISSIONER PETERMAN: Oh, sorry. I will second Commissioner Boyd's motion.

CHAIRMAN WEISENMILLER: Okay. All those in favor?

(Ayes.) This Item passes unanimously.

Again, Item six is being held so let's go to Item seven which is the Blythe Solar Power Project, 09-AFC-6C. Mary?

MS. DYAS: Good morning, Commissioners. My

name is Mary Dyas. I am the Compliance Project Manager for the Blythe Solar Power Project. With me this morning is Jeff Ogata, Assistant Chief Counsel.

The Blythe Solar Project is a one megawatt solar thermal facility to begin constructed near the City of Blythe in Riverside County.

The project is owned by Palo Verde Solar I, LLC. The project was certified on September 15, 2010 and was issued notices to proceed from the Energy Commission and the BLM on November 4, 2010 for the construction of Phase 1A. The project also received its right of way grant from the BLM for the construction of Phase 1A.

On June 14, 2011 Palo Verde Solar I, LLC. filed a petition requesting to modify the facility design and the location of its transmission line to reflect the new proposed line of the Colorado River Substation.

The proposed modifications include revised general arrangement for the shared facilities area, modification to—of the general tie line route, relocation of existing Southern California Edison 12kb distribution transmission poles to allow improvement to a portion of Black Rock Road, replacement of steam turbine generator manufactured by Toshiba with a steam

turbine generator manufactured by Siemens, revised general arrangement of the power block and revisions to air quality conditions of certification to make consistent with the Mojave Air Quality Management District conditions contained in the authority to construct.

A notice of receipt was mailed to the Blythe Solar Post-Certification mail list posted to the Energy Commission website and docketed on June 28, 2011. The staff analysis was mailed to interested parties, docketed and posted on the web July 22 and we have not received any comments on this amendment.

Staff concludes that with the adoption of changes to air quality conditions and biological resource conditions recommended in the staff analysis, the potential CEQUA impacts of the project would be less than significant and the adoption of the proposed modifications would not result in any significant impacts to the environment.

Air quality staff recommends adding new language to AQ17-E and administrative changes to AQ56, AQ58, AQ62—Oh, I'm sorry. AQ58 through AQ62 and AQ 64 pursuant to the California Air Resources Board Executive Order of VR-401. Biological Resource staff recommends changes to Bio-12, Bio-20 and Bio-28 to

reflect reduced acreage impacts to desert tortoise and Mojave fringe-toed lizard habitats.

At this time, staff recommends approval of this petition with the proposed revisions to the Air Quality and Biological Resource conditions. Now, I'm sure that you have questions on the project itself.

CHAIRMAN WEISENMILLER: Thank you. Scott, why don't you go next and then we'll see if the Commissioners have questions or comments.

MR. GALATI: Chair, Commissioners, my name is Scott Galati, representing STA Development and with me is Alice Harron.

MS. HARRON: Yes, I'm Alice Harron, I'm President of STA Development. I'd like to ask your permission to say a few opening comments to kind of put everything in context. I know that there's been a lot of news about the project and I would like to kind of give an overview before we go through this.

CHAIRMAN WEISENMILLER: That'd be very good.

MS. HARRON: Okay. Some of you may have heard, Solar Trust of America has decided to not continue with the DOE loan guarantee program and to switch the technology at Blythe from solar thermal to photovoltaic. To give you a bit of context about the course of events, we were driving towards loan

guarantee and DOE worked very hard and we were very, very grateful for all of their efforts. But as with any project financing, as you start getting into the closing issues come up. And when we were looking at— during the same time as going through this process, we had also been looking at photovoltaic for some other projects and when we started driving towards the DOE loan guarantee and the conditions and we looked at the risk/reward profile, we realized that we just could not do it. And we decided that since we had been looking at PV for other projects we still wanted to build the world's largest solar facility and we decided that we would like to pursue PV.

I say that but I want to make it very, very clear that we still need this amendment because we still need the gen-tie to go to the new substation. We have already started discussions with BLM and the CEC to see what needs to be done onsite and we are going to seek to re-permit the site hopefully as quickly as possible so that we can close and start construction.

We feel that PV, we can close with commercial financing and continue with the project.

Scott, did I cover everything?

MR. GALATI: Yeah. And I just want the

Commissioners to know that we have met with BLM. We are ceasing construction activities now and we met with your staff earlier this morning and will be trying to file a letter by Thursday showing what the ongoing activities are going to be on the site. We recognize that we cannot construct a PV project without re-permiting an authorization from those agencies and we are not doing so.

What we are doing is maintaining monitoring, we'll have somebody onsite. We're going to do all the things that are necessary to ensure that the project in the interim doesn't have any offsite environmental impacts or safety concerns, the security issues are being maintained. We went through about an hour today with your staff about the kinds of things that we think we need to do. And your staff is going to provide input. We are committed to complying with all the conditions and certifications and the compliance plans in the interim period.

To address the elephant in the room, how we go forward with this project at the local and/or state level depends on the outcome of the Ridgecrest Motion for Waiver. We would seek, just to make it publicly announced to you, we would seek to apply the waiver in this project as well.

CHAIRMAN WEISENMILLER: Thank you. Commissioners, any questions or comments?

COMMISSIONER BOYD: Well, I just want to comment that you made NPR last week, I believe. You probably know that, the Blythe Project. The first public candid discussion that I've heard of the financial issues facing solar thermal plants, vis-à-vis PV and the attitudes of the nation's financial community so I appreciate your elaborating on your rational here as it probably applies to some other projects as well. The comfort that the financial community seems to have with PV versus the seemingly more complex solar thermal was an interesting discussion to hear. So, anyway, I should say no more in light of the next Item on the agenda.

COMMISSIONER DOUGLAS: Just a brief comment. I appreciate your obviously addressing the question that we certainly would have asked if you hadn't but it's too bad that we like to see the projects we permit get built but we understand that you have endeavored mightily to build a project and are pleased that you are still endeavoring to build a project that is renewable if not solar thermal on the site. So if there are no more comments, I will move Item seven.

COMMISSIONER PETERMAN: I'll second.

CHAIRMAN WEISENMILLER: All those in favor?

(Ayes.) Item seven passes unanimously. Thank you.

Let's go on to Item 8. Ridgecrest Solar Power Project, 09-AFC-09. Kourtney?

MS. VACCARO: Good morning, Chairman Weisenmiller, Commissioners. I'm Kourtney Vaccaro with the Hearing Advisors Office. I think the last Item certainly was a nice segue for what we'll surely be discussing in this Item however this Item particularly pertains to the Ridgecrest Solar Power Plant which would be cited in Kern County.

As described in the application for certification, this was a project proposed as a 250 megawatt solar thermal power plant. The applicant for the project has recently informed the assigned siting committee that it is interested and intending to redesign the project. That redesign would eliminate the solar thermal power plant and replace it with a photovoltaic facility.

In that regard, and with that design in mind, the project applicant submitted a motion to the committee essentially asking whether or not it could voluntarily submit the photovoltaic project to the Commission's Exclusive Certification Jurisdiction.

The applicant contends that the Warren-Alquist Act allows this under Public Resources Code Section 25502.3.

The motion received a number of public comments as well as it was the subject of legal briefings by subject parties to the action. The Committee conducted a hearing to also receive oral arguments and oral public comment. The Committee took the matter under submission and ultimately issued an order in July reflecting its determination that the motion involves precedential or potentially precedential issues that appear to be more appropriate for consideration and determination by the full Commission as opposed to the Committee.

So the order also includes q request that this Commission withdraw the motion from the Committee and decide the matter itself. That order is the matter before you today.

And, I think, those were my introductory comments. I can certainly answer questions. I understand a number of parties were interested in speaking today and, of course, the applicant is here to give further factual background if the Commission desires.

COMMISSIONER BOYD: I think maybe I should—

this is a very unusual circumstance that we find ourselves in here. At least this is the first time that I recall one of us petitioning us to take an action.

Hearing Advisor Vaccaro has very aptly summarized the Ridgecrest Siting Committee's findings and the recommendation. And let me, a little background of why we find ourselves here today.

The Committee frankly feels qualified and that it has access to the resources it feels that are necessary to properly research and even opine on this issue or the issue at hand, mainly what does PRC Section 255.02.3 exactly authorize. For all the reasons stated in the Committee Order and ably summarized a moment ago by Ms. Vaccaro, we bring this issue to you, recognizing that it's somewhat precedential and should be looked at beyond the scope of a single siting committee; particularly when that's single siting committee has a single Commissioner left on it. And therefore—and not realizing the precedential aspects of this beyond the future potential having just heard the previous Item and the issues related to it for the first time. I guess we were wise in our clairvoyance about the precedent that's possibly involved with this section.

I do want to say a couple of other words regarding what this request is not. It's not a request to remand the entire siting case itself back to the full Commission. This is not a naked attempt on the part of the Committee to exert CEC jurisdiction in over all PV cases as alleged by some in their briefs and otherwise and, as also alleged by some, an action to steamroller through the Commission these type siting applications. This Commission, this Commissioner in particular for one, I believe takes umbrage with that type comment. This Commission has a lengthy and proud record of being concerned for and considering the concerns of local governments and agencies in executing its power plant siting responsibilities. And sometimes it's really hard to see the grey line between this type of application and the ones that we're talking about with regard to large utility scale, ground mount solar cases. So, thus the uncertainty in the eyes of the Committee.

While there is reference by some to another siting case action that this Commission recently endorsed, the legal circumstances we felt were different and thus, this is an effort to seek clarifications of the provisions of California law and something that the Committee felt more properly

belonged in the venue of a full Commission consideration. Hence, we have brought this issue to you today.

That's my comment.

COMMISSIONER DOUGLAS: Let me just comment briefly based on Commissioner Boyd's comment. I appreciate the Committee bringing this question to the Commission. We see that it has significant importance not only in the resolution or the processing of one case but depending on how the Committee resolved it could result in the applicant relying on and trying to use the same route in other cases, and time is of the essence and we want to make sure that we all—I mean I think it's really valuable to give everybody an opportunity—all the Commissioners an opportunity to review this question. I agree with Commissioner Boyd that this is a different legal question that the one we—The Calico Committee, Chairman Weisenmiller and I address in that amendment process. It's—this is the first time that an applicant has tried to use this provision to opt into the Energy Commission process. That's not what was before us in the Calico case where it was a question of in an amendment, what—whether the PV portion was jurisdictional. There was no effort in that case to opt in using this provision which is

actually in our regulations a fairly onerous provision. It basically, starting pretty early in the CEQUA process.

Anyway, I'll say no more and listen to the parties and the members of the public but I did want to agree with Commissioner Boyd both that not with the case but for the issues and pleased that he brought it to us and also that the issue we handled in the Calico proceeding was a different legal argument and a different issue. So, thank you.

COMMISSIONER BOYD: Well, I would just say thank you Commissioner Douglas and just indicate that for the record that we have not discussed this Item before so I appreciate your views, particularly as a lawyer, on the process and procedure we're following here. So thank you.

CHAIRMAN WEISENMILLER: And, again, I will echo her comments. Obviously we're going to move on to public comment—or comment of the interveners and the public on this but, again, just to frame in terms of saying I appreciate the Committee referring this back to the full Commission. I think, as we heard earlier, this does have potential precedential value well beyond this particular case. You know that certainly Solar Millennium has a couple of other

projects. Certainly there are rumors in the trade press about other projects potentially converting from solar thermal to PV and we've seen already Calico and Imperial convert. And obviously, Commissioner Douglas, indicated that we dealt with a different fact pattern in reaching a decision in Calico which is different than this case. So, again, I think it was entirely appropriate for the Ridgecrest Committee to refer this to the full Commission and hopefully this will give us an opportunity, which would potentially give an opportunity for any effected parties to comment on this precedent before the Commission would make a decision. So with that, Mr. Galati, do you want to address this?

MR. GALATI: Yeah, I guess I'd first address why I'm standing before you instead of sitting before you. And I challenge all of my other colleagues to let Hearing Officers sit when they address you so I will be standing in front of you from now on when there is a Hearing Officer present and I suggest everyone else should.

(LAUGHTER)

Second, I would like to say again that we agree, while we are prepared fully today to discuss the merits, I recognize that's not what we're here for

but if anybody has any questions about that, we are prepared.

Second of all, we also agree that the Commission should decide this and we would only ask that since the briefs have already been done and already filed, that we schedule oral arguments fairly quickly so that we can get to this decision which is important for us in the Blythe Project. So again, we support the Committee's request and I don't know if I can throw out an idea that the Commission has an oral argument either in a Business Meeting or to the Siting Committee and then to the Commission. We're open to any of those and we look forward to explaining this issue to you.

CHAIRMAN WEISENMILLER: Thank you. Staff?

JARED BABULA: We—Staff also agrees that the full Commission should take this on and we agree with the motion and also I'll just echo Scott's statement that this isn't really the venue to get into the factual stuff but we'll abide by however the Commission wants to do this. If they want to do further oral argument, if they want to do more briefings. Thank you.

CHAIRMAN WEISENMILLER: Let's turn to—actually, first we have a public official on the line.

Lorelei Oviatt from Kern County. Do you want to address this question.

MS. OVIATT: I do. Thank you very much, Commissioners. I'm Lorelei Oviatt. I'm the Kern County Planning Director. I just have some brief comments. First, we support the Committee's request for the full Commission to take this matter to a hearing for a hopefully swift and definitive resolution. Kern County has over 1,000 megawatts of solar PV utility scale already approved and moving into construction and we're processing over 3,000 megawatts of other projects.

I have provided you, I understand it is not before your Commission, but I have provided you with additional legal citations that clearly show that the California Supreme Court has determined that the powers of Cities and Counties are given by the California Constitution and can only be preempted by specific legislative action.

We do oppose the applicant's request. We believe we clearly obtain an authority over land use for solar PV in Kern County and the applicant cannot confer jurisdiction simply by requesting it.

We ask that this request be definitely rejected. Of course, we will be available when you

take—if you take this to the full Commission for oral arguments. But mostly I'd like to thank you for your continued partnership with local government in meeting our renewable energy goals. We have a long and great relationship with the California Energy Commission on a variety of power plants and we look forward to continuing that relationship. And we would, once again, support the full Commission resolving this swiftly and definitively.

CHAIRMAN WEISENMILLER: We would thank you. We certainly appreciate your comments today and the partnership we have had with you on renewable development. I believe that there is at least one intervener on the line who wants to discuss this issue. Lisa Belenky?

MS. BELENKY: Yes. Hi. Can you hear me?

CHAIRMAN WEISENMILLER: Yes, we can.

MS. BELENKY: Okay. Hi. This is Lisa Belenky with the Center for Biological Diversity. And I also want to thank the Commission for putting this Item on the agenda. However the agenda item was not completely clear. I did discuss with the Public Advisor and I understood after discussing with them that you would mostly be hearing whether or not to take this reference. And on that basis, the Center

does agree with the full Commission taking this reference and deciding this issue. The Center is on record clearly opposing the proposal from the applicant and we would like additional time to discuss the merits either today if the full Commission is prepared to move forward to the merits or at the time when the Commission does so. I think that would be pretty much all that we would say today on just the issue of the reference. I do want to say to Commissioner, I believe it was Commissioner Boyd who was perhaps upset with some of the statements that were made. I don’t know if they were in the Center’s briefing however the Center is very concerned about an extension and an overreach of jurisdiction in this matter whether coming from the initiative of the Commission or, in this case, coming from the initiative of an applicant. And there are other pending matters before the Committee regarding whether this application should even be on the table at this point because it was stayed initially in order for additional studies to be done which are now not being done.

So we have a lot of concerns about this particular application but just going back to the one issue that I understand is before you at the moment,

we do think that the full Commission should take the reference and decide this issue.

CHAIRMAN WEISENMILLER: Thank you. Your understanding is correct. Again, I think our intent is if the Commission were to follow the Committee's recommendation which would be to give any and all parties that could be effected by the ruling an opportunity to weigh in as opposed as hearing the issue today. So I believe—I don't know if there are any other interveners but we at least have, I think, a member of the public on the line. Don Decker?

First though are there any interveners on the line, excuse me. Okay then. Any members of the public.

MR. DECKER: This is Don Decker. I would like to—

CHAIRMAN WEISENMILLER: You may have to move closer, Don, if you're on speaker phone but we're having trouble hearing you.

MR. DECKER: I'm on a handset. Is that better?

CHAIRMAN WEISENMILLER: Okay. Talk a little louder.

MR. DECKER: I'm talking quite loud.

CHAIRMAN WEISENMILLER: Okay. We can hear

you now. Keep going.

MR. DECKER: I would like to second Lisa Belenky's comments about the project somehow getting mixed up here in terms of sequence. There are a number of aspects that seemed to have been placed away from the mainline path that the Committee and now the Commission is considering. There is a staff recommendation of no project that's way back in the fall. And then the fact that the BLM has accepted the applicant's withdrawal application in January. You no longer have a BLM partner, it would appear.

So here we are discussing yet another issue, another aspect, another motion, from the applicant. It appears, from the public that the applicant is basically stalling.

That's all I have to say. Thank you.

CHAIRMAN WEISENMILLER: Thank you. Any other members of the public on the line? Commissioners, any questions or comments for any of the parties?

COMMISSIONER DOUGLAS: Well, I just have a brief comment. I guess we'll have the opportunity to discuss this shortly. But we do have the transcripts of the former, the oral argument before the Committee. We have the briefs submitted to the Committee so I

don’t think, at least from my own view, that I would be interested in a replay but we might have additional questions if we choose to take this on, targeted questions.

CHAIRMAN WEISENMILLER: Right.

COMMISSIONER BOYD: Well, I do not have additional comments and if the Committee is ready for a motion on the—before the order I will make said motion that the full Commission accept the pleadings of the Siting Committee that the full Commission take up this matter.

COMMISSIONER DOUGLAS: Second.

CHAIRMAN WEISENMILLER: All those in favor?

(Ayes.) This passes unanimously.

I believe at this point it would be appropriate to go into an Executive Session to discuss next steps on this particular matter and then come back to the Commission at this Business Meeting.

MR. LEVY: You may certainly do that under 11.126E.

CHAIRMAN WEISENMILLER: So we’re going to take a brief recess to go into Executive Session and we’ll be back to talk about the next steps procedurally.

[RECESS TAKEN AT 10:46 A.M.]

[BUSINESS MEETING RESUMES AT 11:16 A.M.]

CHAIRMAN WEISENMILLER: Before we go back on the record, let's track down the Public Advisor. Okay. There she is. Good.

So we're back on the record. Renee?

MS. WEBSTER-HAWKINS: Thank you, Chair. I'm Renee Webster-Hawkins with the Chief Counsel's Office. Based on the deliberations in Executive Session, I'm prepared to read a list of Items that would be included in the order from the Commission on this matter.

The key points of the order would be that the Commission hereby exercises its authority under Section 1204C to withdraw the above reference to motion for consideration by the full Commission with the clarification that all other proceedings in this AFC matter will remain with the Committee.

The order would propose that the Commission acknowledges and takes into consideration the written briefs and letters regarding the motion filed with the Commission and submitted to the Docket Unit by certain parties and other interested entities to date as well as the entire transcript of the July 25 hearing before the Committee.

The Commission would provide all parties and

any other interested entities and members of the public one additional opportunity to file further briefing on the motion. However, such briefing should not be duplicative of legal or policy arguments already submitted by the same party or entity in the proceeding.

Further, the Commission would hereby direct the Chief Counsel to append to the order no later than August 26, 2011 a list of specific questions relevant to the motion which the parties to the matter shall address in their briefing.

All briefs from parties, interested entities and members of the public must be filed with the Commission and submitted to the Docket Unit and served upon the proof of service list plus the Chief Counsel no later than Friday, September 16, 2011 at 5 p.m. and that the Commission would set a hearing on the motion by further order of the Commission at that time the briefing is closed.

So with that proposed order, I would recommend that the Commission consider that order and consider whether or not to accept that proposed order.

CHAIRMAN WEISENMILLER: Thank you. I think that I'd also indicate that we should send that order out to our list serves for the potential projects that

could be affected by this so that other parties have an opportunity to comment.

MS. WEBSTER-HAWKINS: Yes, sir.

COMMISSIONER BOYD: Okay. So if we need a motion to embrace that order, I'll make said motion to adopt the recommendation of our Counsel for the wording in our order.

COMMISSIONER PETERMAN: I'll second the motion.

CHAIRMAN WEISENMILLER: Okay. All those in favor?

(Ayes.) Thank you.

MS. WEBSTER-HAWKINS: Thank you, sir.

CHAIRMAN WEISENMILLER: Next Item is number 9, Minutes.

COMMISSIONER BOYD: Move approval.

COMMISSIONER PETERMAN: I'll second.

CHAIRMAN WEISENMILLER: All those in favor?

(Ayes.)

Item 10. Commission Committee Presentation and Discussions.

Well, I would note that I think all of us had the honor and privilege of being at an event on Monday night to celebrate Commissioner Boyd's 50 years of public service. It was a very memorable event that

I hope Jim has the memories with him for another 50 years.

COMMISSIONER BOYD: I invited everybody to my next 50 year work reunion so put it on your calendar. I promised to be there.

COMMISSIONER PETERMAN: Chairman, I did have some comments that I did want to offer. Commissioners, I wanted to share with you and the public that the Commission staff will conduct a workshop to solicit public comments on the use of biomethane delivered from electric generating facility via the natural gas pipeline for California's Renewable Portfolio Standard.

I think it's good timing. The workshop was noticed last week and will be held at the Energy Commission on September 20.

Given the recent changes in the RPC statute by Senate Bill X12, staff is interested in revaluating the Energy Commission's RPS eligibility requirements for biomethane fueled facilities.

As the Commission and stakeholders reevaluate the RPS eligibility requirements, I would strongly advise that program participants not rush to submit new applications for RPS certification of biomethane fueled facilities until this evaluation is

complete and any adjustment to the RPS eligibility guidebook has been approved by the Commission.

This will protect program participants from prematurely entering into biomethane related transactions that could be subject to different RPS eligibility rules. If Commission staff identify a potential rush in new applications for RPS certification, I would also encourage the Commission to suspend the RPS certification of biomethane fueled facilities and not accept new applications until the Commission's evaluation of this issue is complete and any necessary adjustments to the guidebook are adopted.

I would also encourage the Commission to apply any new RPS eligibility requirements on this topic retroactively to applications submitted after the date of the workshop notice to further discourage program participants from rushing to submit new applications.

I do look forward to the input we will receive from stakeholders on the eligibility requirements, the pipeline biomethane industry and barriers to the receipt of biomethane into California's gas pipeline system and the workshop.

The Commission, if you remember, and other

agencies have already identified some of these barriers in the 2011 bioenergy action plan. Such input will assist the Commission in ensuring the RPS eligibility requirements are reasonable and reflect the intent and letter of the law. So I wanted to bring this to your attention and I look forward to the workshop.

CHAIRMAN WEISENMILLER: Thank you. I appreciate your really taking the leadership role on this. Again, certainly, as you recall you kind of inherited the renewables issue back in the spring when you—

COMMISSIONER PETERMAN: With pleasure.

CHAIRMAN WEISENMILLER: With pleasure. I think you volunteered in fact but anyway not perhaps knowing all the ramifications of that action but we’ve gone through a several year process in the legislature where people have deliberated about the loading order between in-state and out-of-state renewables. And it’s certainly a strong legislative preference for in-state. And I understand the concern for perhaps there’s this loophole. And I think it’s very important that the Commission evaluate that. You know, certainly these project could be important from a greenhouse gas perspective but I think in terms of

how they fit in the renewable context, particularly given that legislative guidance, is really important for us to deliberate that. I'm probably the only one on the dais that sort of lived through the Standard Offer Landrush and I think years later people were finding, I think, contracts that had gotten lost behind filing case and some of the utilities that were being resurrected. It was always what was the last QF Project that kept reappearing for years. So anyways, we do not want or couldn't possibly accept that sort of Landrush occurring in this case as we sort of work through the ramifications. Again, I think we have really clear legislative direction on the preference of the loading order of in-state versus out-of-state. So thank you again for taking the leadership on this.

COMMISSIONER PETERMAN: Yes. And I just appreciate the work that—and with my colleague Commissioner Boyd on the Renewables Committee in terms of thinking through these issues.

COMMISSIONER BOYD: Thank you. You didn't sense the temperature of the football when it was handed off to you at the beginning of your term, perhaps.

COMMISSIONER PETERMAN: I gotta earn these big bucks somehow.

(LAUGHTER)

COMMISSIONER BOYD: Mr. Chairman, I would mention one meeting that took place this week. The Clean Vehicle Fuel Coordination Workgroup which is now kind of a new subset of the Energy Principles. It had its second meeting and it was Monday of this week and it's working to form somewhat of an action plan. It's being worked on and, by necessity, I volunteered this agency to participate in the drafting of said work plan so---former, well let's just say the Deputy Secretary of the CalEPA and I are working on the topic. So Energy Principles, we'll hear more about it at a future meeting but right now we're getting the agencies together and we've pretty much identified all of the activities.

And this is actually proving to be positive in the sense that it gets people to talk to each other and sit around the table. We've got anybody and everybody that has anything to do with clean vehicle activity or clean fuel activity in the state and either fostering within government or foster new businesses and employment. We've made a couple of connections that might not have occurred without the benefit of, "Oh, you're doing that? We're doing this. We should get together and talk about it."

And one of the, in particular, and I've yet to talk to Rob about this but the Governor's GoEd operation with regard to job development and the Governor's GoEd and out 118 program. There's a lot of seam connection there that we're exploring more.

And I'm reminded that Commissioner Peterman and I, last week, visited the new Tesla facility in Fremont as well as their headquarters operation, very impressed with the activities. I think we were of that company and the three trenches of work that they're engaging in. Everybody just thinks about the car and the little hot roadster that nobody can afford but, in reality, they've got a four passenger very attractive pocket rocket, large sedan vehicle that they're about to release. They're going to do battery production. There's an awful lot of opportunities to grow employment there at that former NUMMI plant in Fremont. I've talked to the GOED people about getting involved with that more but other people come to visit us, visit them and I think now there's an understanding that the two agencies should work more closely together.

This is a criticism, one of the problems of the past has been some organizations working in this area just trying to work it. Here's the football, go

run with it rather than forming a team of folks to work with the issue. And I think there's more of an openness and a desire to do that because people building business opportunities need to interact with people running programs at other agencies which could be enhanced by that. So I think we're seeing some positive attributes of bring these folks together. I was very pleased with the meeting at the end.

The other meeting I participated in with just a few people was, earlier this week, including Chairwoman Nichols from the Air Board is that they're beginning to see the need for at least another year's worth of work by the so-called Plug-in Electric Vehicle Collaborative. It's more of a program organization than a formal organization to deal with just pushing the subject of electric vehicles but it too is seen as a positive move by all the stakeholders involved. I expect that it will endure beyond my term here, at least through the year 2012, so there'll be more efforts. In that vein, and frankly one of my big pitches to those folks is, for them to do work that helps our AB 118 staff do the 118 program rather than vice versa. I think we're exploring areas where they could actually do some tasks that we need to have done but just that we do not have the person power here to

do that. That could really prove to be beneficial getting some work out that—we struggle with 118 with the dedication of staff who are up to so many other things and any outside help that we can get, as I see it, is very welcome. Particularly if it includes the broad brush of stakeholders that we're involved with in this subject area. So that was another beneficial discussion that took place this week. Thank you.

COMMISSIONER PETERMAN: I just want to add one additional comment about our visit to Tesla. I thought one of the best parts about it was an impromptu conversation we had with an employee in the manufacturing plant, John Edwards was his name, I believe, and he was working on the inverter and he just stopped to talk to us and he was just so happy to show us what he was working on, was so excited about what he was able to build and was just speaking about how good it feels to work at a plant that's producing green technology that has these environmental benefits and how he was looking forward to being able to afford one himself. It was just nice to have that personal contact and to see really all of the externalities and positive benefits of employment and workforce development in the green space. Glad to have people like him working in our state.

COMMISSIONER BOYD: The real interesting thing to me is that Tesla is not just building cars. They're building drive trains and power systems and they are actually selling the entire drive train mechanism to Toyota for the electrification of the RAV4. There's a piece of interesting reverse success so to speak.

Another thing that the Commissioner and I did, since right next door literally to the Fremont plant, was visit an organization called GreenVolts. We, in the Research Committee, just two weeks ago received a briefing by those folks. As arranged by our Research Deputy because this is an example of a homerun scored by the PIER program. This GreenVolts was birthed quite some time ago by a $95,000 grant from our small grants program and has grown to be a very successful developer of photovoltaic but an unique form of photovoltaic facility which we found incredibly intriguing, particularly with regard to the cost of electricity, per unit of electricity for their facility versus other types of PV. This is concentrated solar PV, quite interesting technology. Their dual access ground mount systems are incredibly intriguing in that, they are because of their use of a focusing lens, a whole panel of them, and multiple

panels. It's very space age in terms of its appearance. The big giant panels that follow every moment of where the sun is going so they claim 30+ percent efficiency versus your typical and even most new modern thin film PV striving for 20 percent efficiency so that's a real home run for this organization and we need more things like that. They are beginning to get a lot of customers interested in their product. Although it was an afterhours for them and us to take the time to stop there.

CHAIRMAN WEISENMILLER: And obviously that's a thought in so many of our minds that that's a good commercial message for why the PGC, including PIER, should be reauthorized now.

COMMISSIONER BOYD: Yeah. I think this audience has heard this from us over and over again. But if anybody out there in radio land is listening to us, indeed. It's a perfect example of why public interest type research is a very positive thing for the green tech state of California.

CHAIRMAN WEISENMILLER: Chief Counsels' Report.

MR. LEVY: Yes, Commissioners. I have maybe one, maybe two items. Last week I had Dennis Beck in my office and he viewed my recommendations in regard

to the BNSF case which is Item D and asking if you want to discuss in closed session. If you're comfortable with my recommendation, there's no need for closed session. But if any of you would like to discuss my recommendation, let me know and we'll notice it.

And if you don't remember what I'm referring to, we'll notice it up for discussion. Okay. So, closed session will include Item D which is BNSF Railway and also we'd like to discuss facts and circumstances which might constitute a significant exposure to litigation against the Commission.

CHAIRMAN WEISENMILLER: Thank you.

MR. LEVY: Thank you.

CHAIRMAN WEISENMILLER: Executive Director's Report.

MR. OGELSBY: Nothing to add.

CHAIRMAN WEISENMILLER: Public Advisor's Report.

MS. JENNINGS: Nothing to add.

CHAIRMAN WEISENMILLER: Public comment. No public comment. Okay. So we will go into Executive Session at a quarter after.

(Whereupon, at 11:35 a.m., the business meeting was adjourned.)

**REPORTER'S CERTIFICATE**

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a certified electronic court reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF,

I have hereunto set my hand this 9th day of September, 2011.

Kent Odell

Kent Odell
CER**00548