

BUSINESS MEETING
BEFORE THE
CALIFORNIA ENERGY COMMISSION

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

DOCKET BUS MTG
DATE 11-2-11
RECD. 11-21-11

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

WEDNESDAY, NOVEMBER 2, 2011

10:13 A.M.

Reported by:
Peter Petty

 ORIGINAL

Commissioners Present

Robert B. Weisenmiller, Chair
Karen Douglas
Carla J. Peterman

Staff Present:

Michael Levy
Rob Oglesby
Jennifer Jennings
Lynn Sadler
Harriet Kallemeyn

	Agenda Item
Mary Dyas	3
Felicia Miller	4
Paul Marshall	4
Kevin Bell	3-5
Christine Stora	5
Shahid Chaudhry	6 & 7
Anne Fisher	8
Amir Ehyai	9
Marcia Smith	10
Cheryl Closson	11
Peter Ward	12
David Chambers	13 & 14
Raoul Renaud	15
Jonathan Knapp	15
Alan Ward	
Anthony Ng	16 & 17
Gabriel Herrera	16 & 17

Also Present

Interested Parties

	<u>Item #</u>
Lisa Cottle, Attorney at Law, Winston & Strawn, for NextEra	3
James Mackey, NextEra	3
Jeff Harris, Ellison Schneider & Harris, for High Desert Power	4
*Fred Strauss	4
Maria De Lourdes Jimenez-Price, SMUD	5
Ross Gould, SMUD	5
Bob Zapotosky, Solaria	10
*David Raine, DyoCore	15
Jane Juckhardt, Downey Brand	15
Brian Pierce, Energy Pros	15

Public Comment

William H.	15
Ray Walp, Cal Green Team Inc.	15
*Steve Smith, GridNot	15
*Eugene Buchanan, GridNot	15
*Lloyd Yoder, Lloyd's Electric	15
*William Hampton	15
Mickey Oros, Alteryg	15
*Doug Hacker, HH Wind Power	15
Terry Carlone, Synergex Ventures	15
Justin Malan, Ecoconsult for the Distributed Wind Energy Association	15
Larry Sherwood, Small Wind Certification Council	16

Proceedings

Items

1. CONSENT CALENDAR 17
- a. Moody's Analytics. Possible approval of Purchase Order 11-445.03-008 for \$19,504 to Moody's Analytics for renewal of a one-year subscription for databases and publications containing California economic information used to support energy demand forecasts and other analysis for the Commission's Integrated Energy Policy Report. (ERPA funding.)
- b. Lippman Consulting. Possible approval of Purchase **POSTPONED** Order 11-445.03-004 for \$50,000 to Lippman Consulting for subscription renewal for one year from October 1, 2011 to September 30, 2012. This subscription allows Energy Commission staff access to two databases that contain up-to-date information on natural gas production and pipeline gas flows in the United States, Canada and Mexico. This data is used to develop analyses related to the Integrated Energy Policy Report. (ERPA funding.)
- c. County of Marin. Possible approval of Amendment 1 to Agreement 008-09-ECA with the County of Marin Department of Public Works. The total loan of \$1,398,441 is currently funded using Energy Conservation Assistance Account (ECAA) funds. The amendment would allow funding from ECAA and/or American Recovery and Reinvestment Act of 2009 (ARRA) monies. The amendment does not alter the project cost, loan amount or payback period. Loan funds are being used for energy efficiency measures including HVAC and building envelope upgrades, LED parking lot lights and street lights. These energy efficiency projects are estimated to save the county \$127,131 annually in reduced energy costs, resulting in an 11 year simple payback of the loan. (ECAA and/or ARRA funding.)

Items

1. CONSENT CALENDAR (Continued).
 - d. Palos Verdes Estates. Possible approval of Amendment 1 to Agreement CBG-09-150 with Palos Verdes Estates to revise the scope of work and revise the budget. The amendment adds four new projects including replacement of four heat pump units, replacement of economizer equipment on two HVAC units, upgrades to parking lot lighting using induction technology, and upgrades to lighting controls, and aligns the budget to meet this new project list. The total grant amount is unchanged at \$28,283. The amended project will save the city an estimated 27,707 kilowatt hours and \$3,463 in reduced energy cost annually. (ARRA funding.)
 - e. City of Hollister. Possible approval of Amendment 1 to Agreement CBG-09-022 with the City of Hollister to extend the end date to June 14, 2012, revise the scope of work to retrofit streetlights with LED in place of induction; correct an error in the tonnage of the existing HVAC unit; and revise the budget accordingly. The total amount of the grant is unchanged at \$199,674. (ARRA funding.)
 - f. City of Artesia. Possible approval of Amendment 1 to grant CBG-09-58 to increase the number of HVAC unit replacements from one to twelve, which increase the tonnage from 10 tons to 80.5 tons of HVAC. The amendment also reduces the number of indoor lighting retrofits, reduces the number of retrofit sites from four to two, and extends the term of the contract to June 14, 2012. This will allow the City of Artesia time to purchase and install the HVAC equipment and indoor lighting. The cost share from the city is increased from \$3,572 to \$14,616. The grant amount remains unchanged at \$91,098. (ARRA funding.)

Items

1. CONSENT CALENDAR (Continued).
 - g. NASA Ames Research Center. Possible approval of Amendment 2 to Agreement PIR-08-047 with NASA Ames Research Center for a 12-month no-cost time extension to December 1, 2012. The extension will allow the grant recipient to complete deployment of the demonstration modules for contained algal growth and dewatering in an ocean environment. There is no change to the total amount of the agreement. (PIER natural gas funding.)
 - h. State Controller's Office. Possible approval of Amendment 1 to Contract 200-10-001 with the State Controller's Office to add \$9,725 for fiscal year 2011/2012 for expedited processing of American Recovery and Reinvestment Act (ARRA) payments, thereby enabling the Energy Commission Accounting Office to distribute ARRA funds as quickly as possible. The amendment also extends the term of the contract by two years. (ERPA funding.)
 - i. Department of Finance. Possible approval of Amendment 1 to Contract 200-11-005 with the Department of Finance to reflect a new contractor hourly rate structure and a change in the scope of work. This amendment will eliminate the review of the Renewable Resource Trust Funds; the scope of work will focus on ERPA for the period July 1, 2009 through June 30, 2011. (ERPA funding.)
 - j. SACRAMENTO MUNICIPAL UTILITY DISTRICT. Possible approval of Amendment 3 to Contract 400-09-023 with Sacramento Municipal Utility District. This request is to consolidate Task 2.0 subtasks and budgets for the overall technical activities and to add an Enhanced Weatherization component to the single family program's Prescriptive and Performance levels under the Home Performance Program. The amendment will not increase the total amount of the award or extend the contract period. (ARRA funding.)

Items

1. CONSENT CALENDAR (Continued).
 - k. Lawrence Berkeley National Laboratory. Possible approval of Amendment 1 to Contract 500-08-019 with the U.S. Department of Energy Lawrence Berkeley National Laboratory for a six-month no-cost time extension to enable the contractor to finalize analysis for inclusion in the final report. The results of this work will assist the Air Resources Board to more accurately identify the sources and quantity of greenhouse gas emissions for mandated emission reduction measures and their effectiveness. (PIER electricity funding.)
 - l. Lawrence Berkeley National Laboratory. Possible approval of Amendment 1 to Contract 500-08-061 with the U.S. Department of Energy Lawrence Berkeley National Laboratory for a 15-month no-cost time extension to March 29, 2013, and re-scoping of one task to study mechanical ventilation to provide information needed by the Energy Commission's building standards group. (PIER electricity funding.)
 - m. Bruce Wilcox. Possible approval of Amendment 1 to Contract 500-10-014 with Bruce Wilcox to extend the agreement from March 15, 2014 to March 15, 2015. The project will heavily instrument unoccupied homes in or near Stockton and operate them for about two years to determine the energy efficiency of the homes using the Energy Commission's Home Energy Rating System (HERS) software. Data from HERS will be compared with measured data. Selected envelope and heating, ventilating and air conditioning efficiency upgrades will be installed to achieve 50 to 75 percent savings in heating and cooling energy.

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1. CONSENT CALENDAR (Continued).
 - n. Southern California Regional Collaborative. Possible approval of an amendment to Grant Award ARV-10-045 with the Southern California Regional Collaborative, and to Resolution 11-0504-12, substituting South Coast Air Quality Management District as the Grant Recipient and novating the Agreement from the Southern California Regional Collaborative to the South Coast Air Quality Management District, for a project to install or upgrade about 315 electric vehicle charging stations at various locations throughout Southern California. (ARFVT funding.)
 - o. 2012 Business Meeting Schedule. Possible approval of the 2012 Business Meeting schedule. Meetings will be held once a month; additional dates may be added if necessary.
 - p. Administrative Subpoena. Possible approval of **POSTPONED** modifications to an existing administrative subpoena directing the California Independent System Operator (CA ISO) to provide data needed to evaluate generation and transmission outages, congestion, must-offer waivers, and load, to assist Energy Commission staff in assessing electric system adequacy.
2. Energy Commission Committee Appointments. Possible **POSTPONED** approval of appointments to the Energy Commission's Standing Committees and Siting Case Committees. Contact
3. Blythe Energy Center Project (99-AFC-8C). Possible **17** approval of a petition by Blythe Energy, LLC to transfer operating control of the Blythe Energy Center Project to its affiliate, NextEra Energy Operating Services, LLC.

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4. High Desert Power Project (97-AFC-1C). Possible approval of a petition to extend the submittal date for completion of the reclaimed water feasibility study for the High Desert Power Project an additional 24 months from the date the applicant received recycled water, plus an additional two months to document the results of the testing. The proposed change will allow the applicant sufficient time to test the response of its facilities to the use of recycled water.	22
5. SMUD Cosumnes Power Plant (01-AFC-19). Possible approval of an Amendment Petition for fuel supply modifications and to revise several Conditions of Certification for the Sacramento Municipal Utility District (SMUD) Cosumnes Power Plant. The change would redirect digester gas from the Carson Ice-Gen cogeneration facility to the Cosumnes Power Plant. Refinements to the water filtration system would allow the project owner to maximize generation on high-temperature days while maintaining compliance with the annual water use limit. In addition, the change would refine the allowable levels of total dissolved solids in the cooling tower recirculation water to match the actual performance of the newly installed OnePass water filtration system.	34
6. City of Burlingame. Possible approval of Agreement 003-11-ECE-ARRA for a loan of \$458,633 to the City of Burlingame to replace 767 high pressure sodium street lights with energy efficient LED street lights. On completion the project will reduce the city's annual energy use by 473,000 kilowatt hours and greenhouse gas emissions by 248,000 pounds of CO2 equivalent. The corresponding annual energy cost savings is estimated to be \$57,498. The loan has a simple payback period of 7.98 years based on the loan amount. (ECAA and/or ARRA funding.)	38

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7. City of Salinas. Possible approval of Agreement 006-11-ECE-ARRA for a loan of \$128,534 to the City of Salinas to replace existing inefficient lights with LED and fluorescent lights at the city's Salinas Street Garage and Monterey Street Garage facilities. On completion, the project will reduce the city's annual energy use by 318,368 kilowatt hours, and reduce greenhouse gas emissions by 165,550 pounds of CO2 equivalent. The corresponding energy cost savings are estimated at \$44,265. The loan has a simple payback of 2.90 years based on the loan amount. (ECAA and/or ARRA funding.)	40
8. City of Ceres. Possible approval of Agreement 004-11-ECE-ARRA for a loan of \$1,193,500 to the City of Ceres to retrofit high pressure sodium and mercury vapor street lights to LED. The project will save 1,321,960 kilowatt hours of electricity annually and reduce the city's annual electricity bills by \$108,500, with a simple payback of 11 years based on the loan amount. (ECAA and/or ARRA funding.)	42
9. City of Kerman. Possible approval of Agreement 005-11-ECE-ARRA for a loan of \$202,000 to the City of Kerman to replace the high pressure sodium lamps and metal halide lamps in approximately 718 streetlights with LED modules. The project is estimated to reduce annual energy consumption by 216,969 kilowatt hours of electricity and save \$26,364 in utility expense annually. Simple payback on the loan amount is 7.7 years. (ECAA and/or ARRA funding.)	43

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10. Solaria Corporation. Possible approval of the California Energy Commission consenting to The Solaria Corporation obtaining up to \$30 million in financing from a private investment corporation to fund an expansion at a subsidiary in India. Loan documents between the California Energy Commission and The Solaria Corporation contain language that requires The Solaria Corporation to obtain written permission from the Energy Commission prior to incurring additional debt. SAFE-BIDCO, the Financial Development Corporation responsible for financial review and underwriting of The Solaria Corporation loan, delivered an Action Memorandum to Energy Commission staff confirming the September 22, 2011 action by the SAFE-BIDCO loan committee unanimously approving The Solaria Corporation's additional debt.	45
11. Renovitas, LLC. Possible approval of an agreement with Renovitas, LLC, in the amount of \$1,492,722 for geothermal exploration and assessment of the Wilbur Hot Springs area, and approval of Phase I work to review existing data and perform geological and geophysical field studies.	54
12. Alternative Fuel Vehicle Buy-Down Incentive Reservations. Possible approval of a total of \$5,523,000 in vehicle buy-down incentive reservations (ARFVT funding).	56
a. Creative Bus Sales, Inc. (OEM - Champion Bus, Inc.), in the amount of \$15,000 for the buy-down of 5 natural gas vehicles of up to 8,500 pounds gross vehicle weight and \$560,000 for the buy-down of 28 natural gas vehicles of 14,001 to 26,000 pounds gross vehicle weight for a total reservation amount of \$575,000.	
b. Rotolo Chevrolet, Inc. (OEM - General Motors), in the amount of \$40,000 for the buy-down of 5 natural gas vehicles of 8,501 to 14,000 pounds gross vehicle weight.	

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12. Alternative Fuel Vehicle Buy-Down Incentive Reservations
(Continued).

- c. Nations Bus Sales, Inc. (OEM - Diamond Coach Corp.), in the amount of \$180,000 for the buy-down of 9 natural gas vehicles of 14,001 to 26,000 pounds gross vehicle weight.
- d. Nations Bus Sales, Inc. (OEM - Champion Bus), in **POSTPONED** the amount of \$560,000 for the buy-down of 28 natural gas vehicles of 14,001 to 26,000 pounds gross vehicle weight.
- e. Capacity of Texas, Inc. (OEM), in the amount of \$1,280,000 for the buy-down of 40 natural gas vehicles of 26,001 pounds gross vehicle weight and greater.
- f. Tec Of California, Inc. (OEM - Mack), in the amount of \$1,280,000 for the buy-down of 40 natural gas vehicles 26,001 pounds gross vehicle weight and greater.
- g. Bridgeport Truck Manufacturing, Inc. (OEM), in the amount of \$320,000 for the buy-down of 10 natural gas vehicles of 26,001 pounds gross vehicle weight and greater.
- h. West Coast Bus Sales, Inc. (OEM - Tiffany Coach), in the amount of \$80,000 for the buy-down of 10 natural gas vehicles of 8,501 to 14,000 gross vehicle weight and \$300,000 for the buy-down of 15 natural gas vehicles of 14,001 to 26,000 gross vehicle weight for a total reservation amount of \$380,000.
- i. West Coast Bus Sales, Inc. (OEM - Federal Coach), in the amount of \$80,000 for the buy-down of 10 natural gas vehicles of 8,501 to 14,000 gross vehicle weight and \$300,000 for the buy-down of 15 natural gas vehicles of 14,001 to 26,000 gross vehicle weight for a total reservation amount of \$380,000.

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12. Alternative Fuel Vehicle Buy-Down Incentive Reservations (Continued).	
j. Inland Chevrolet (OEM - General Motors), in the amount of \$528,000 for the buy-down of 66 natural gas vehicles of 8,501 to 14,000 gross vehicle weight.	
13. Trustees of the California State University. Possible approval of six grants under Contract 500-98-014, totaling \$524,157, from the Public Interest Energy Research, Energy Innovations Small Grants Solicitation number 10-03. These grants were competitively selected and are capped at \$95,000. The awards include innovative energy research projects in energy storage and renewable technologies, building energy efficiency improvements, grid integration of renewables, and computer modeling of innovative energy technology solutions. (PIER electricity funding.)	58
14. Trustees of the California State University. Possible approval a grant under Contract 500-98-014, totaling \$95,000, from the Public Interest Energy Research, Energy Innovations Small Grants Solicitation number 10-03G. Grants under this program are competitively selected and are capped at \$95,000. The award is an energy research project on an innovative carbon aerogel material to increase natural gas storage in vehicle systems. (PIER natural gas funding.)	62
15. Complaint against DyoCore, Inc. (11-CAI-03). Possible approval of the DyoCore Complaint Committee's recommendations to the Energy Commission. On October 11, 2011 the Committee conducted a prehearing conference in this matter with Energy Commission staff, DyoCore, and Intervenors Solar Point and Energy Pros in attendance. The Committee and the parties discussed the status of the case, determined areas of agreement, and explored possibilities for resolution of issues. The Committee recommends adoption of stipulations and agreements approved by the parties which would lead to the resolution of this matter.	63

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17. Emerging Renewables Program. Possible approval to lift the temporary suspension of the Emerging Renewables Program on November 9, 2011.	187
18. Minutes:	POSTPONED
a. Possible approval of the October 5, 2011, Business Meeting Minutes.	
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a. <i>In the Matter of U.S. Department of Energy (High Level Waste Repository), (Atomic Safety Licensing Board, CAB-04, 63-001-HLW);</i>	
b. <i>Public Utilities Commission of California (Federal Energy Regulatory Commission, Docket No. EL10-64-000); and Southern California Edison Company, et al. (Federal Energy Regulatory Commission, Docket No. EL10-66-000);</i>	
c. <i>BNSF Railway Company v. US Department of Interior, California Energy Commission (U.S. District Court Central District of California-Riverside, CV 10-10057 SVW (PJWx));</i>	
d. <i>Richard Latteri v. Energy Resources, Conservation and Development Commission, et al. (Sacramento County Superior Court, 34-2011-99985).</i>	
e. <i>Communities for a Better Environment, Robert Sarvey v. California Public Utilities Commission, Energy Resources Conservation and Development Commission, Real Parties in Interest, Pacific Gas and Electric Company, Contra Costa Generating Station, LLC. (California Supreme Court, S194079).</i>	

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P R O C E E D I N G S

NOVEMBER 2, 2011

10:13 a.m.

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

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

CHAIRMAN WEISENMILLER: Good morning. Let's first walk through the – I want to talk about the agenda for a second. Item number, on the Consent Calendar, Item number 1B will be held. Item 1P will also be held. Item number 2 will be held until the next Business Meeting. And, finally, Item 12D will be held. In addition to clarify one issue, we had gotten a Meeting Statement late night from the CEO of DyoCore and what I'd like to do is have a special hearing across the hall in Hearing Room B presided over by our Hearing Advisor to clarify the intent or the meaning of that which will start right now and I'll ask the Hearing Advisor to come back and report to us on the meaning and implications of that statement and if it has anything to do or has any impact on our deliberations of Item 15 when we get to that. Please go ahead.

HEARING OFFICER RENAUD: Thank you. I just

1 wonder if we should determine or not if Mr. Raine is
2 on the phone or here.

3 CHAIRMAN WEISENMILLER: Good point.

4 HEARING OFFICER RENAUD: Thank you.

5 CHAIRMAN WEISENMILLER: So everyone from
6 DyoCore go to Hearing Room B for the discussion of –
7 everyone who's a party go to Hearing Room B and, I
8 believe, that Jennifer has put this statement out to
9 people. So it'd probably be useful to pick that up as
10 you go across to Hearing Room B. And, obviously, if
11 you don't go we'll all get an update when he comes
12 back, from the Hearing Officer.

13 So with that, let's go onto the Consent
14 Calendar.

15 COMMISSIONER DOUGLAS: Move the Consent
16 Calendar. Items 1A, C, D, E, F, G, H, I, J, K, L, M,
17 N, O.

18 CHAIRMAN WEISENMILLER: No 'P'.

19 COMMISSIONER DOUGLAS: No 'P'.

20 COMMISSIONER PETERMAN: I'll second that.

21 CHAIRMAN WEISENMILLER: All those in favor?

22 (Ayes.) The Consent Calendar, except for
23 Items B and P passes unanimously.

24 As I indicated Item 2 has been skipped over
25 so we're now at Item 3. Blythe Energy Center Project.

1 99-AFC-8C. Mary?

2 MS. DYAS: Good morning, Commissioners. My
3 name is Mary Dyas and I'm the Compliance Project
4 Manager for the Blythe Energy Project. With me is
5 Kevin Bell, Senior Staff Counsel. The Blythe Energy
6 Project is a 520 MW combined cycle natural gas fired
7 project certified by the Energy Commission in March of
8 2001. The project began commercial operation in
9 December of 2003. The project is located seven miles
10 west of the City of Blythe, north of the Interstate
11 10.

12 On September 2, 2011, Blythe Energy, LLC.
13 filed a petition requesting approval to transfer
14 operational control of the Blythe Energy Project to
15 NextEra Energy Operating Services, LLC. On January 1,
16 2002, Blythe Energy and NextEra Energy Operating
17 Services entered into an operations and maintenance
18 agreement. Due to an administrative oversight the
19 role of NextEra Operating Services as operator has not
20 previously been addressed in a petition for transfer
21 of operational control.

22 The petition reflects a new operations and
23 maintenance agreement that will be entered into
24 between Blythe Energy and NextEra Energy Operating
25 Services in connection with a transaction involving

1 the sale of the membership interests of the indirect
2 parent of Blythe Energy.

3 A notice of receipt was mailed to the Blythe
4 Energy post-certification mail list on October 19,
5 2011 and posted to the web and docketed; and we have
6 received no comments. And at this time staff
7 recommends approval of the petition.

8 CHAIRMAN WEISENMILLER: I believe we have
9 representatives here by Blythe Energy to speak to this
10 topic. Please.

11 MS. COTTLE: Yes. Good morning, Chair and
12 Commissioners. Thank you. My name is Lisa Cottle and
13 I'm appearing today on behalf of the petitioner Blythe
14 Energy, LLC. and with me is James Mackey, Executive
15 Director for NextEra Energy Resources. Blythe Energy
16 is currently a wholly owned subsidiary of NextEra.

17 First of all, I want to thank staff for
18 their recommendation of approval for our petition. As
19 described, our Petition asks for approval of a
20 transfer of operational control to NextEra Energy
21 Operating Services which is currently an affiliate of
22 the project owner. It is correct that this
23 arrangement has been in place for a number of years.
24 We apologize for that oversight and for not having
25 filed the petition earlier.

1 Our petition was intended to correct the
2 oversight by asking you to approve the role of NextEra
3 Energy Operating Services as the operator. Also, as
4 described, there is a pending agreement to transfer an
5 upstream ownership interest in the project owner.
6 This would be a sale of the membership interests of
7 the owner of Blythe Energy so it's a transfer that's
8 occurring two levels upstream of the project company.

9 That sale is expected to close sometime
10 later this month and the buyer will be an affiliate of
11 LS Power. As part of the sale, there will be a new
12 O&M arrangement put in place where NextEra Energy
13 Operating Services, the current operator, will
14 continue to be the operator, well essentially continue
15 in its current role.

16 So our intent was for our petition to both
17 correct the oversight by obtaining approval for the
18 existing operator role and it also would apply to the
19 new arrangement because the same entity will continue
20 as the operator.

21 I also want to make clear that Blythe
22 Energy, LLC. will continue to own the project.

23 So Mr. Mackey would also like to make a
24 couple of comments on behalf of NextEra.

25 MR. MACKEY: Thank you, Chair and

1 Commissioners for considering our petition. We
2 apologize again for the oversight and hope that you
3 will grant our request today.

4 I would like to emphasize that, at all
5 times, Blythe Energy as project owner has been
6 responsible for compliance with the Commissioner's
7 conditions for certification of the project.

8 Our project does confirm that Blythe Energy
9 intends to retain this obligation after the petition
10 is granted. We also submitted a declaration from the
11 Officer of NextEra Energy Operating Services, the
12 operator, confirming that the operator understands the
13 conditions of certification and will comply with them.
14 We hope this gives the Commission assurance that both
15 the owner and operator will take responsibility for
16 assurance compliance with these conditions.

17 Thanks again for your consideration. If you
18 have any questions I'd be happy to address them.

19 CHAIRMAN WEISENMILLER: Commissioners, any
20 questions or comments?

21 COMMISSIONER DOUGLAS: I do not have any
22 questions. I'd like to thank you for being here.
23 Better late than never. It will be good to bring you
24 into compliance in terms of who has operating control
25 over the project. I'm prepared to move this Item if

1 no Commissioners have other comments. All right.
2 Well, thank you again for being here. Hopefully, in
3 the future, if events like this arise we'll get a
4 letter timely and be able to process the amendment.

5 MS. COTTLE: Absolutely. Thank you very
6 much.

7 COMMISSIONER DOUGLAS: Thank you. Move Item
8 3.

9 COMMISSIONER PETERMAN: I'll second.

10 CHAIRMAN WEISENMILLER: All those in favor?
11 (Ayes.) Item 3 passes unanimously. Thank
12 you.

13 Item 4. High Desert Power Project (97-AFC-
14 1C). Possible approval of a petition to extend the
15 submittal date for completion of the reclaimed water
16 feasibility study for the High Desert Power Project an
17 additional 24 months from the date the applicant
18 received recycled water, plus an additional two months
19 to document the results of the testing. Felicia?

20 MS. MILLER: Good morning, Commissioners.
21 My name is Felicia Miller and I'm the Compliance
22 Project Manager assigned to this amendment. The High
23 Desert Power Plant Project is an 830 MW natural gas
24 fired combined cycle project located in the City of
25 Victorville. The project is owned and operated by

1 High Desert Power Project, LLC. The Energy Commission
2 certified the project on May 30 on 2000 and on April 3
3 of 2003 the project became operational.

4 Approximately two years ago on November 18
5 of '09 the Energy Commission approved an amendment
6 which permitted the High Desert Power Project to use
7 recycled water with a condition of certification that
8 required the owner to conduct a 24 month recycled
9 water feasibility study to become completed by
10 December 31 of 2011.

11 The current amendment request would extend
12 the submittal date of completion of the recycle water
13 feasibility study an additional 24 months from
14 December 31 of this year to December 31 of 2013.

15 The petition to amend the project license
16 was filed in May of 2011. The notice of receipt was
17 mailed and it was posted to the Energy Commission
18 website on May 19 of 2011. Staff analysis mailed to
19 the parties, docketed and posted to the website on
20 September 28 of 2011. A comment letter from the
21 applicant was received – or I should correct myself –
22 the project owner was received on October 18
23 requesting the staff to reconsider the original
24 proposal to extend the file, the date to file, the
25 feasibility study to December 31 of 2013.

1 Staff has determined the date to submit the
2 recycled water feasibility study should be extended
3 but recommends the deadline should be changed to give
4 the owner 24 months from the time the facility
5 received the recycled water which was July 20 of 2011
6 and an additional two months to document the results.

7 Staff is recommending the recycled
8 feasibility study deadline be extended to September 30
9 of 2011. I'm sorry, September 30 of 2013. And I have
10 staff available, soil and water staff available, to
11 comment on the amendment results.

12 CHAIRMAN WEISENMILLER: Any – I believe we
13 have a representative of the owner here to discuss
14 this issue. Jeff, do you want to go forward?

15 MR. HARRIS: Yes. Thank you. Jeff Harris
16 on behalf of the project owner. Thank you. Also on
17 the phone are Fred Strauss and Brad Haisey on advice
18 of counsel. They offered to travel but I advised them
19 that maybe they should call in. So they're available
20 if need by and certainly willing to talk to you if
21 you'd like that.

22 This amendment is pretty straightforward.
23 Just asking for an extension of the time. I'm going
24 to begin by thanking the staff. First, Chris Marxen,
25 Felicia Miller in particular who is always a lot of

1 fun to work with for better or worse, Paul Marshall
2 and his staff at the Water Division and Mr. Kevin W.
3 Bell, the staff counsel.

4 I think we've gotten there with this one.
5 There is the one issue of the date. The applicant
6 would prefer that this be a December date so that we
7 have two full summers of water data. We think we'll
8 get a more meaningful feasibility study if we do that.
9 But, given the timeframe, and just given the general
10 tenor we didn't want to turn this into a prolonged
11 discussion with staff. We really do need this
12 approval now given the - if the amendment was to not
13 be passed our study would be due in just a few weeks.
14 So that's kind of where we are with the date on this
15 thing.

16 This is an important project to study the
17 feasibility of this supply. This project has the
18 strange inaccuracy of being the only project, that I'm
19 aware of, to ever had a condition that prohibited the
20 use of recycled water in the original decision. So
21 there's a really rich and interesting water history
22 with this project.

23 The applicant's interest, obviously, is to
24 have a single water source. We prefer not to have
25 dual systems in the testing period that's going on

1 now, the feasibility study period, will allow us to
2 determine what the sufficient quantity and quality to
3 use as this source. And, again, our strong preference
4 is to have that be yes so that we can use this water
5 supply and only have one water supply to deal with.
6 It's a lot less capital intensive to have a single
7 supply. I think at that point I'll go ahead and stop
8 and make myself available for any questions.

9 CHAIRMAN WEISENMILLER: Okay. So it's -
10 would you explain - I mean somehow the 24 versus 27
11 month issue has been sort of raised to the Commission.
12 So I'm trying to at least get both parties to explain
13 what's the significance of - is it 24? Is it 27? Or
14 25 ½?

15 MR. HARRIS: Okay. Thank you. The real key
16 issue is two seasons, two summer seasons. And, as you
17 know, recycled water availability varies by season.
18 There's dry seasons and wet seasons. When the project
19 was originally intended to use the supply - the City
20 of Victorville, we thought, would have the water
21 supply available much sooner than it worked out being
22 but through regulatory issues and other issues it took
23 them about, I think, 20 months to get the project
24 moving forward. During the original approval, we had
25 anticipated about 20 months, just to throw another

1 number into your 24, 27, 25 ½, about 20 months of time
2 between the first receipt of recycled water and the
3 end of the feasibility study.

4 That 20 month happened to include two
5 summers, okay. I guess I'd like to focus less on the
6 20, 24, 27 and more on the two summer thing. We'll do
7 whatever you direct us to do, obviously. If you want
8 the study in September we'll provide it then. We
9 think we'll have a higher quality feasibility study if
10 you give us the December 31 date because it will give
11 us the two summers.

12 CHAIRMAN WEISENMILLER: Okay. Staff? Sure.
13 Please introduce yourself.

14 MR. MARSHALL: Paul Marshall, staff to the
15 California Energy Commission also partially
16 responsible for the staff testimony that we provided
17 in this case.

18 Yeah, as Jeff points out. We too agree that
19 the important thing is to consider the two summer
20 cycles and align then the ability to get a good feel
21 for how exactly the water quality is going to affect
22 their operations and how they need to design the
23 facilities so that it can accommodate it.

24 The fact that we came up with the September
25 date we believe gives them plenty of time to complete

1 those two summer cycles of experimentation and so we
2 thought it'd be best to push forward and get the plan
3 done as soon as possible because we'd like to see the
4 conversion of recycled water consistent with your
5 policies as soon as possible. We realize that for two
6 years that they've had things that have resulted in
7 them having to schedule for recycled water conversion
8 be pushed back but we also generally believe that
9 there's enough information out there in the water
10 treatment world and the engineering world that they
11 could already be doing a lot of the design work that
12 they need to be doing right now to make these
13 conversions. Because one you have an idea of your
14 water quality of your water chemistry like what we
15 know that they now have from the two different
16 treatment streams that they're talking about, it's
17 actually possible for them to do a lot of the work, we
18 think, right now in terms of design. Maybe not
19 construct the necessary facilities.

20 We're trying to be flexible. Staff came up
21 with this date thinking that it would give them all
22 the time that they really needed to get the work done.
23 And then we also took an extra step in terms of the
24 flexibility by removing the date limitation from the
25 actually body of the condition of certification and

1 putting it in the verification so that it gave staff a
2 little bit of flexibility in terms of the actually
3 date when the study needed to be completed.

4 The fact that the date was in the body of
5 certification is actually what instigated the need for
6 this amendment. We initially intentionally wanted it
7 to be in the condition because we wanted it to be a
8 firm date that they needed to comply with and there
9 would be a certain commitment to achieving that date.
10 So here we are trying to be flexible with the owner
11 again and trying to find a way to work with them but
12 at the same time get the conversation of the recycled
13 water in a timely manner as possible.

14 CHAIRMAN WEISENMILLER: Okay. Now, end of
15 Summer, September 1? What's the precise date you're
16 thinking of? We know September 30 but I want to know
17 when is the end of summer and how much time do they
18 really have.

19 MR. MARSHALL: Yeah. We would say that it
20 would be the end of August. They've actually already
21 been taking recycled water since July of this year so
22 they've got almost a whole summer now and then they'll
23 have an entire summer next and then they'll have
24 almost the entire summer the following year in 2013.

25 MR. HARRIS: If I could respond.

1 CHAIRMAN WEISENMILLER: Sure.

2 MR. HARRIS: The first bit of recycled water
3 has been received but, as I understand it, it's only
4 been about 600 acre feet which is a fraction, I want
5 to say, maybe a quarter of the total amount that we'll
6 need. I think really we're just talking about the
7 quality of data. We expect that number, the 600 acre
8 feet, to ramp up as these facilities, and there's two
9 water treatment facilities that Victorville has access
10 to, to sort of ramp up. I actually think that it's
11 important to note that yes we have been receiving
12 water for awhile but it hasn't been the full allotment
13 to date.

14 COMMISSIONER PETERMAN: Just, I guess, a
15 follow up question as well. So basically once
16 received you would like to allocate two months to
17 analyze the data, collect the data and that's two
18 months post the last point of data collection so the
19 last point of the summer collection is mid-August?

20 MR. MARSHALL: That sounds about right.

21 CHAIRMAN WEISENMILLER: End of August.

22 COMMISSIONER PETERMAN: Right.

23 MR. MARSHALL: Yes, the middle to end of
24 August would be fine. I wouldn't say that there's a
25 firm date there. Just that since we've been doing it

1 since July they know what kind of water quality
2 they're receiving.

3 CHAIRMAN WEISENMILLER: That's fine. But,
4 again, we're trying to establish if it's around the
5 end of summer then we have to be precise on that. We
6 can't flip from the end of August to middle of August.
7 So let's talk about September 1.

8 MR. MARSHALL: Okay.

9 CHAIRMAN WEISENMILLER: And then data
10 analysis from there.

11 MR. MARSHALL: Sounds good.

12 COMMISSIONER PETERMAN: An additional follow
13 up question. So I appreciate there's partial summer
14 information from this summer, then there'll be a full
15 summer next year and then a full summer the following
16 year. Do to this type of analysis, do you have to
17 look at the entire summer as one data point? So can
18 you - does a partial year count? For example, partial
19 summer count in terms of providing adequate
20 information?

21 MR. MARSHALL: We would say so.

22 COMMISSIONER PETERMAN: Project
23 representative?

24 MR. HARRIS: I'm not engineer.

25 CHAIRMAN WEISENMILLER: I was going to say

1 you have your folks on the phone, why don't you have
2 them answer?

3 MR. HARRIS: And I don't play one on TV
4 either. My understanding, and I don't know if Brad's
5 available or Fred would like to speak to this, but my
6 understanding is that they're looking at two full
7 summers which would include August in pretty much
8 everybody's calendar. It has to do with the
9 seasonality. This year there was a late heat
10 timeframe and we're also talking somewhere near the
11 desert and August is pretty steadily hot down there.
12 Is Brad or Fred available on the phone?

13 MR. STRAUSS: Yeah. Jeff, this is Fred.
14 You know really I think the answer to the question is
15 that we don't really look at it as a single data
16 point. The availability of reclaimed water and the
17 dispatch of the power plant over the season is what
18 gives us the ability to use and test it. So all data
19 is helpful. We would prefer to have two full summer
20 operating seasons, noting that we didn't start
21 receiving reclaimed water until the end of the month
22 of July of this year.

23 COMMISSIONER DOUGLAS: Well, Commissioners,
24 I got a briefing from staff on this Item and when I
25 heard that we would be adjudicating about a two and a

1 half month difference at the end of the feasibility
2 study I really just couldn't do much more than wait
3 for the applicant and the staff to present their cases
4 and they have.

5 If the end of summer is September 1 - I'll
6 just back up. I also appreciate staff saying that
7 this date would move into the verification which does
8 give staff the flexibility of providing a couple more
9 weeks if a couple more weeks is needed for adequate
10 data analysis. So if the end of summer is September 1
11 and if my understanding is correct that the applicant
12 would then have an additional two months to document
13 the results of all the testing.

14 MR. MARSHALL: Correct.

15 COMMISSIONER DOUGLAS: So then November 1
16 which is pretty close to today, actually. We're on
17 November 2 so about two years from today the applicant
18 is required to provide the results to staff. If
19 that's acceptable to you then that would be my motion,
20 that we approve Item 4 providing that the report would
21 be due, and this of course is the verification, two
22 months after September 1, 2013.

23 MR. HARRIS: I'm sorry, September or
24 November?

25 COMMISSIONER DOUGLAS: Two months after

1 September 1.

2 MR. HARRIS: Okay. Thank you. Sorry.

3 COMMISSIONER DOUGLAS: November 1. I could
4 have just said November 1; it would have made it much
5 clearer transcript. Nevertheless, so the report will
6 be due on November 1. That will be in the
7 verification on the condition.

8 COMMISSIONER PETERMAN: Oh. If that's a
9 motion, I'll second it.

10 CHAIRMAN WEISENMILLER: All those in favor?
11 (Ayes.) Passes unanimously. Thanks again.

12 MR. HARRIS: Thank you.

13 MR. BELL: Now that the Commission has voted
14 on that, I just want to make clear that that's
15 acceptable to staff.

16 [LAUGHTER]

17 CHAIRMAN WEISENMILLER: Well, we were
18 telling you it better be.

19 Item 5. 5. SMUD COSUMNES POWER PLANT
20 (01-AFC-19). Possible approval of an Amendment
21 Petition for fuel supply modifications and to revise
22 several Conditions of Certification for the SMUD
23 Cosumnes Power Plant. Christine?

24 MS. STORA: Yes, hi. Good morning,
25 Commissioners. My name is Christine Stora. I'm the

1 Compliance Project Manager for the SMUD Cosumnes Power
2 Plant. This power plant is a 500 MW combined cycle
3 natural gas facility that is located adjacent to their
4 Rancho Seco Nuclear Plant in Sacramento County. This
5 project was certified back in 2003 and the Sacramento
6 Municipal Utility District Financing Authority filed
7 the petition on December 29, 2010 requesting a number
8 of modifications to the project. I'll just kind of go
9 through these.

10 One, the first thing they'd like to do is
11 inject digester gas from the Sacramento Regional
12 Wastewater Treatment Plant into the natural gas supply
13 line serving the facility. This digester gas will be
14 redirected from the Carson Energy Ice-Gen Plant.

15 The second that they'd like to do is refine
16 the allowable levels of total dissolved solids in the
17 cooling tower recirculation water to match the actual
18 performance of the newly installed OnePass water
19 filtration system.

20 Third, they'd like to remove the peak flow
21 condition in Water Resources-1 to allow the project
22 owner to maximize generation on high-temperature days
23 while maintaining compliance with the annual water use
24 limit for the project that already exists in the
25 conditions of certification.

1 Number four, they'd like to make a number of
2 other administrative changes to make the Conditions of
3 Certification consistent with the Sacramento
4 Metropolitan Air Quality Management District Authority
5 to Construct permit. That's kind of a mouthful.

6 On the staff analysis comments were received
7 from SMUD, which lead staff to prepare a Revised Staff
8 Analysis. Both these documents went out for a 30-day
9 public review and no comments were received on the
10 subsequent revised staff analysis.

11 At this point staff is recommending approval
12 of this amendment.

13 CHAIRMAN WEISENMILLER: I see SMUD's here.
14 Do you want to discuss this?

15 MS. DE LOURDES JIMENEZ-PRICE: Sure. My
16 name – Good morning, Commissioners. My name is Maria
17 De Lourdes Jimenez-Price and I'm counsel for the
18 Sacramento Municipal Utility District. Also with me
19 is Ross Gould. He's the Superintendent of Thermal
20 Generation and Pipeline Assets and we're here to
21 address any questions you may have and also to comment
22 further.

23 MR. GOULD: I'd just like to add that we're
24 excited about this opportunity to increase SMUD's
25 renewable energy portfolio through the implementation

1 of this project. By burning digester gas created at
2 the Sacramento Regional Wastewater Treatment Plant at
3 the Cosumnes Power Plant we're maximizing the positive
4 impact of our partnership with the sanitation
5 district, spotlighting an innovative project that
6 matches local renewable energy sources with existing
7 generation. We'd be happy to answer any questions.

8 CHAIRMAN WEISENMILLER: Thank you.

9 Commissioners, any questions or comments?

10 COMMISSIONER DOUGLAS: Well, in honor of
11 Commissioner Boyd I'd like to say and also my own
12 sentiment that I'm pleased to see this amendment come
13 before us. I'm pleased to see the SMUD increase the
14 use of digester gas and this is an important step
15 forward. So with that I would recommend Item 5 to you
16 but I'll see if there are any other comments or
17 questions.

18 All right. So move Item 5.

19 COMMISSIONER PETERMAN: I'll second.

20 CHAIRMAN WEISENMILLER: All those in favor?

21 (Ayes.) This Item passes unanimously.

22 Thank you for being here.

23 COMMISSIONER PETERMAN: Chair, may I just
24 add something/

25 CHAIRMAN WEISENMILLER: Sure.

1 COMMISSIONER PETERMAN: For those who don't
2 use our mics very often, if you have to get closer to
3 the mic you can move the mic toward you instead of
4 having to lean into it. It ends up being easier that
5 way.

6 CHAIRMAN WEISENMILLER: Yeah. I was also
7 going to note, Kevin, that your staff member had
8 nodded his head yes to Carla's question which was why
9 we assumed the staff agreed on the last Item.

10 MR. BELL: I also do my best to make the
11 record clear.

12 CHAIRMAN WEISENMILLER: That's good. Thank
13 you.

14 Item 6. CITY OF BURLINGAME. Possible
15 approval of Agreement 003-11-ECE-ARRA for a loan of
16 \$458,633 to the City of Burlingame. Shahid?

17 MR. CHAUDHRY: Good morning, Commissioners
18 and good morning, Chairman. I'm Shahid Chaudhry with
19 the Special Projects Office of the Fuels and
20 Transportation Division.

21 My purpose of coming over here today is to
22 request your approval for a loan of \$458,633 to the
23 City of Burlingame. The City will be using this
24 amount to replace the high pressure sodium street
25 energy intensive lights with energy efficient lights.

1 It's anticipated that by doing so the city will be
2 saving about 473,000 kWh of energy every year. The
3 loan represents a payback period of less than eight
4 years. We anticipate to fund this project through
5 (inaudible) funding. \$453,633 will be coming out of
6 ECAA funding and \$5,000 will be coming out of ARRA
7 funding.

8 As I mentioned, the payback for this project
9 is less than eight years.

10 CHAIRMAN WEISENMILLER: Commissioners, any
11 questions or comments?

12 COMMISSIONER DOUGLAS: Just that I
13 appreciate this coming before us. I know that it has
14 been a tremendous lift for staff in the last couple of
15 years now really with both ECAA funding and recovery
16 funding to move through this program. The program has
17 been very good at outreach and continues to bring more
18 loans in, which I certainly like to see. This
19 project, with a payback period of less than eight
20 years, looks like a very good project. With that,
21 I'll move approval of Item 6.

22 COMMISSIONER PETERMAN: Second. Sorry about
23 that.

24 CHAIRMAN WEISENMILLER: All those in favor?

25 (Ayes.) This Item passes unanimously.

1 Thank you.

2 MR. CHAUDHRY: Thank you, Commissioners.

3 CHAIRMAN WEISENMILLER: Item 8. City of
4 Ceres. Possible approval of Agreement 006-11-ECE-
5 ARRA.

6 MR. CHAUDHRY: The next Item is Item 7, City
7 of Salinas.

8 CHAIRMAN WEISENMILLER: Oh. Salinas.
9 Excuse me.

10 MR. CHAUDHRY: Okay.

11 CHAIRMAN WEISENMILLER: Let me point out
12 that it is City of Salinas and it is ARRA funds of
13 \$128,534. Go ahead.

14 MR. CHAUDHRY: Yes, thanks. Thank you, Mr.
15 Chairman. Again, I'm Shahid Chaudhry. It's a similar
16 request. The only difference is the city as the
17 applicant and the amount of funding has changed a
18 little bit, in this case.

19 City of Salinas is requesting \$128,534 to
20 replace the same inefficient lighting with energy
21 efficient lighting.

22 Commission will be funding this loan request
23 through parcel money. \$2,000 will be coming out of
24 ARRA and the remaining \$126,534 will be coming out of
25 ECAA funding.

1 The payback period on this project is even
2 more attractive than the previous one. This is less
3 than three years so this is an even better deal for
4 energy savings. It is anticipated that the City will
5 be saving 318,000 pounds of CO2 equivalent gas
6 emissions every year.

7 I'm sorry, 318,000 kWh of energy savings
8 every year which corresponds with 165,550 pounds of
9 CO2 greenhouse gas emissions every year. And, as
10 mentioned, the payback period for this is less than
11 three years.

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

14 COMMISSIONER DOUGLAS: Just a brief comment.
15 Again, a good project and a really impressive payback
16 period. I do hope as people park in this garage or
17 these garages that there's some way that people get to
18 see that this improvement has occurred. The fact that
19 they can see just as well with the new lighting and
20 the City is saving so much money and so much energy
21 and is reducing its greenhouse gas footprint is
22 tremendous. I'm sure people around there would love
23 to know so hopefully there's a way that they will know
24 because obviously we don't always look up and notice
25 where our lighting comes from.

1 In any case, good project. I'll move Item
2 7.

3 MR. CHAUDHRY: Thank you.

4 COMMISSIONER PETERMAN: I'll second.

5 CHAIRMAN WEISENMILLER: All those in favor?

6 (Ayes.) This Item passes unanimously.

7 MR. CHAUDHRY: Thank you very much.

8 CHAIRMAN WEISENMILLER: Thank you.

9 Now we're going to Item 8, City of Ceres.
10 Possible approval of Agreement 004-11-ECE-ARRA for a
11 loan of \$1,193,500 and these are ECCA and/or ARRA
12 funding. Anne?

13 MS. FISHER: Good morning, Commissioners.
14 My name is Anne Fisher with the Special Projects
15 Office. The City of Ceres has requested \$1,193,500 of
16 an ARRA loan for their street light retrofit project.
17 The City plans to retrofit approximately 2,200 old
18 high pressure sodium and mercury vapor street lights
19 with LED street lights.

20 The total project cost is \$1,258,508 which
21 will be funded by the loan and \$65,000 in utility
22 incentives. The project will reduce electrical use
23 approximately 1,321,900 kWh annually and save the city
24 \$108,500 in annual energy costs.

25 The simple payback of the loan is 11 years.

1 Thank you.

2 CHAIRMAN WEISENMILLER: Thank you.

3 Commissioners, any questions or comments?

4 COMMISSIONER DOUGLAS: No. Another good
5 project. I'll move approval of Item 8.

6 COMMISSIONER PETERMAN: Yes. Another good
7 project. I'll second that.

8 CHAIRMAN WEISENMILLER: All those in favor?

9 (Ayes.) This Item also passes unanimously.

10 Thank you, Anne.

11 Let's go onto Item 9. CITY OF KERMAN.

12 Possible approval of Agreement 005-11-ECE-ARRA for a
13 loan of \$202,000 to the City of Kerman to replace the
14 high pressure sodium lamps and metal halide lamps in
15 approximately 718 streetlights with LED modules.

16 Amir?

17 MR. EHYAI: Thank you, Chairman. Good
18 morning, Commissioners. My name is Amir Ehyai. I'm
19 with the Special Projects Office.

20 This loan will allow the City of Kerman to
21 initiate a complete citywide street light retrofit.

22 The City had previously been awarded an Energy
23 Efficiency and Conservation Block Grant Award just
24 over \$70,000 to retrofit 138 street lights with LED
25 modules. This loan, in conjunction with on bill

1 financing through Pacific Gas & Electric Company, will
2 allow the City to convert the entirety of its street
3 lights to LED.

4 This City has not started work on the Block
5 Grant portion of this project and is instead waiting
6 for approval of this Energy Commission loan so that
7 their contractor may, in one sweep, replace all 718
8 street lights.

9 This loan will be supported by the American
10 Recovery and Reinvestment Act Funding. The City has
11 met all ARRA prerequisite requirements and is eager to
12 start this project. Once work begins this project
13 should be completed by February of 2012.

14 In total the project will reduce the city's
15 annual energy consumption by 216,969 kWh of
16 electricity and likewise save the city \$26,343
17 annually in utility expenses. The project is also
18 eligible for \$43,900 in utility rebates. I see you
19 approval. I'm happy to answer any questions you may
20 have.

21 CHAIRMAN WEISENMILLER: Thank you.

22 Commissioners, any questions or comments?

23 COMMISSIONER DOUGLAS: No, no questions.

24 Again, good work. I'll move Item 9.

25 COMMISSIONER PETERMAN: I'll second.

1 CHAIRMAN WEISENMILLER: All those in favor?
2 (Ayes.) Item 9 passes unanimously. Thank
3 you.

4 Item 10. SOLARIA CORPORATION. Possible
5 approval of the California Energy Commission
6 consenting to The Solaria Corporation obtaining up to
7 \$30 million in financing from a private investment
8 corporation to fund an expansion at a subsidiary in
9 India. Marcia?

10 MS. SMITH: Good morning, Chairman and
11 Commissioners. My name is Marcia Smith and with me is
12 Jacob Orenberg. We work in the Fuels and
13 Transportation Division and work on the Clean Energy
14 Business Financing Program.

15 Agenda Item 10 pertains to one of the CEBFP
16 loan conditions for the Solaria Corporation, a solar
17 panel manufacturer located in Fremont, California.

18 The Solaria CEBFP loan is for \$2.7 million
19 for equipment. All of the CEBFP loans contain
20 language requiring the borrowers to obtain written
21 permission from the Energy Commission prior to
22 obtaining additional debt.

23 In addition to the Fremont facility the
24 Solaria Corporation also owns a subsidiary located in
25 India. As required in the loan agreement, Solaria has

1 requested approval from the Energy Commission to
2 obtain up to \$30 million in financing from a private
3 investment corporation to fund an expansion of the
4 India subsidiary.

5 The loan for the subsidiary will be
6 collateralized with specific equipment finance for the
7 subsidiary. It should be noted that Solaria is
8 committed to continue its solar panel manufacturing in
9 Fremont and to complete installation of and operate
10 the CEBFP funded equipment in Fremont. The loan
11 contains a condition requiring the CEBFP equipment to
12 remain in California or Solaria will be in default.

13 CEBFP staff referred Solaria's request to
14 State Assistance Fund for Enterprise, Business, and
15 Industrial Development, or SAFE-BIDCO, the financial
16 corporation that underwrote and is servicing the
17 Solaria loan for review and recommendation.

18 SAFE-BIDCO's due diligence included analyses
19 of an independent auditor's review of consolidated
20 financial statements for the Solaria Corporation and
21 subsidiaries ending in January 2011 and December 2009
22 and company accounts and receivable projections for
23 2012-2013. In an action memorandum to the Energy
24 Commission dated October 4, 2011 following a September
25 22, 2011 unanimous approval by its loan Committee

1 SAFE-BIDCO recommends the Energy Commission allows the
2 Solaria Corporation to obtain up to an additional \$30
3 million in debt.

4 CEBFP staff reviewed the analysis performed
5 by SAFE-BIDCO and concurs with the recommendation.
6 Staff requests the Commission approve Item 10 to
7 consent to the Solaria Corporation obtaining up to \$30
8 million in financing from a private investment
9 corporation to fund the expansion of its subsidiary.

10 Bob Zapotosky, who is the Chief Financial
11 Officer for the Solaria Corporation, is also here
12 today to make a presentation and to respond to your
13 questions. And we are also available to respond to
14 questions. Thank you.

15 CHAIRMAN WEISENMILLER: Thank you for
16 coming.

17 MR. ZAPOTOSKY: Good morning, Chairman.
18 Good morning, Commissioners. Thank you for having me
19 here. The loan that's on the table for discussion
20 today is specific to our India subsidiary and the
21 productive output of that plant is targeted primarily
22 for the local market in India as well as some other
23 parts of the world. The activities there do not
24 impact our plans in the U.S.

25 We are, in fact, headquartered in Fremont,

1 California. Given the solar market in California, we
2 intend to continue locating in California. On just
3 simply a high-level, I'm not sure how familiar you are
4 with solar modules, but they are heavy objects. On a
5 lower cost level it's always desirable to produce
6 those modules proximate to their local markets.
7 Again, while we are expanding in this particular
8 operation in the geographic areas that are proximate
9 there it does not impact our focus on the U.S. or in
10 terms of staying in Fremont and maintaining operations
11 that we have there.

12 I'm available for any questions you may
13 have.

14 CHAIRMAN WEISENMILLER: Commissioners, any
15 questions or comments?

16 COMMISSIONER DOUGLAS: Commissioners,
17 Chairman, I had some brief comments. I've actually
18 had the pleasure of visiting the facility, the Solaria
19 facility, in Fremont as has Marcia. It's an
20 impressive technology and it's an impressive facility
21 so it's great to see it expand and, potentially,
22 hopefully expand even more in the future.

23 These loans from the Clean Energy Business
24 Financing Program max out at \$5 million. We've given
25 the loans to a handful of companies who are

1 manufacturing in California for either new facilities
2 but really it turned into financing expansions at
3 existing facilities.

4 The terms of the loan, obviously, require
5 the facility that we fund in our loan or that we help
6 finance be in California. Furthermore, that the
7 equipment purchased remain in California.

8 Solaria has drawn down, I believe, some and
9 soon all of their loan and they have, if I'm not
10 mistaken, begun repayment on part of the loan that
11 they've drawn down. I think that we have worked very
12 well with Solaria and that they've been good partners.

13 But the terms of the loan that we have with
14 Solaria require that we approve additional financing
15 that the corporation gets and Solaria is a big
16 corporation. They're doing work in a number of parts
17 of the world so we're being asked to approve this
18 additional financing for, as you know, the India
19 subsidiary.

20 The primary reason why this kind of term is
21 in our loan agreement is when Solaria expends or takes
22 more financing it gives us the opportunity to look at
23 how that additional financing impacts, fundamentally,
24 our chances of being repaid for the loan that we've
25 given for the California work.

1 In this case, SAFE-BIDCO has done the review
2 and has unanimously recommended that we approve it. I
3 do want to disclose that I am on the SAFE-BIDCO Board
4 and this is a statutory position. A member of the
5 Commission has to be appointed to the Board. I
6 actually worked very hard to not be appointed to the
7 Board until we had actually gotten through the loan
8 process but I didn't necessarily foresee how much work
9 we'd be doing with the FDC's after the loans were
10 granted for issues such as this. So I do want to say
11 that I had absolutely no involvement whatsoever in
12 SAFE-BIDCO's deliberation on this issue and I am not
13 on their loan committee. Anyways, this did not come
14 to a Board meeting. I've only attended one Board
15 meeting by phone.

16 So, with that, I recommend this to your
17 approval and I also, you know we hear from time to
18 time that Solaria is considering another California
19 facility and, of course, we'd sure love to see that
20 come through. So thank you for being here.

21 I'll wait and see what other questions and
22 comments there are.

23 COMMISSIONER PETERMAN: Commissioner Douglas
24 and CEO, I'm sorry. I forgot your last name.

25 MR. ZAPOTOSKY: It's actually Zapotosky.

1 COMMISSIONER PETERMAN: Mr. Zapotosky, thank
2 you for your comments as well as to staff for
3 presenting their case. I have a number of questions
4 about this particular Item simply because of one my
5 interest in renewable finance as well as some of the
6 concerns that had been raised around, particularly,
7 solar manufacturers and viability of those operations
8 going forward. And I do believe this seems like a
9 viable company, as least what we've heard to date.
10 Some of my concern is particularly about where we fall
11 in terms of debt repayment and etc. and how this is
12 financed and what this is financing have been
13 addressed.

14 One question I do have, I don't know if this
15 is public information so if it's not, feel free to say
16 no, but how does this change your debt service ratio?

17 MR. ZAPOTOSKY: This does not impact the
18 debt service ratio of Solaria Corporation. The
19 particular finance mechanisms that we're using is
20 exclusive to the sub, there's not a parent guarantee
21 on it.

22 COMMISSIONER PETERMAN: Okay. Great. That
23 was my outstanding question so with that, I'll second
24 the motion.

25 CHAIRMAN WEISENMILLER: We have to -

1 COMMISSIONER DOUGLAS: And I think that I
2 should actually formally make the motion before but
3 we'll take your comments.

4 CHAIRMAN WEISENMILLER: Yeah. I was going
5 to say first of all, I was going to certainly
6 encourage Solaria to draw down the loan soon. Rob
7 knows we're under a lot of pressure to get the ARRA
8 money out the door. So we want to see the invoice
9 soon as opposed to later.

10 Certainly, I think, it's great to see the
11 company expanding. Obviously from our position as
12 guardians of the state on this loan it was very
13 important to us to know that it was not having an
14 impact on our position in the waterfall and also to
15 have the independent confirmation from SAFE-BIDCO that
16 indeed it's not going to adversely affect California's
17 ratepayers, hopefully it might even help California by
18 the expansion. I know many of us look at India and
19 China as being enormous markets for PV in the future
20 so it'd be good if you can expand your operations
21 there while continuing to expand and build your
22 California operations. I should note too that I was
23 involved with Governor Brown in the initial
24 legislation to get SAFE-BIDCO established but that was
25 obviously many, many years ago. So certainly not

1 relevant in this context. So with that -

2 MR. ZAPOTOSKY: If I may, from our
3 perspective we think the program is a phenomenal
4 program. The fact that it takes the money, does good
5 work with it, it gets repaid to the state and it
6 becomes evergreen to be able to further the causes in
7 clean energy we think is tremendous.

8 We've used about a third or have drawn down
9 about a third of the funds on the current program, to
10 answer your questions there. The balance of that will
11 be drawn as the equipment that's already been ordered
12 completes its commissioning process. So we're a big
13 fan of the program. We plan to use it all and we
14 actually some ideas for additional enhancements to the
15 operation in Fremont that we're shooting to put into
16 place in the next six months.

17 CHAIRMAN WEISENMILLER: Great.

18 COMMISSIONER DOUGLAS: That's great. Thank
19 you then. Thanks for being here.

20 MR. ZAPOTOSKY: You're welcome.

21 COMMISSIONER DOUGLAS: I will move Item 10.

22 COMMISSIONER PETERMAN: I'll second.

23 CHAIRMAN WEISENMILLER: All those in favor?

24 (Ayes.) This Item passes unanimously.

25 Thanks. Thanks, Marcia.

1 MR. ZAPOTOSKY: Thank you.

2 CHAIRMAN WEISENMILLER: Thanks for being
3 here.

4 Item 11. RENOVITAS, LLC. Possible approval
5 of an agreement with Renovitas, LLC, in the amount of
6 \$1,492,722 for geothermal exploration and assessment.
7 Cheryl?

8 MS. CLOSSEN: Good morning, Commissioners.
9 Phase 1 of this agreement was actually first approved
10 and funds encumbered on June 29 of this year however,
11 prior to execution of the agreement, we learned from
12 the Central Valley Regional Water Board that there may
13 be environmental cleanup liability if grant activities
14 disturb existing mining waste or the mercury impaired
15 soils in the project area.

16 Therefore, staff worked with the grantee,
17 their partners and the water board to revise the grant
18 statement of work and budget to clarify the
19 exploration task to allow the grantee to undertake
20 only activities that do not disturb mining waste or
21 give rise to mercury pollution cleanup liability and
22 also to require regional water board consultation on
23 all the exploration fieldwork plans.

24 We seek approval today, again, for the Phase
25 1 of the project which would entail the administrative

1 task, data review, geologic mapping and geophysical
2 surveys in the project area.

3 Phases 2 and 3 would include temperature
4 gradient well drilling and deep exploratory well
5 drilling, future approval would be requested from you,
6 the Commissioners, for expenditure of funds for those
7 phases after completion and review of appropriate CEQA
8 documents for the well drilling.

9 Match funding for this grant would also be
10 provided by a key grant partner, the Sacramento
11 Municipal Utility District, excuse me. SMUD will need
12 to review the Phase 1 data and get approval from their
13 Board prior to committing match funding for Phases 2
14 and 3.

15 I'm happy to answer any questions that you
16 may have.

17 CHAIRMAN WEISENMILLER: Great. Just for the
18 record, these funds are GRDA funds?

19 MS. CLOSSON: Yes, they are, sir.

20 CHAIRMAN WEISENMILLER: Okay. Thank you.

21 Any other questions or comments?

22 COMMISSIONER DOUGLAS: Move approval.

23 COMMISSIONER PETERMAN: I'll second.

24 CHAIRMAN WEISENMILLER: All those in favor?

25 (Ayes.)

1 MS. CLOSSON: Thank you very much.

2 CHAIRMAN WEISENMILLER: Thank you.

3 Item 12. ALTERNATIVE FUEL VEHICLE BUY-DOWN
4 INCENTIVE RESERVATIONS. Possible approval of a total
5 of \$5,523,000 in vehicle buy-downs. Pete?

6 MR. WARD: Good morning, Commissioners.
7 Good morning, Chairman. I'm Peter Ward. I'm a
8 Program Manager for the Alternative and Renewable Fuel
9 Vehicle Technology Program and I'm pleased to bring
10 this Item to you for your approval today.

11 I do want to make a slight change in the
12 amount for this Item. It's \$4,963,000. We've removed
13 Item 12D, the \$560,000 that is in a queue under this
14 program.

15 Just to give a little context of where this
16 program lies in the Alternative and Renewable Fuel
17 Vehicle Technology Program, this is a designed
18 incentive program that has - we've designed it to
19 streamline the delivery of deployment funds, and this
20 is for vehicles to put on the road, into California
21 fleets. Up to now with these vehicles to be approved
22 today there will be 962 vehicles on the road, heavy
23 duty trucks, medium duty trucks and light duty natural
24 gas, propane school buses and propane light and medium
25 duty vehicles.

1 All totaled in a very conservative average
2 of those would be about 11.5 million miles to be
3 driven each year from these vehicles. And those are
4 all non-petroleum miles and also will result in 20-30
5 percent lower GHG from those vehicles as we move
6 forward. That's on a yearly basis and a very
7 conservative average.

8 I think it's important to note that this is
9 a deployment incentive so we've designed it to make
10 sure that it gets through the state system quickly
11 because this doesn't require a lot of evaluation.
12 These are commercial vehicles. They have a high entry
13 cost and we're trying to lower that to get these
14 vehicles on the road more cost efficiently.

15 Another incentive that will be following
16 this will be for fuel, alternative fuel,
17 infrastructure. We're hoping to ease that transition
18 as well and make sure that those funds get on the
19 street quicker.

20 There is no overhead for this program. All
21 the money is designated for these vehicles will be on
22 the street and this is a near term part of this
23 program, a temporal near-term. There's a midterm and
24 there's a long-term. We've focused on all three
25 aspects of this in the portfolio of alternative fuels

1 and advance vehicle technologies that we're trying to
2 foster development of.

3 I appreciate any questions that you may have
4 and happy to answer those and I recommend approval of
5 the Item.

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

8 COMMISSIONER PETERMAN: No questions but
9 I'll just offer the comment, particularly on behalf of
10 Commissioner Boyd, that this has been a very
11 successful program under the AB-118 program and is
12 great to see this diversity of vehicles, particularly
13 focusing on the buses and the heavy duty. I'm happy
14 to see and suggest that we pass this motion if there
15 are not other questions or comments.

16 COMMISSIONER DOUGLAS: No questions.

17 COMMISSIONER PETERMAN: So with that, I'll
18 move Item 12.

19 COMMISSIONER DOUGLAS: Second.

20 CHAIRMAN WEISENMILLER: All those in favor?

21 (Ayes.) This Item passes unanimously.

22 Thanks, Pete.

23 MR. WARD: Thank you.

24 CHAIRMAN WEISENMILLER: Item 13. TRUSTEES
25 OF THE CALIFORNIA STATE UNIVERSITY. Possible approval

1 of six grants under Contract 500-98-014, totaling
2 \$524,157, from PIER funding – PIER electricity
3 funding. David?

4 MR. CHAMBERS: Good morning, Commissioner.
5 Good morning, Commissioners. Good morning, Chairman.
6 Good morning, Commissioners. My name is David
7 Chambers. I am the Program Manager for the Energy
8 Innovations Small Grants Program which resides in the
9 Public Interest Energy Research Program.

10 The EISG Program is simply designed for high
11 risk proof of concept ideas. As a proof of concept
12 program, we seek out concepts that are not yet proven
13 and are very early in the research pipeline. So early
14 that even angel investors may not be willing to
15 invest.

16 We encourage technical innovation and risk
17 taking. We focus on innovative concept at the very
18 early stage of development, leading to ratepayer
19 benefits and the development of new technologies that
20 will benefit the California economy.

21 After project completion, the program uses
22 independent experts to evaluate the research results
23 and assess the technical success compared to the
24 original project objectives as well as the likelihood
25 the product will succeed in the market.

1 These independent assessment reports are
2 made available to potential investors, interested
3 parties and the public. Reports outline the
4 objectives of the project, highlight the successes and
5 failures and offer recommendations for potential
6 future work. Proof of feasibility means the
7 researcher has overcome a critical hurdle in the
8 development path. It does not mean that a prototype
9 has been constructed and tested. In some cases, the
10 researcher has gone further than proof of feasibility
11 in the 12 month period.

12 The EISG projects must target one of PIER's
13 research development and demonstration areas to
14 qualify for funding and with the intent that the
15 feasibility of the innovative energy concept is proven
16 the appropriate PIER RD&D area will have the
17 opportunity to provide follow on funding to further
18 the success of the project.

19 Would you like for me to list the projects
20 that are under the –

21 CHAIRMAN WEISENMILLER: No, I think we're
22 fine.

23 MR. CHAMBERS: Okay. I would like to just
24 say that for the electrical projects, it is the 38th
25 solicitation. There were 45 grant applications that

1 were received for consideration, 26 passed the initial
2 screening and advanced to our technical review, 14
3 exceeded the minimum required score and technical
4 review and advanced to our program technical review
5 board and six proposals were recommended for funding
6 by the PTRB and are there before you today.

7 CHAIRMAN WEISENMILLER: Commissioners, any
8 questions or comments?

9 COMMISSIONER PETERMAN: I'll just offer a
10 comment. I was glad to see this Item on the Business
11 Meeting calendar today. I think this is a great
12 program. It really does encourage entrepreneurship
13 and investment by small businesses in California which
14 I think is going to be key for economic recovery. I
15 think if I recall the statistic correctly in the small
16 grants solicitation program, for every \$1 we invest we
17 get \$70 of venture capital or private investment. I
18 think those are some good returns. I'm glad we're
19 doing this and hope we can do more in many years to
20 come. So thank you for bringing this to us for a
21 vote.

22 MR. CHAMBERS: Very welcome.

23 COMMISSIONER DOUGLAS: Move Item 13.

24 COMMISSIONER PETERMAN: I'll second.

25 CHAIRMAN WEISENMILLER: All those in favor?

1 (Ayes.) This Item passes unanimously.

2 Thank you.

3 MR. CHAMBERS: Thank you very much.

4 CHAIRMAN WEISENMILLER: I think we now move
5 onto Item 14 so you don't get to leave at this stage.
6 So Item 14. TRUSTEES OF THE CALIFORNIA STATE
7 UNIVERSITY. Possible approval a grant under Contract
8 500-98-014, totaling \$95,000. And, again, this is
9 PIER funding but is natural gas funding instead of
10 electricity funding. David?

11 MR. CHAMBERS: Yes, I'm David Chambers, the
12 Program Manager for the Energy Innovations Small
13 Grants Program.

14 This particular solicitation is the eighth
15 solicitation in our natural gas program area. Six
16 grant applications were received for consideration;
17 three passed initial screening and advanced to our
18 technical review. The three exceeded the minimum
19 required score in the technical review to advance to
20 our PTRB and one proposal was recommended for funding
21 for the amount of \$95,000 and is before you today. If
22 you have any questions, I'm available.

23 CHAIRMAN WEISENMILLER: Okay. Thank you.
24 Commissioners, any questions or comments? No?
25 Motion?

1 COMMISSIONER DOUGLAS: I'll move Item 15.

2 Sorry, wrong Item. I'm not ready to move Item 15. I

3 see that the Hearing Officer has returned and we're

4 almost ready to go on Item 15. I will move Item 14.

5 COMMISSIONER PETERMAN: I'll second that.

6 CHAIRMAN WEISENMILLER: All those in favor?

7 (Ayes.) This Item passes unanimously.

8 We're going to take a 15 minute break so we'll start

9 back at 11:30 and my hope is by then the hearing

10 across the way has been through its issues and can

11 report back on status.

12 (Off the record at 11:14 a.m.)

13 (Back on the record at 11:38 a.m.)

14 CHAIRMAN WEISENMILLER: Good morning.

15 Welcome back into session. Raoul, do you want to

16 describe the results of the workshop across the hall

17 for the benefit of all?

18 HEARING OFFICER RENAUD: Yes. Thank you,

19 Chairman Weisenmiller. This, I believe, is agenda

20 Item 15.

21 Maybe I'll give a little background just to

22 bring everyone up to speed on the entire story here.

23 CHAIRMAN WEISENMILLER: Very good.

24 HEARING OFFICER RENAUD: This matter arises

25 from a complaint filed by staff on July 26, 2011. The

1 complaint arose from the issue of the listing of a
2 turbine, wind turbine, a small home wind turbine
3 called the DyoCore turbine on the emerging renewables
4 program website as eligible under the ERP Program.

5 The listing, according to the complaint, was
6 inaccurate and, as a result, it was eligible for
7 rebates that were greater than warranted. The
8 complaint requested that the Commission provide four
9 items of relief:

10 First, the immediate removal of the DyoCore
11 turbine from the list of eligible small wind turbines.

12 Energy Commissioner guidance regarding the
13 resolution of pending ERP applications for rebate
14 reservations and payment requests for small wind
15 turbines using the DyoCore turbine.

16 Referral of the matter to the Attorney
17 General for investigation and prosecution, if
18 appropriate.

19 And also requested that the Committee issue
20 a notice to consumers who had applied for rebates
21 involving DyoCore turbines.

22 The Notice was issued via a mass mailing.
23 There were approximately, I believe, 1,300 consumers
24 and a thick packet of materials was sent out to those
25 consumers advising them of the proceeding.

1 Subsequently, the complaint was amended.
2 This was in September. And the amendment was to
3 remove provisions that had alarmed some consumers into
4 thinking that the Commission perhaps was going to
5 pursue them for refunds and that clarification
6 resolved that issue so those concerns went away.

7 Excuse me. On October 11, the Committee
8 conducted a pre-hearing conference, and I should say
9 the Committee consists of Commissioner Peterman as the
10 Presiding Member and Vice Chair Boyd as the Associate
11 Member. They conducted a pre-hearing conference. The
12 point of which was really to determine whether or not
13 it's going to be necessary to proceed to evidentiary
14 hearing on the complaint to determine points of
15 agreement among the parties and that sort of thing.

16 Several determinations were made at that
17 pre-hearing conference. Among them was that the
18 parties were all in agreement that the listing
19 turbine, the 1.6 kWh was inaccurate. That the data
20 submitted by DyoCore was inaccurate and that the
21 turbine should therefore be delisted.

22 That seemed to be the crux of the complaint
23 and, therefore, the Committee saw that there was no
24 further need for evidentiary hearing to make that
25 determination because the party's all agreed on that

1 issue.

2 The complaint, as I said, also requested
3 guidance as to resolution of the pending applications.
4 Staff submitted a formula that addressed those
5 payments and the upshot of the pre-hearing conference
6 was that because there was no need for an evidentiary
7 hearing the staff would withdraw the complaint and
8 that the Committee would issue a recommendation to the
9 Commission concerning disposition of the entire
10 matter, including handling of the payments.

11 That document is called the Committee
12 Recommendation and I know you all have copies for it.
13 Subsequently the staff issued comments on the
14 Committee recommendation on October 21 and those
15 comments you also have before you. The Committee has
16 looked at those comments and is recommending
17 incorporation of some of them into its
18 recommendations.

19 And then yesterday afternoon Mr. Raine,
20 who's the CEO of DyoCore, submitted his statement in
21 the form of an email.

22 The statement seemed to indicate or at least
23 raise some concern on part of the committee that he
24 was no longer in agreement that the data was
25 inaccurate or the listing was incorrect or the turbine

1 should be delisted and he raised some other points as
2 well.

3 So we conducted a workshop this morning with
4 Mr. Raine on the phone and all the parties in the room
5 and clarified with him and I think it was quite clear
6 that, no he is still in agreement. That the data was
7 inaccurate. That the turbine should be delisted. And
8 all of this is understood not to be without any
9 determination of fault or wrongdoing. It's simply a
10 finding that the data was inaccurate and that the
11 listing should be removed.

12 We discussed, at the workshop, another of
13 Mr. Raine's expressed concerns and that is a provision
14 in the Committee recommendation which calls for
15 DyoCore not to profit directly or indirectly from some
16 of the payments. Mr. Raine expressed concern that at
17 least the way he read the wording of that provisions
18 it sounded, to him, like a determination of guilt.

19 I don't think the Committee meant it that
20 way. It's really intended simply to show how the
21 mechanics of the payments would work but I think Mr.
22 Raine still feels pretty strongly that that wording is
23 offensive to him and he would like it changed so that
24 would be something certainly we could discuss here
25 today.

1 So I think we left the workshop with the
2 fundamental, essential agreement still intact - that
3 the turbines should be delisted because the listing
4 was inaccurate and the data was inaccurate and that,
5 therefore, there was no reason for an evidentiary
6 hearing to make that determination and the complaint
7 should then be withdrawn.

8 Let's see. The staff comments that the
9 Committee is proposing to be accepted are the
10 following. I can just summarize those for you if
11 you'd like.

12 If you look at the Committee recommendation
13 - Recommendation 1 on page 1 the staff pointed out
14 that the 11th Edition of the ERP Guidebook is not going
15 to be the operative one. It should be changed to
16 state the ERP Guidebook that is in effect when the ERP
17 suspension is lifted and the program restarts. So
18 obviously the Committee agrees with that. That's an
19 important clarification.

20 Recommendation 3 is that the Commission
21 should take no position on referral of the matter to
22 the Attorney General. Staff suggested that it would
23 be better to add the phrase, "on this record" to that
24 sentence to be clear since we didn't hold an
25 evidentiary hearing there isn't evidence upon which to

1 base a recommendation to the Attorney General. Again,
2 the Committee is adding those three words to that
3 sentence.

4 And, part of the Committee recommendation
5 that deals with the mechanics of handling the R1 and
6 R2 forms under A2 the Committee stated that these R1
7 forms would be valid for up to one year after the
8 program restarts and the staff recommended that the
9 language be changed to 120 days.

10 Sure, Mr. Knapp wants to interject on that.

11 MR. KNAPP: Good morning, Commissioners.
12 The staff wanted to make just one minor edit to
13 staff's comments on the Committee recommendation with
14 respect to the time period in which preferential
15 treatment would be given to R1 forms to extend the
16 time period from 120 days to 6 months.

17 HEARING OFFICER RENAUD: Okay. And, in
18 fact, the Committee's recommendation was going to be
19 the same thing, 180 days so that the language would be
20 instead of simply the one year language the statement
21 would be entered,

22 "The applicants will be given preferential
23 treatment by retaining their place in the
24 queue for 180 days after the 11th Edition of
25 the ERP Guidebook is adopted. Applicants

1 that fail to reapply within this 180 day
2 period by submitting a new application or R1
3 form in accordance with the 11th Edition of
4 the ERP Guidebook will lose their place in
5 the queue and be treated as an ordinary
6 applicant should they choose to reapply at a
7 later date."

8 And the final change that the staff
9 suggested and the Committee's recommending is under,
10 again, on the R2 forms under "I" there is a provision
11 that says, "Further, any actual and provable
12 unavoidable costs incurred prior to - or between
13 October 11, 2011 and submission of the request shall
14 be reimbursed." And the Committee's recommending
15 changing that "Any actual and provable unavoidable
16 costs incurred prior to the date of this order" -
17 which would be the Commission order if it be today or
18 some other day when it is signed - "shall be
19 reimbursed pursuant to the above formula."

20 Yes? That sums it up, really.

21 COMMISSIONER PETERMAN: A clarifying
22 questions. I don't know if this will require any
23 additional language change to the order but regarding
24 the 180 days, I think the Committee also believes that
25 if there are some circumstances such as with

1 difficulty with – largely with certification,
2 certifying bodies, etc. that that number could be
3 revisited and that would affect anyone applying to the
4 ERP Program in addition to those who already have an
5 R1. Is that necessary to (inaudible) the order or is
6 that a condition that can be addressed in the
7 Guidebook itself?

8 HEARING OFFICER RENAUD: It strikes me that
9 extending that date in the future shouldn't be a
10 problem. It would be if you wanted to shorten it, you
11 might have a problem but lengthening it would be
12 bestowing a benefit. You did have one year in there
13 before which was really there for that purpose but I
14 think that extending the 180 day period, if necessary,
15 shouldn't be a problem.

16 COMMISSIONER PETERMAN: We believe that that
17 180 days should be sufficient but I did want to offer
18 that caveat and see if there were any objections to
19 that or whether it had to, again, be in the order. I
20 agree, I don't think we have to put it in here but I
21 did want to put that on the record and hear what staff
22 has to say on that matter.

23 HEARING OFFICER RENAUD: I think that sums
24 up the Committee's recommendations to you.

25 CHAIRMAN WEISENMILLER: One thing. Just for

1 clarification. Would you be – would you go through
2 one more time concisely when the order would be
3 effective and start the clock?

4 HEARING OFFICER RENAUD: It would be
5 effective the date it is signed. The could be as
6 early as today.

7 CHAIRMAN WEISENMILLER: Okay.

8 HEARING OFFICER RENAUD: We have staff and
9 the interveners present. I believe the respondent,
10 Mr. Raine, is on the phone.

11 CHAIRMAN WEISENMILLER: That's right. We
12 have a number of parties that are certainly welcome.
13 I would ask people to cover two things; one is
14 certainly if anyone has any corrections to your
15 summary of the workshop to get that on the record but
16 certainly to address the complaint and proposals here.
17 And I was going to allow Mr. Raine to start first to
18 comment. I believe he's on the phone?

19 MR. RAINE: Yes. Yes, I am. Thank you,
20 Commissioner. I appreciate your time. I have a bit
21 of an echo so I will try to ignore it on my end;
22 hopefully, you don't get it on your end.

23 Basically, I've a couple of points
24 pertaining to DyoCore.

25 We did have a recent conference call about

1 an hour ago and the points of the conference call were
2 well-described earlier.

3 One thing I'd like to bring up was well,
4 let's start with my order. One was the rating was
5 inaccurate. I'm not disagreeing with that point and I
6 would accept it as it is now but what I'd like to do
7 is ask you to consider that the listing was
8 inaccurate. And my reasoning for that is the
9 information was valid and is still valid to the best
10 of our ability at the time. Meaning that that data
11 that was taken off of the specific equipment to
12 qualify though it was complied (inaudible) wrong it
13 was still accurate data. The actual output data is
14 the exact same output data that has been reviewed by
15 third parties and verified by third parties.

16 For consideration I'm just rewording that so
17 that the listing was inaccurate and that doesn't
18 indicate any fault on our part. It doesn't indicate
19 any fault on KEMA's part. It just basically indicates
20 that everyone in their best intentions listed the
21 turbines at, what was thought at the time, the
22 appropriate rating.

23 The other item is basically the statement
24 that indicates that DyoCore does not profit. Again, I
25 respect the Committee enough to know that if you

1 decide that this needs to stay in there, I will move
2 forward with that but I request (inaudible) on
3 rewording that or removing that in entirety. I truly
4 feel that that statement very specifically indicates
5 that DyoCore has been found guilty and needs to be
6 removed and needs to be punished for the situation
7 that we're in right now.

8 My other contention with that is the purpose
9 of it. I'm trying to really get in my head and wrap
10 around what it really means.

11 First and foremost, DyoCore has (inaudible)
12 profited and I don't see in any means what's
13 (inaudible) current agreement that we would profit.
14 Since the agreement is basically with these
15 distributor and other parties that are willing to
16 waive their legal rights against KEMA and the CEC.
17 Obviously, that would benefit the CEC if we did the
18 same but we're not sure what direction we're going as
19 it appears also that your legal staff (inaudible)
20 which direction they're going as well.

21 So I would like your consideration in having
22 that statement reworded or revised.

23 Now the two points that I have pertaining to
24 that are first and foremost, we have distributors that
25 have been basically put out of business because of

1 this process. They have turbines that are installed
2 on their homes or businesses that they want to keep.
3 Now if it's your contention to have everybody remove
4 those as part of this stipulation then, obviously,
5 this is a nonissue. But what about those parties that
6 do not want to remove them. That are getting the
7 power that they expected out of them and they're happy
8 with those units as they're installed. They need
9 support of those units. Now, we have received so far
10 three lawsuits being filed in the State of California
11 against DyoCore because we are unable to provide that.
12 They have no means in which to pay tech staff or
13 support staff or even myself personally to even go out
14 and support these jobs at even a cost level.

15 So maybe some rewording in there that will
16 allow us to provide support, maintenance and cover our
17 costs in moving forward with this agreement.

18 Now the other point that I have in this is
19 that we have expending R2s in which we're now getting
20 threats and we have Better Business Bureau listings
21 against us because they want to install the turbines.
22 So now we're at a disconnect here of the intention of
23 the resolution because these individuals are filing
24 against us even though they're getting reimbursement.
25 They haven't paid us for the product but yet they're

1 going to file against us unless we install the
2 product.

3 We're in a very messy situation in which
4 it's not cut and dried and this stipulation that
5 indicates that DyoCore cannot profit is both damaging
6 and, I think, it's an indication of guilt on DyoCore's
7 part or punishment, therefore.

8 Those are basically my two contentions with
9 the agreement. Again, I weigh upon the Commission to
10 make the best decision and we'll obviously agree to
11 that - the outcome of that.

12 CHAIRMAN WEISENMILLER: Thank you for your
13 comments. I would note, just in general as a matter
14 of policy, that certainly the Commission encourages
15 parties to settle their issues. As we're going into
16 this and certainly appreciate the settlement here but
17 once a settlement occurs it obviously becomes
18 difficult when people get second regrets on it. So
19 moving forward on this, I would also like to turn to a
20 number of people who'd like to speak on this point.
21 Staff next.

22 MR. KNAPP: Thank you. So we, as the
23 Hearing Officer stated, we on October 11 we adjourned
24 and worked out a stipulation in that language and
25 staff reiterated in its comments to the Committee

1 recommendation specifically with regard to line, "That
2 data provided by DyoCore for the purpose of listing
3 the DyoCore turbine as eligible for use in the ERP was
4 inaccurate as submitted."

5 The staff believes that it is critical that
6 that is the language that would form the basis for the
7 stipulation as that, in turn, would form the basis for
8 – an appropriate basis for delisting the DyoCore
9 turbine.

10 To the extent that Mr. Raine disagrees with
11 that characterization of what occurred here with
12 respect to the submission of the data, the power of
13 performance data, for the DyoCore turbine. Staff
14 recommends that if Mr. Raine doesn't believe that that
15 goes far enough to clear his name the staff believes
16 that it would be necessary to have an evidentiary
17 hearing in this case.

18 We're confused by his statements in the –
19 when we adjourned and we're still confused by his
20 statements with regard to whether or not he's
21 accepting that actual language or if he's asking for
22 it to be further modified which we would not agree to,
23 with respect to that point.

24 With respect to the point about profiting,
25 specifically with the language that's at issue, is

1 that a distributor or retailer seeking reimbursement
2 under the proposed formula would have to sign a
3 declaration that attests that under testimony or
4 perjury that any payment that it receives under the
5 proposed formula will not directly benefit DyoCore,
6 its employees, managers, owners, investors or any
7 other individuals associated with DyoCore.

8 The purpose of that is so that payments made
9 to these distributors – I should back up. What we
10 spoke about at the prehearing conference and what we
11 spoke about a moment ago when we adjourned is that the
12 animating concern behind that language was our
13 understanding that there are some distribution
14 companies that may have connections to DyoCore
15 directly. In that instance, under this proposal,
16 staff does not support that there would be any direct
17 payments to DyoCore or any such entities.

18 At the prehearing conference, Mr. Raine
19 stated that there were no such connections and
20 therefore that there wouldn't be any issue. That
21 there shouldn't be any issue with that language.
22 That's what we understood. Nevertheless, we
23 reiterated that it was our information and belief that
24 that's what we understand and therefore as a
25 protection against that possibility we wanted that

1 language in place.

2 Mr. Raine has stated that he is holding R2s,
3 that DyoCore is holding R2s. Our understanding is
4 that DyoCore does not have any outstanding R2s so
5 that's a confusing statement to us and I don't know if
6 that means if some of these other distribution
7 companies are holding R2s which we have (inaudible)
8 and belief with reason to suspect might be connected
9 to DyoCore and it sounds like that's the interest that
10 he's addressing. So again that would go back to our
11 fundamental concern why the language is there in the
12 first place.

13 I would also say that Mr. Raine is making a
14 statement about - that he's not benefiting from the
15 proposal for resolution of the outstanding
16 applications and payments requests that staff has put
17 forward and that's not true. Mr. Raine and DyoCore, I
18 should say, has many consumers that have already paid
19 in total for their systems and are out of the money.
20 Under this proposal, the Energy Commission, as the
21 State, would be stepping in to make those consumers
22 hold DyoCore has not done that. These consumers have
23 been asking for refunds for a long time from DyoCore
24 and have gotten nowhere from those requests.

25 Under the proposal that staff has put

1 forward, the Energy Commission would be making those
2 consumers hold. Similarly, distributors – we
3 understand that distributors also have outstanding –
4 they also have outstanding claims for equipment and so
5 forth that in connection with these R2s to the extent
6 that we're – under the proposal, we would be
7 reimbursing these distributors for, I'm sorry, that
8 are directly – that are directly in which DyoCore –
9 there's liability for DyoCore to be connected to these
10 transactions with their distributors.

11 Part of this, as we just discussed when we
12 adjourned, we would be making the distributors whole
13 and in so doing we would be paying down the costs for
14 distributors and in so doing we would be decreasing
15 that liability directly for DyoCore.

16 In both of those instances, DyoCore is very
17 much benefiting from this formula inadvertently so but
18 is very much benefiting from it.

19 So those are the two clarifications that I
20 would like to make.

21 CHAIRMAN WEISENMILLER: Thank you.

22 MR. RAINE: I'd like to address those if
23 possible.

24 CHAIRMAN WEISENMILLER: I actually – I was
25 thinking about that but what I was going to suggest is

1 that we give the other parties a chance to go through
2 things and then we'd give you a chance to address, not
3 just the staff, but other things but otherwise, I
4 think, we may have back and forth on some of the other
5 comments so this seems more efficient. Certainly hold
6 your comments and we're particularly in your response
7 on the R2 issue but for now let's go to Jane
8 Luckhardt.

9 MS. LUCKHARDT: Thank you. We don't have an
10 opinion on the issue that was just discussed. We just
11 have one question/clarification that we'd like to make
12 on the changes to the final change to the order as far
13 as the date that unavoidable costs are incurred.

14 One of the expenses that has been ongoing is
15 the interest fees and finance charges. We understand
16 and appreciate the Commission's efforts to have the
17 State Controller's Office pay that off soon after the
18 claims are submitted to them.

19 But that cost incurs until the loans are
20 actually paid off and so we can't tell you as of
21 November 1 exactly the amount of insurance and finance
22 charges through the payment date. Actually the banks
23 don't charge them for it until after the end of the
24 month. So even though they're continuing to incur the
25 charges on the outstanding loan that is not billed

1 until December and so as long as we could submit an
2 accrual of what that estimate would be based upon
3 when, and we're working on the claim forms now and
4 hope to submit all of the information tomorrow for
5 staff to evaluate, but we have to give staff a couple
6 of days to at least look at it and make sure that
7 they're satisfied with what they have.

8 But we want to make sure that those costs -
9 that we can include those costs in our request.

10 And I don't know if staff, if you have an
11 opinion or?

12 MR. WARD: Can you just clarify, again, the
13 timeframe that you're asking for?

14 MS. LUCKHARDT: The timeframe would not
15 exceed the end of November because we're anticipating
16 being paid prior to the end of November based on the
17 timeframes that you've talked about from the State
18 Controller's Office.

19 MR. KNAPP: So staff's recommendation would
20 be, with regard to the State Controller's Office, that
21 the, as I think that you alluded to, that we would
22 recommend that the Energy Commission work with the
23 State Controller's Office to expedite payment to
24 distributors and consumers of approved applications
25 for small wind systems that use the DyoCore turbine

1 who can demonstrate that they are continuing to accrue
2 interest or finance charges as you stated. And that
3 if such a payment were expedited it would be issued by
4 the State Controller's Office within four business
5 days of receiving a pay warrant from the Energy
6 Commission and that process for payment will cost the
7 Energy Commission \$10 for each payment.

8 So from our vantage point and, I think given
9 what the Hearing Officer stated with regard to timing,
10 that it would – that accrual of interest could
11 continue until the order was issued? That's what I
12 understood and maybe we could get clarification from
13 Commissioners? That the accrual of interest would
14 continue until the order was issued at which point –
15 and so that'll be at some date in the future and so
16 from staff perspective, we are encouraging
17 distributors to begin submitting information regarding
18 the backup documentation and actually have a more
19 detailed statement that I'd like to read into the
20 record about that. I don't know if this is an
21 appropriate time to do that but we can do that later.
22 And so from our perspective we can get this process
23 moving very quickly, the State Controller's Office, if
24 the Commission approves the use of expedited payment
25 that will take four business days to process so that

1 the only time period that would be an issue or the two
2 time periods that would be an issue would be the
3 amount of time distributors need to pull their
4 documentation together and the amount of time the
5 staff needs to review it.

6 Our statement that I will read later in our
7 presentation just explains in general how we'd like
8 that information to be presented to us to expedite
9 staff's review.

10 MR. WARD: Just to provide a bit more
11 background, normally a payment from the State
12 Controller's Office can take up to 15 days. And so
13 the concern raised is there's going to be interest and
14 finance charges during that time and so if you set the
15 payment only up to the order and then it takes the
16 rest of the month or even longer, three to four weeks,
17 they're still accruing additional expenses.

18 So what we're proposing is to short circuit
19 that 15 day normal State Controller's Office payment
20 and just go with an expedited that would only take
21 four days and it would only cost an additional \$10 to
22 get that expedited payment.

23 HEARING OFFICER RENAUD: I just wanted to
24 make a brief clarification that actually the effective
25 date of your order would be the date that it is

1 docketed. That, obviously, could be the same date
2 that you sign it but just for the record.

3 COMMISSIONER PETERMAN: Clarifying question
4 for staff. Could that date be the date that the
5 Controller's Office makes the payment?

6 MR. WARD: Could the date?

7 COMMISSIONER PETERMAN: So if the issue at
8 hand is the time it takes for the Controller's Office
9 to make the payment which, as you said, with the
10 expedited process would be four days. Just wondering
11 if that could be date through which the interest could
12 be accrued specifically and why or why not?

13 MR. KNAPP: I think it comes down to an
14 administrative issue in terms of the accrual of
15 interest and just from an administrative standpoint we
16 need a cutoff to know at point we issue the pay
17 warrant from the State Controller's Office. If it's
18 right up until that day then we wouldn't be able to do
19 it administratively.

20 MR. WARD: We're also going to have a number
21 of documents to review in terms of the backup
22 documentation we would expect people to submit. We
23 don't know how fast we would be able to turn that
24 around but we expect on our end to do the best we can
25 to make it a short turnaround realizing the costs that

1 the distributors are incurring.

2 COMMISSIONER PETERMAN: Thank you for that.
3 I do have a concern how long that process could take
4 even though you have raised the issue that it will
5 likely be four days plus as we ask you to think and
6 hear the other Commissioner's comments about is there
7 any way to put any bands around that amount of time
8 or, at least, during that interest to be accrued up to
9 a certain point, etc. If we think that it might go
10 longer then you might want to consider allowing it to
11 be a long period of time. We can continue to talk
12 about it.

13 CHAIRMAN WEISENMILLER: Yeah. What I was
14 trying to - you had mentioned you had a longer
15 statement on the process. I don't know if that would
16 help to clarify the issue if you'd like to do it now
17 or we should hold it off until after the Commission
18 has dealt with and resolved this issue with the
19 overall.

20 MR. WARD: I think it would be better to
21 hold off on that because it is specific to what some
22 of the things the distributors are going to actually
23 have to provide and I think it'd be better to go
24 through the rest of the comments first before we get
25 into those kind of specifics unless you have a

1 different - ?

2 CHAIRMAN WEISENMILLER: No. That's fine. I
3 was just trying to figure out - it seems pretty
4 clearly that the distributor will have to document its
5 cost and that as of a certain point that will then go
6 into verification which could then be longer or
7 shorter and then it'll go to State Controller's Office
8 but at some point you will have to document and that
9 will then trigger the payment. But I'm assuming
10 there's no way in real time to say, "Oh by the way,
11 there's been another accrual interest."

12 MS. LUCKHARDT: I think part of the
13 difficulty that we're facing is that we're trying to
14 resolve this in real time and as staff is explaining
15 we've been trying to talk with them about what they
16 want in documentation but they're just providing that
17 today. And even if we provide what we think is
18 appropriate tomorrow they may come back and say,
19 "Well, we'd like something in addition." And I'm not
20 saying that they're not going to work in an expedited
21 fashion just that it may take a little bit of time to
22 get everything in order the way that everyone would
23 like to see it. I don't see it extending out for a
24 long period of time but I cannot tell you right now
25 how long it will take. That's our concern.

1 COMMISSIONER PETERMAN: One thing I would
2 ask the parties to consider is whether just in terms
3 of changing the order or whether there could be a
4 separate term related to interest, the accrual of
5 interest charges, perhaps a longer period of time
6 given to document those as compared to all the other
7 costs. Because right now this statement, I think, is
8 appropriate as it refers to all the other costs that
9 will be covered but this seems like a unique
10 circumstance.

11 MR. KNAPP: So staff defers to the
12 Commission. If you believe it's more appropriate to
13 pick a date later in November or pick another date of
14 when the accrual of interest would be finalized.

15 CHAIRMAN WEISENMILLER: I was going to say
16 one of the things that we can explore would be
17 thinking about having the Hearing Advisor sort of –
18 once we're done and get to quote / unquote compliance
19 questions to maybe have a follow-up to this, across
20 the hall or in here, to try to talk to staff and some
21 of the applicants to talk through some of the
22 compliance issues. Assuming the compliance issues
23 aren't – you know, we're talking more about
24 implementing the decision than actually things
25 addressed in the decision.

1 MR. KNAPP: I would agree that would be a
2 great idea. Maybe that would be the appropriate
3 forum for us to describe in more detail the backup
4 documentation that we'll be seeking.

5 CHAIRMAN WEISENMILLER: Okay.

6 HEARING OFFICER RENAUD: What I'm thinking
7 right now is to maybe put an end date, an outside
8 maximum date, like the end of November but make that
9 subject to earlier payment as if the payment came
10 through earlier than that's when the interest accrual
11 would stop.

12 CHAIRMAN WEISENMILLER: Okay. That's good.
13 We can think about that, certainly.

14 MR. PIERCE: Our only – Brian Pierce from
15 Energy Pros. Our only concern would be the review
16 time period. We understand the four day process and
17 that's – we're more okay with that. Our concern would
18 be how difficult the review process is in going
19 through the review and if that just drags on and on.
20 I'm not saying that it will but it's an uncertainty.

21 COMMISSIONER PETERMAN: Did you hear the
22 Hearing Officer's proposal? So the proposal being a
23 date such as, for example, end of November or
24 something like that, or earlier if the payment is
25 received earlier to allow sufficient time in case the

1 review takes longer which I greatly encourage staff to
2 let it not but perhaps we can adjust that after. But
3 appreciating that concern.

4 CHAIRMAN WEISENMILLER: Again, I would tend
5 to suggest some afterwards conversation because I'm
6 assuming the more – the more information is what the
7 staff needs, the faster it's going to be but the more
8 everyone is very clear on what the information is,
9 again, that's going to process things. So, again,
10 would encourage that sort of dialogue after the
11 hearing is over.

12 Our next speaker will be Ray Walp from Cal
13 Green Team, Inc.

14 No? Okay. So any other interveners for –
15 Sorry, Ray. I'll turn the mic over to other
16 interveners and then you'll have your turn first after
17 that. Is there any interveners in the room or on the
18 phone that you'd want to go next?

19 HEARING OFFICER RENAUD: There's only the
20 two. Energy Saving Pros and Solar Point.

21 MR. 'H': I have a comment.

22 CHAIRMAN WEISENMILLER: Would you identify
23 yourself?

24 MR. 'H': My name is William H. I don't
25 care to give my last name and I've sent you an email,

1 a long email, about the situation which is also
2 supposedly posted on the website and did you get a
3 chance to look at that email?

4 CHAIRMAN WEISENMILLER: Yes but, again, at
5 this point you're certainly happy to go through and
6 describe things but I'm asking if there's any formal
7 interveners in the case, it doesn't appear to be the
8 case that want to speak next.

9 MR. 'H': All right. I will go on mute
10 until it's time.

11 CHAIRMAN WEISENMILLER: Okay. Thank you.

12 MR. 'H': Thank you.

13 CHAIRMAN WEISENMILLER: So, again, if all -
14 any interveners? And, if not, Mr. Walp, do you want
15 to go forward?

16 MR. WALP: I'm Ray Walp. I'm the CEO of the
17 California Green Team. We have a little bit of a
18 unique situation that hasn't been addressed in this
19 resolution.

20 RIs, in general, have been addressed. We
21 only have RIs and we have approximately \$245,000 in
22 expenses. And the consensus so far is that if you
23 only have an RI you don't have any expenses. You
24 shouldn't have gone on with the project and therefore
25 put you under the buses, so to speak. We don't really

1 care about your RIs.

2 So what I'd like to do is specifically
3 address those RIs, how they came about and how the
4 expenses came about.

5 We were called up about four hours prior to
6 the deadline to have the RIs submitted under the old
7 program so if put your RIs in they're going under the
8 old program. No reason to expect that you're not
9 going to get an R2 since the program reopens, proceed
10 with your projects. And that's exactly what we did.

11 Normal course of business is you go out and
12 sell the product to somebody. You take their money.
13 You go buy the products you need to make the
14 installation. You go make the installation.

15 It takes a period of time just for – by way
16 of real quick example, in Kern County we've gone the
17 route of, instead of individual permits, we've gone
18 the route of getting a standard permit which costs a
19 lot of extra engineering. And when we do an install,
20 whether it's a Windspire, DyoCore or whatever, we have
21 a standard permit for that. We go down to the County,
22 put it across the counter, give them some money, they
23 hand us a permit and we start the project.

24 So we have several projects, four projects
25 completed, several we've put kind of a half to and we

1 put all of the expenses out for all of the projects.
2 Upfront.

3 We were told by James Lee on numerous
4 occasions because we were very concerned that
5 something may take place and us not get an R2 and not
6 get reimbursed. And we were assured to proceed with
7 your projects. So what my proposal is, basically, and
8 I'd like to read the Word document. It's only three
9 pages that summarizes everything in this but -

10 CHAIRMAN WEISENMILLER: That's fine. But
11 one clarifying question. Who, precisely, called you
12 and gave you the assurance?

13 MR. WALP: We called James Lee here at the
14 CEC.

15 CHAIRMAN WEISENMILLER: Okay.

16 MR. WALP: It summarizes everything we've
17 done and why we've proceeded with the R1s and
18 justifies, I've got supporting documents that
19 justifies the \$245,000 that we have extended in these
20 projects so with your permission I'd like to read
21 this.

22 CHAIRMAN WEISENMILLER: Go ahead. Although,
23 obviously, we have the document in front of us too.

24 MR. WALP: Okay. I kind of wanted everybody
25 to hear this. Not everybody has this document.

1 What the Green Team would like to suggest is
2 that our specific case of these R1s and our expenses
3 be included in the same formula that the R2s have been
4 agreed upon.

5 Most people with R1s, we understand, have
6 not received an R2 and proceeded to their
7 installations so most people do not have an enormous
8 amount of expenses associated with an R1. We do have
9 enormous expenses associated to the R1 and this will
10 cause our company to go bankrupt.

11 So we've already laid off four employees.
12 We're down to the CEO and the Administrative Officer
13 installing and doing repairs. So this is not a good
14 thing. All right.

15 Submission of Request for Exception

16 It is CaGreenTeam, Inc. belief that the CEC
17 should stand by the guidelines that were in place when
18 we sold the (10) systems and properly submitted the
19 (10) R-1's in question.

20 We propose 2 options:

21 Make some amiable compromise to all parties,
22 Including those with only R-1 Submittals.

23 CaGreenTeam be included under the guidelines
24 of the CEC Recommendation with R-1 or R-2 submissions

1 considered the same.

2 We request that when the ERP is re-instated,
3 that all new installations using Dyocore systems be
4 given 120 days from the date DYOCORE is relisted vise
5 from the date ERP Begins at the \$3.00/watt rate.

6 On Friday March 4, 2011 we were notified of
7 the suspension of the CEC rebate program with about
8 four hours notice. With many phone calls and much ado
9 we successfully submitted (10) R1's for customers that
10 had made contract commitments - I'd like to state that
11 a contract commitment means that we've given them a
12 price, taken their money, handed them a contract and
13 agreed to install the system. So we have a legal
14 binding agreement to go install these systems. - for
15 us to install DyoCore Systems. All indications were
16 that by doing so they would proceed under the current
17 printed guidelines and dates published by the CEC. We
18 then proceeded as we had in the past with obtaining
19 permits and net metering applications, etc. We had
20 already taken deposits from all our customers in good
21 faith and as is customary with any contract. We
22 proceeded as normal to purchase equipment and to
23 complete 4 installations.

24 We had no commitments for our Windspire

1 units at this time; however, suspension of the ERP has
2 stopped the installation or sales of those as well.
3 This stopped our company dead. This caused us to keep
4 5 Windspire systems in storage awaiting the CEC
5 decision to reopen the ERP at an upfront cost of
6 \$26,700.00 to CaGreenTeam, Inc.

7 As in any industry, timing is critical for
8 costs. What I mean by that statement is if you don't
9 buy that equipment now at the price you've quoted to
10 the customer, if you wait six, eight months to go buy
11 that equipment very likely the equipment costs more
12 and your profit is gone. When we gave our sales and
13 contract pricing it was based on the current price and
14 availability, including the current ERP Rebate. Even
15 though the ERP was designed to assist in cost going
16 down for the end user, installations that do not
17 proceed in a timely manner will assuredly go up for
18 the dealer and at times for the end user.

19 Though it seems small in the grand scheme of
20 things, we are a small company with only 10 R-1's
21 submitted, CaGreenTeam does not believe in selling
22 something we do not have, and with that in mind, used
23 all available money including all deposits placed with
24 us to purchase the equipment needed for our

1 commitments. Without the rebates processed for these
2 10 jobs, our company is in danger of Bankruptcy. We
3 have lost the momentum for selling wind systems and
4 our investment in community events, advertisements and
5 potentially hundreds of customers who have lost faith
6 in our company as well as the Government's promises
7 for assistance with people who are willing to purchase
8 renewable energy. We now have customers wanting to
9 take us to court or have their money returned,
10 including some installations that have been completed.
11 Our costs for these 10 systems have been \$156,981.00
12 so far, and upon completion of all 10 installations
13 will not provide a profit for our company. Our
14 expectations were to profit from additional
15 installations, pointing to these installations as
16 examples.

17 We believe in the intention of the ERP and
18 were aligned with the CEC and its stated goals.
19 CaGreenTeam had no thoughts of abusing the system and
20 has been installing wind systems for more than 5 years
21 in our community. We have complied with all
22 requirements and suggestions by the CEC. We have
23 trained installers. The CaGreenTeam is comprised of
24 community leaders that have been business owners for
25 generations in this area and have reputations of

1 honesty and for treating people right to uphold. This
2 action is greatly damaging all aspects of our
3 ingrained integrity.

4 CaGreenTeam typically installs wind power
5 from beginning to end in the following manner: We
6 advertise, go to community events, hold seminars at
7 the community college and man vender booths at home
8 shows, green energy building committee meetings and
9 meet with our potential customers for a benefit and
10 cost analysis. Then we check the available sites and
11 make suggestions for where to place which one of our
12 products. (There have been many cases where the
13 customer has asked for a wind product and it just is
14 not feasible at their location, therefore we have
15 turned down their business.) We then return to the
16 potential customer with a contract of the agreed upon
17 product and a cost of the installed product. We take a
18 deposit and purchase all needed equipment for the job
19 and submit for an engineering plans of the proposal.
20 After engineering, we submit a request for permit to
21 the county and wait for an approved permit. Which, as
22 I stated, is usually across the counter these days.
23 At this time we submit to the CEC a R-1 application and
24 to the utility company a request for Net Metering.

1 When we have the equipment needed for the Job, we
2 schedule the installation. A typical installation of a
3 DyoCore System takes about 80 man hours, A Typical
4 installation of a Windspire System about 160 man
5 hours. If we have everything needed, we may start the
6 installation in as soon as 3 days after a deposit
7 which is where we got in trouble with this. We receive
8 payment in full upon completion; therefore have a
9 vested interest in completion in a timely manner.

10 We are a small company and the results of
11 our R1's simply being tossed out without further
12 consideration will be devastating (and likely bankrupt
13 our business) both to us and our valued customers,
14 (some who took out loans or charged a credit card for
15 their systems) and the small wind industry in general
16 as well.

17 CaGreenTeam has lost many employees that
18 were highly trained. We sent our employees to Reno
19 and we also sent them to San Diego, at our expense, to
20 get trained. After the program resumes we will have to
21 begin as a new company would, and retrain new people
22 and hire new employees at our expense if we have the
23 jobs for them. This is a very expensive hidden expense
24 not accounted for in the suspension of the ERP.

25 We submit the following documents that

1 provide an explanation to account for the for
2 \$113,743.00 in equipment, \$73,200 taken in Deposits
3 and \$53,865.00 in hard costs for the 4 installations
4 completed, with the justification of \$201,600 in
5 Rebates expected to be paid to our customers. As can
6 plainly be seen, our expected Profit is figured into
7 the next few installations, not in the ones already
8 completed, thus even if paid in full for all
9 investment up to this point we are still at a no
10 profit situation. I go onto list where these numbers
11 came from.

12 1. (10) pages of Project Cost per customer
13 that's associated per R1 totaling before installation
14 \$131,612.00 so far.

15 2. (1) page Stock purchased and stored in
16 the shop totaling \$245,355.00.

17 3. (1) page showing total hard costs for the
18 4 systems that we've installed and total \$73,200 in
19 deposits taken.

20 The following Qualified Installers have
21 moved on to other jobs, or remain unemployed, after
22 full training at CaGreenTeam's Expense:

23 Ray Lara, Eddie McBride, Bill Walsh and Dave
24 Thompson. These were all people we trained and spent
25 a lot of money to get trained.

1 Potentially many thousands of Installations
2 we were near Guaranteed and in progress of at the time
3 of suspension of the ERP program will probably go
4 away. These are from entities such as the California
5 School systems, Department of transportation, several
6 churches in our area and a "chain" Gas station
7 covering 3 states (name can't be put into public
8 record). They are most likely not going to trust and
9 believe in the CaGreenTeam's ability to provide
10 products to them. We understand this is not the
11 intention of the ERP or CEC and hope the outcome of
12 this request will benefit our goal of renewable energy
13 and a greener planet.

14 My request is that our little 10 installs be
15 considered separately. I understand that you can't
16 take every R1 that has been submitted and make
17 payments on it but there are other people, I'm sure,
18 that have R1s and some expenses associated with them
19 and I think those should be a high priority for
20 consideration.

21 I'm open to any questions that anybody would
22 like to ask.

23 CHAIRMAN WEISENMILLER: Okay. The key
24 question, is your company in any way affiliated with
25 DyoCore?

1 MR. WALP: No. They are one place we buy
2 equipment from.

3 CHAIRMAN WEISENMILLER: Okay. Well,
4 certainly thanks for being here. Carla?

5 COMMISSIONER PETERMAN: I don't have any
6 questions for you, sir, at the moment. Thank you. I
7 would appreciate it if staff would just take a second
8 to explain for everyone's benefit what an R1 is versus
9 an R2. Thanks.

10 MR. KNAPP: Of course. So the R1 is a
11 request for reservation of rebate payment under the
12 ERP program. The request is submitted by the
13 applicant. It's only at the stage of the R2 that the
14 Commission takes any action on that request.

15 At that point, when the R2 is issued, the
16 funds are encumbered for the particular application,
17 the particular installation. And historically, in the
18 context of the program, that is the point at which
19 distributors, retailers or customers move forward with
20 installing their system.

21 So in the context of Mr. Walp's comments,
22 this seems like a very unfortunate situation and the
23 staff's proposal that we put forward very much
24 reflects empathy with the situation of small
25 businesses that have been effected by the DyoCore

1 matter. We feel that it's the fairest and most
2 reasonable solution to this issue to address their
3 concerns, the concerns of these small businesses,
4 insofar – but it is fundamentally based upon the
5 distinction between the R1, the request, for rebate
6 reservation versus the R2 which is the action, the
7 point at which the Commission acts and accepts that
8 request.

9 As the proposal as written and before the
10 Commission today addresses R1s but to the limited
11 extent if there was a complete R1 that was submitted
12 before the program suspension that it would be given
13 preferential treatment when the program restarts.
14 That's the extent to which it currently considers R1.

15 COMMISSIONER PETERMAN: Thank you for
16 explaining that. I think it'll help to make sure
17 we're all on the same page.

18 MR. WALP: I'd like to respond to that if I
19 may.

20 COMMISSIONER PETERMAN: We usually have
21 about three minute comments but I appreciate you
22 wanting to read your statement into the record and we
23 have a number of other people who want to comment.
24 Sorry, Chair, to interject there but.

25 MR. WALP: Okay. May I speak? Okay. The

1 reason why our R1s are different than the normal way
2 of flowing into the business, I understand, we all
3 understand that R2s is encumbered into funds; the
4 reason it was is that we were told by James Lee and he
5 had no reason to believe otherwise, that there was no
6 problems with our R1s. They would be approved and we
7 were told to proceed with our projects. That's what
8 makes these different.

9 CHAIRMAN WEISENMILLER: Okay. Thank you.

10 Let's go onto to Brian Pierce, Energy Pros.

11 MR. PIERCE: I have nothing at this point.

12 CHAIRMAN WEISENMILLER: Okay. No actually we
13 have more. So we have, in terms of in the room, I
14 believe we have two more requests. Mickey Oros from
15 Altergy. You pass. Okay. Terry Carlone? Pass.
16 Okay. So now onto the - I believe we're onto the
17 phones. So on the phones I've got three more
18 requests. Steve Smith from GridNot.

19 MR. SMITH: Hello. Are we on?

20 CHAIRMAN WEISENMILLER: Yes. Are you Mr.
21 Smith?

22 MR. SMITH: Yes. It's Steve Smith from
23 GridNot Corporation. I'm the President. I have with
24 me Eugene Buchanan, the Vice President of the
25 Corporation, and our response actually coming in with

1 Ray Walp's as he gave a very good dissertation on just
2 exactly how the R1s do tie into the R2s. Similarly,
3 we had to take our R1s and send them in with one hour
4 of time limit when we found out that there was going
5 to be the big cutoff.

6 We have a number of R1s similar to Ray's
7 except we have 10 times as many so we feel 10 times
8 the damage. We have a great deal of money outlaid to
9 generate and produce R1s. R2s are the culminative end
10 to what an R1 becomes after it's approved.

11 MR. BUCHANNAN: And our R2s were suspended
12 before we even got - before the March 4. We stopped
13 receiving the R2s.

14 CHAIRMAN WEISENMILLER: Stop. There was a
15 problem on the audio.

16 MR. BUCHANNAN: Essentially, we stopped
17 receiving R2s before even the March 4 suspension.
18 There was a question between David Raine and us of if
19 they would support our warranty because we had
20 discussed about problems that we had faced with the
21 DyoCore product. And at that point we had received a
22 call from James Lee and all of our further R1s were
23 stopped processing from that point forward. We
24 stopped receiving R2s even before the March 4
25 shutdown. So we basically are in a very much similar

1 position to what Ray Walp is in. We've incurred
2 tremendous reputation loss, tremendous economic loss
3 through the generation of these RIs and then not to be
4 included in our ability to recoup some of the loss
5 that we received does not seem fair.

6 MR. SMITH: We had 40 salesmen -

7 CHAIRMAN WEISENMILLER: Wait, wait, wait.
8 The two of you are talking at various times and it's
9 impossible for the recorder to keep track of who's
10 talking so as each of you talks would you identify
11 yourselves first?

12 MR. SMITH: Yeah. I'm Steve Smith and
13 Eugene is talking now.

14 CHAIRMAN WEISENMILLER: And, for the
15 reporter's benefit, do you have Eugene's full name?
16 Okay. You do. Okay. Go ahead, Eugene.

17 MR. BUCHANNAN: Yeah. We called in on one
18 line. My full name is Eugene Buchannan.

19 MR. SMITH: And he's the Vice President of
20 GridNot.

21 CHAIRMAN WEISENMILLER: Okay. So go ahead
22 but, just as I said, if either one of you speaks
23 please start out by, for the Court Reporter, by first
24 saying who it is.

25 MR. SMITH: So, essentially, very similar to

1 Ray, we've been damaged with the RIs and we even have
2 a different scenario of when our RIs were actually
3 suspended processing before even the March 4 cutoff
4 and we have email trails that show this with James Lee
5 and Sarah. Essentially talking about an issue that we
6 had with David pulling the plug on our ability to
7 market with his product because of the fact that, I
8 believe, at the point we had turned in several hundred
9 applications and it became a contention point with
10 them at some point. And there was negotiations were
11 David Raine had denied that he would issue us
12 warranties for the products that we had attempted to
13 sell. It was basically a dispute over distribution
14 rights and us paying him money for those rights,
15 essentially. And that suspended our processing of our
16 RIs of which we've already incurred tremendous debt in
17 the training of people and development of an
18 installation company to be able to perform upon all of
19 the contracts that we had developed. Which before the
20 March 4 suspension was about 1,100 total. And, of
21 which, we received 703 confirmed back from the state.

22 CHAIRMAN WEISENMILLER: Okay.

23 MR. BUCHANNAN: Normally the state should
24 come up with a way of potentially helping the small
25 company in California who is following the ERP

1 Guidelines and the legislative intent that's put
2 before us and who are now here in severe damage and
3 facing similarly bankruptcy of our company because of
4 the results of the actions of what the CEC did in
5 order to handle those scenarios that were given to
6 them.

7 CHAIRMAN WEISENMILLER: Okay. So two
8 questions. Is there any financial relationship
9 between you and DyoCore?

10 MR. SMITH: No. This is Steve Smith,
11 President. No.

12 CHAIRMAN WEISENMILLER: Second question.
13 Have you submitted to the staff any evidence on first
14 your basis for your reliance and then second on your
15 expenses or cost?

16 MR. BUCHANNAN: Well, so far you've only
17 given us - this is Eugene. You've only given us the
18 option to submit incurred costs against R2s that were
19 issued to us but the majority of our business which
20 were R1s that were generated, the 1,100 that I'm
21 talking about; you have not provided us with a cost
22 basis to submit against those. We are counting and
23 legal staff is working on the metrics and the data you
24 need from us to show damages from the R2s that were
25 submitted to us but where we are is still a concern of

1 the 1,100 RIs and the damages that have incurred from
2 the generation of those and the subsequent engineering
3 and construction costs and the training of staff and
4 so forth and so on.

5 CHAIRMAN WEISENMILLER: Okay. I was just
6 trying to get to – you had said initially that you
7 were in a situation, let's say, identical to Ray's and
8 Ray had talked about having some assurance from the
9 staff going forward. I'm trying to understand if you
10 had any such assurance.

11 COMMISSIONER PETERMAN: Also, this is
12 Commissioner Peterman, appreciate you clarify
13 specifically when you're referring to the RIs. We're
14 focused here on this particular complaint and so
15 please keep your R1 comments focused to those that
16 relate to the situation versus the other situation
17 which you were in regarding warranty. You have a
18 unique situation because this is an issue about
19 warranty issues that came up outside of this matter
20 and then there's the RIs associated with this matter.
21 You mention the 1,100. Which of those were tied to
22 the warranty concerns versus the complaint itself. I
23 think that would help clarify for the other
24 Commissioners how this is similar to the concerns that
25 have been raised by Mr. Walp, excuse me, sir.

1 MR. BUCHANNAN: Okay. Very good. I can
2 answer that question. Essentially that was resolved
3 and we have it in email from James Lee that if we were
4 a company and we could buy the product from one of
5 DyoCore's distributors and that DyoCore distributor
6 would carry the warranty that we'd be able to continue
7 forward with our business and our R2s would be issued
8 to us because we're operating underneath the normal
9 auspices of business. We were able to buy the product
10 from a distributor. The warranty issue was about the
11 fact that we weren't going to be a DyoCore distributor
12 and he wouldn't warranty to us but we resolved that by
13 buying the product from a distributor who would have
14 the warranty over the product and, essentially, paying
15 more for the product so that we were not a
16 distributor; that we'd pay for that warranty through
17 the distributor. The warranty issue was resolved
18 through James Lee and that was recorded in the email
19 that we responded back to. So, in fact, that warranty
20 issue was just an issue that DyoCore raised with the
21 fact that they were trying to corner us into a
22 distributorship agreement which we did not agree to.

23 That issue was resolved and James Lee said
24 that we should have R2s issued but no further R2s were
25 issued from that point until the suspension of the

1 program.

2 CHAIRMAN WEISENMILLER: Okay. Thank you.

3 Next speaker, Lloyd Yoder from Lloyd's Electric.

4 MR. YODER: Hello. My name is Lloyd Yoder
5 from Lloyd's Electric. I have - hello? Are we there?

6 COMMISSIONER PETERMAN: We're hearing you.

7 CHAIRMAN WEISENMILLER: Yes.

8 COMMISSIONER PETERMAN: Excuse me. I think
9 we've got still representatives from GridNot on the
10 line. Did you have a final statement there that you
11 wanted to say and then we'll have to mute you so we
12 can hear our next speaker? So Mr. Lloyd, I forgot
13 your surname, can you hold on for a second?

14 MR. YODER: Sure.

15 MR. SMITH: Essentially, it's a similar
16 issue to Ray.

17 CHAIRMAN WEISENMILLER: Okay. Let's go on
18 to Mr. Yoder.

19 MR. YODER: Okay.

20 CHAIRMAN WEISENMILLER: I think.

21 COMMISSIONER PETERMAN: Please.

22 MR. YODER: My question is about the
23 mechanics of the agreement. I have two projects that
24 this falls under and one of them is completed and has
25 an R2 and a payee request in the queue. The other one

1 is almost completed when I got word that the
2 Commission filed a complaint against DyoCore and I
3 stopped all work on it.

4 The question that I have is how exactly can
5 I complete that project? Do I – I guess, how do I go
6 about doing that? If I don't complete the project I
7 need to remove, according to contractor state law –
8 California contractor state law, I have to remove all
9 of the equipment and put that project back to the
10 condition that it was in before I started the work. I
11 was just wondering how do we go about doing that?

12 CHAIRMAN WEISENMILLER: Mr. Knapp, do you
13 have any guidance for him?

14 MR. YODER: I'm not hearing anybody.

15 MR. KNAPP: Hello, sir. This is Jonathan
16 Knapp from the Energy Commission, Staff Counsel. So
17 staff is not recommending that installations go
18 forward and be completed. The proposal for resolution
19 of these outstanding applications and payment requests
20 is predicated upon a cost incurred up until this date,
21 up until the current time. So with respect to your
22 issue, are you asking – is it a payment issue? Are
23 you asking if there's a way that the work to remove
24 the turbines can be reimbursed and to repair the home
25 or business to the state it was in prior to

1 installation? Is that the question? If that work can
2 be reimbursed under this formula?

3 MR. YODER: Yes. That's what we're
4 wondering.

5 MR. KNAPP: So as it stands now, that's not
6 included in this formula but what is is that the cost
7 for – the purchase of the – the different cost
8 categories are enumerated in the Committee's
9 recommendation and are encompassed by the formula. In
10 your instance, is it an individual residence that's at
11 issue?

12 MR. YODER: Yes, it is.

13 MR. KNAPP: Well –

14 COMMISSIONER PETERMAN: Have you submitted
15 written comments, sir?

16 MR. YODER: No, I have not.

17 COMMISSIONER PETERMAN: Just from listening
18 up here, it sounds like this might require a little
19 bit more information for staff to give you an
20 immediate response now. So I would ask that we make
21 sure that we get your contact information and include
22 it in the number of the applications that we need to
23 follow up on, at least in the onset, unless staff
24 wants to hear again what the concern is.

25 MR. KNAPP: Well, I guess my only question

1 would be is this an instance in which the consumer has
2 requested for it to be removed? And, if so, then I
3 would understand that to fall on the distributor or
4 retailer to do so.

5 MR. YODER: Not at this point but if I do
6 not complete the contract as signed then I have to,
7 according to state law, I need to put the project back
8 to the condition it was before I started.

9 MR. KNAPP: This is Jonathan again. I would
10 like to take Commissioner Peterman's suggestion and
11 speak with you afterwards regarding this issue.

12 MR. YODER: Okay. I had another question.
13 It's more related to consumers and how this decision
14 will affect them as consumers and the rebate program.

15 Anybody that's getting reimbursed, will they
16 still be eligible for future rebates under the
17 program?

18 COMMISSIONER PETERMAN: Give us a second.
19 We all have to get to a microphone, sir.

20 CHAIRMAN WEISENMILLER: We have to huddle.
21 So hold on a second.

22 COMMISSIONER PETERMAN: We're still here.

23 MR. YODER: Okay.

24 MR. KNAPP: Yes, sir. So each location that
25 applies for a rebate under the ERP has a 30 kW cap in

1 total so to the extent that the individual consumer
2 has received a payout under the proposed formula for a
3 system of a certain site than that cap would be
4 impacted. So they could still come in the program at
5 a later date but they couldn't, in the aggregate,
6 exceed the 30 kW.

7 MR. YODER: But what they've paid for to
8 date would be included in that?

9 MR. KNAPP: Yes. Certainly.

10 MR. YODER: Okay. That's just the question
11 I had.

12 MR. KNAPP: Sure.

13 MR. YODER: That's it for me.

14 CHAIRMAN WEISENMILLER: Okay. Great. I
15 think we have William Hampton on the line.

16 MR. HAMPTON: Hello?

17 CHAIRMAN WEISENMILLER: Is this Mr. Hampton?

18 MR. HAMPTON: Yes.

19 CHAIRMAN WEISENMILLER: Okay. Please go
20 forward. Why don't you identify yourself and then go
21 forward.

22 MR. HAMPTON: Okay. I'm William Hampton.
23 I'd like to quickly read the email that I sent to you
24 at the Commission and then I have some other questions
25 if I may do so.

1 CHAIRMAN WEISENMILLER: Again, we're running
2 pretty late so if you could summarize the email and
3 assume we have the email, that would be -

4 MR. HAMPTON: I want the public to hear it.

5 CHAIRMAN WEISENMILLER: Well we will post it
6 certainly.

7 MR. HAMPTON: Okay. Well. There was one
8 error in it. The original cutoff date was April 6,
9 that was the original cutoff date, but it was March 4
10 that they raced this thing through and cut it off.
11 It's in the email, how frustrated we were and actually
12 shocked that you did this.

13 I'm speaking for everyman out here. I go to
14 the Community Centers and there's a number of people
15 who here in the desert where I live, you know, in
16 Joshua Tree, that are pretty - are wondering what's
17 happened to their applications that were sent in. One
18 of the reasons that you're claiming that you should
19 reject applications is because if you cut something
20 off so fast that the people had to grab the papers and
21 go to FedEx to send it to you, yes. Errors can be
22 made.

23 I'd like to ask number 1, why would you
24 reject anyone rather than sending the applications
25 back to the people and saying you need to correct this

1 or that? Rather than throwing them out. How many did
2 you have? 651 or so that you're going to reject.

3 CHAIRMAN WEISENMILLER: You have to remember
4 that we have an obligation to make sure the funds for
5 the state are sent effectively and so to the extent
6 that there was a question about that, we needed to
7 take a break and make sure that funds we were
8 reimbursing we're being effectively spent.

9 MR. HAMPTON: Well, I was in contact with
10 Mr. James Lee and you'll see in the email that I got
11 different answers at different times. The people
12 should have the right to appeal. And if this happens
13 to me, I'm going to do something about it. I've gone
14 to my State Senator's Office. I've gone to my State
15 Assemblywoman's Office. They, at the State Senator's
16 Office, are saying they're apologizing to me as an
17 applicant for this delay which actually would have to
18 be you. But my State Senator's Office has really been
19 helpful in this.

20 I just think that there's a lot of - now
21 you're talking six months waiting time just for the
22 program to start up again. Why six months?

23 COMMISSIONER PETERMAN: Let me step in here,
24 sir. First of all, thank you for calling in and your
25 comments. I think just a misinterpretation. The

1 Guidebook does not – we’ll be addressing that in
2 another matter but it’s not a six month delay for
3 starting the program. The program will be started
4 once we adopt the Guidebook and reopen the program.
5 So it’ll be sooner than that.

6 Again, I want to echo the Chairman’s
7 comments that this entire time we’ve been concerned
8 with getting the program restarted in a way that
9 really meets the intent of the program as well as gets
10 customers investing in renewable energy; and that is
11 very important to us. We’ve kept the customers and
12 the ratepayers truly in mind as we’ve been proceeding.
13 And it has taken awhile and that is unfortunate but
14 that’s the time that’s been needed to do the due
15 diligence on this matter effectively.

16 MR. HAMPTON: Okay. I’m probably speaking
17 for other people but we still don’t like the way
18 you’ve handled is. I’ve asked for a full accounting,
19 under the Access to Public Information, and that means
20 all the monies. All the interest. Where all of this
21 has gone with the legal fees taken out of our trust
22 and, this is what this really is, we’re the
23 beneficiaries and you’re the trustee and we’re the
24 trustor. It appears to me that’s money been given, I
25 believe, by the utilities in California. So that is

1 going to answer some questions.

2 But I want to tell the people, whoever, we
3 need to contact each other and that's why I'm also
4 asking for a list of those names of those who would
5 want the applicants to contact each other, of course
6 some may not, so we can talk about this and we can
7 network with this. Because we're just not happy.
8 That's my purpose of my telephone call.

9 CHAIRMAN WEISENMILLER: Okay. Well, we
10 certainly do thank you for your comments today. Do we
11 have anyone else on the line?

12 Okay. Now I promised Mr. Raine an
13 opportunity to respond particularly to the staff's
14 comments. Hang on, one second. We have one more in
15 the room.

16 MR. OROS: I'm sorry, Chairman. But I just
17 believe, for the record, I should as long as we're on
18 Item 15, I would have addressed it in the 16 but if
19 you'll give me just a minute.

20 COMMISSIONER PETERMAN: If it relates to 16,
21 let's leave it in 16.

22 MR. OROS: No, actually. This relates to
23 15. That's the only reason that I'm here on the
24 floor.

25 CHAIRMAN WEISENMILLER: Okay.

1 MR. OROS: Excuse my ignorance, but if the
2 CEC is anticipation covering losses by those who were
3 fleeced by DyoCore and you agree with the parties that
4 just spoke, I believe this complaint even goes over to
5 the fuel cell.

6 We're all part of the ERP Program and it's
7 part of that. And my comment is, and I'm going to
8 take a little bit of the wind out of what I had to say
9 later, but when the Commission announced that
10 announcement on March 4, the program to be suspended,
11 was only to be for 60-120 days. We had no choice to
12 accept the suspension due to the violations by the
13 wind industry and not fuel cells.

14 When an additional 4 ½ months passed it
15 bordered on absurdity. While the staff continued
16 drawing paychecks for 8 ½ months the suspension
17 wreaked economic havoc and 33 percent job loss in our
18 firm alone and a revenue loss in contract of \$75
19 million.

20 If there is and you're looking towards doing
21 something with DyoCore I think you might throw the
22 fuel cell industry on top of that. So that's my
23 comment. I just wanted to make it on the record. And,
24 excuse me, my name is Mickey Oros. I'm Senior Vice
25 President at Alteryx Systems. Thank you.

1 CHAIRMAN WEISENMILLER: Thank you. Mr.
2 Raine, again, briefly responded and particularly we'd
3 like your response to staff's point on R2s. Do you
4 have any R2s at this time?

5 MR. RAINE: No. DyoCore does not have any
6 outstanding R2s at this time.

7 COMMISSIONER PETERMAN: So could you just,
8 then, revisit your comments from when you started. I
9 think that's what a little confusing to us. When you
10 start talking about some of the issues with the R2
11 formula and how that effects your ability to go about
12 doing necessary business as you stated.

13 MR. RAINE: Yeah, absolutely. It's really
14 more the wording but my response was specific to
15 Jonathan (indiscernible) don't have it here but on the
16 side of the CEC counsel to make specific statements
17 that are (indiscernible) on the exact comments that
18 Mr. Mickey Oros had in which the program was fleeced
19 by DyoCore and in violation of the wind industry.
20 That echoes the very comment that I originally started
21 with, that everybody has found DyoCore guilty
22 (indiscernible) that you're doing right now in the
23 wording that those actions are implemented further
24 implicates guilt on DyoCore's part.

25 And it couldn't be farther from that fact.

1 I absolutely agree with him. The industry has been
2 crippled and initially the meeting we had back in
3 March, we were the first ones to stand up and say the
4 two should be separate. I know how much damage has
5 occurred to them because the same damage has occurred
6 to us. Millions of (indiscernible). The amount of
7 damage caused by our distributor (inaudible) in here
8 is a direct (inaudible) calling in about.

9 Those people who have RIs have them in good
10 faith and in good standing based on comments made
11 specifically by CEC personnel. CEC personnel made
12 specific claims that those were valid reservations
13 that would be processed throughout this entire
14 process, all the way up to even our company DyoCore
15 receiving rebates back on reservations as late as mid
16 part of July.

17 There was no contention or statements made
18 by the CEC that they were not going to honor those RI.
19 In fact, it was quite the opposite both written and
20 many oral communications both with our distributors
21 and with us directly with the CEC indicating as such.

22 I'll basically end with that. Thank you for
23 your time.

24 COMMISSIONER PETERMAN: I'll just say that
25 the, on behalf of the DyoCore community, we did

1 receive all of the public comments and different
2 party's comments that were submitted in advance of the
3 prehearing conference which lays out the various
4 concerns that we heard and we can't also sensor what
5 anyone says in our public comments. Again, with our
6 order we are not finding guilt. It's simply as stated
7 and this is the Committee's position and so we can't
8 speak for what everyone else says.

9 CHAIRMAN WEISENMILLER: Okay. We have one
10 last member of the public on the phone and then we'll
11 go on to the Commission discussion. Mr. Doug Hacker?

12 MR. HACKER: Hello. Thank you. I'd like to
13 put my pitch in, along with the others. We made a
14 determination that DyoCore was not a viable product
15 and we suffered by not selling it and having had no
16 income for the last eight months. And I wonder in
17 that case we too could get onboard with some special
18 consideration.

19 CHAIRMAN WEISENMILLER: Okay. Thank you for
20 your comments. I think we've now finished the public
21 comment section and ready to turn to the Commission
22 discussion.

23 COMMISSIONER PETERMAN: Hearing Officer?

24 HEARING OFFICER RENAUD: Well, just a
25 question that keeps coming back into my mind on these

1 RIs is the Committee recommendation says that the
2 complete RIs would be given priority in the queue when
3 the program restarts. Now why wouldn't that take care
4 of this? That the people who have the RIs such as
5 we've heard about even if they were told, "Don't
6 worry. You'll get your money." Or something along
7 those lines, get back in that queue and get processed.
8 I'd be curious to hear from staff if that's what would
9 happen or if the scenario is something else.

10 COMMISSIONER PETERMAN: Interested in
11 hearing just from Mr. Walp from that matter in
12 particular because I think he established a specific
13 example of this with staff.

14 MR. WALP: This is Ray. Okay, from my
15 understanding the RIs when they come back in, yes.
16 They'll go in front of the queue however we based
17 everything on a specific rebate amount and when they
18 come back into the amount we have an unlisted DyoCore
19 product, when it gets relisted the expectations is
20 probably 500 watts versus 1,600 watts. So the rebate
21 will be based on that. And, additionally, it will be
22 based on a lower dollar amount per watt. So rather
23 than a typical system that we would get \$14,000 as a
24 rebate, and that's what we sold these on, we would be
25 more likely getting a \$1,000 rebate on that same

1 system. So that's the issue. It should go – what
2 we're proposing is that it should be based on what we
3 were told at the time, what was in writing at the time
4 and what it was on the day we were assured to continue
5 with your installations.

6 COMMISSIONER PETERMAN: Thank you. And I
7 appreciate your comments. I appreciate that you also
8 appreciate the difference between the R1 and the R2
9 process. It's good to have a better understanding.

10 I would like to also make a comment because
11 there are a number of, in the public comments, about
12 how many people have been, perhaps, harmed by the
13 process, etc. Again, with the order, we do address
14 those applications that were submitted and various
15 parties, including the fuel cell industry, there were
16 no R1s submitted at the time, for example. And those
17 who did not put in any applications or use DyoCore
18 systems, you also did not have any R1s submitted. So
19 we're trying to keep the focus of the universe of this
20 within a certain reasonable realm and that's why,
21 again, there's a focus on only applications that have
22 been submitted. Not ones that could have been, should
23 have been or would have. But thank you for your
24 comments.

25 CHAIRMAN WEISENMILLER: Thank you. At this

1 point we're going to - All right. Jonathan?

2 MR. KNAPP: Well this is from staff's
3 perspective, we'd like to comment that given a lot of
4 the comments that we're receiving from individuals who
5 have been harmed I think it's imperative that we say
6 something on the record about the consumers and the
7 consumers that we've spoken with as part of our
8 investigation.

9 What we're hearing is that these systems
10 were misrepresented, in terms of what they could do,
11 and most instances are not generating any electricity
12 or generating very negligible amounts. That
13 completely contradicts what the representations were
14 made about the systems. If we proceed into
15 evidentiary hearing, we would welcome the opportunity
16 to present that information, the evidence to the
17 Commission directly, regarding misrepresentations
18 about DyoCore, about their system that were made to
19 the Commission directly and the misrepresentations
20 that were made to customers individually and
21 misrepresentations that were made across the board
22 about the performance of these systems.

23 The prehearing conference statement that we
24 filed exhaustively states all the reasons that the
25 information submitted by DyoCore, the listed DyoCore

1 turbine, with the Energy Commission were false, why
2 that data was false. It also exhaustively describes
3 KEMA's role in that analysis and the Energy Commission
4 Program Staff's in the receiving of that data and,
5 ultimately, the listing being published on the ERP
6 website.

7 Energy Commission staff are, in effect,
8 conceding that there's liability here with the R2s
9 without an evidentiary hearing out of a good faith
10 effort to see this program restarted, recognizing that
11 the small wind industry has been very harmed by the
12 activities that have gone on here and, specifically,
13 by the activities of DyoCore.

14 We feel - Energy Commission Staff believe
15 that it's imperative that for all the small businesses
16 and for the individual consumers that held R2s, that
17 had an approval from the Energy Commission to move
18 forward for a system that, albeit, we don't believe
19 would ever perform as advertised. We nevertheless
20 believe in the interest of the Energy Commission ERP
21 to intervene and to make these individuals - to be
22 able to pull them out of the financial situation that
23 they're in.

24 But what the comments that we're receiving,
25 I just wanted to respond to this notion that that in

1 means that we should be making payouts across the
2 board and I don't think that's appropriate. That's
3 not staff's position and, if anything, as we've said
4 repeatedly, staff welcomes the opportunity to go to a
5 full hearing and at that evidentiary hearing to
6 present the evidence that we have in our position.

7 CHAIRMAN WEISENMILLER: Thank you.

8 MR. KNAPP: I'm sorry.

9 CHAIRMAN WEISENMILLER: Go ahead.

10 MR. KNAPP: But with respect to Mr. Walp's
11 statement, all that we're saying, all that what he's
12 saying is if the rebate were paid accurately based
13 upon third party certification of the power curve as
14 will be required in the new edition of the ERP
15 guidebook, yes. The rebates would be dramatically
16 reduced and we can't even say that because we don't
17 know they work for certain. But to the extent that
18 they do work, I think everyone in this room would
19 agree that that rebate amount will be dramatically
20 reduced and, to the extent that Mr. Walp would be
21 harmed by that reduction, that's accurate. That's
22 just being accurate. That's paying for accurate rated
23 (inaudible). So it's unfortunate. We regret it but
24 that's the situation that we're in. And I'll conclude
25 my remarks with that.

1 CHAIRMAN WEISENMILLER: Okay. Thank you.
2 At this point we're going to go into Executive
3 Session. It's a good opportunity for people to have
4 lunch and we'll be back, I'm guessing, in an hour from
5 now. So thank you.

6 (Off the record for Executive Session at
7 1:10 p.m.)

8 (Back on the record at 2:23 p.m.)

9 CHAIRMAN WEISENMILLER: Okay. We've reached
10 a decision. Raoul, you want to read that into the
11 record?

12 HEARING OFFICER RENAUD: Yes. Thank you.
13 This will be the Commission Adoption Order. And it
14 will read as follows:

15 On November 2, 2011, at its regularly-
16 scheduled business meeting, the California Energy
17 Commission considered the recommendation of the
18 DyoCore Complaint Committee, as well as the staff's
19 comments on the committee recommendation and comments
20 submitted by interveners and members of the public.

21 The Energy Commission Orders as follows:

22 1. The DyoCore turbine is to be removed
23 from the "List of Eligible Small Wind Turbines" on the
24 ERP website.

25 2. DyoCore may apply for listing pursuant

1 to the requirements of the ERP Guidebook that is in
2 effect when the suspension of the ERP Program is
3 lifted and the program restarts.

4 3. The Commission takes no position on the
5 referral of this matter to the Attorney General on
6 this record.

7 4. The Commission accepts DyoCore's
8 stipulation that the data it submitted to the Staff in
9 connection with the listing of the turbine for use in
10 the ERP was inaccurate. The Commission acknowledges
11 that this is not an admission of wrongdoing.

12 5. The Commission finds that there is no
13 need to hold an evidentiary hearing. Accordingly we
14 dismiss the Complaint as moot. This is for purposes of
15 achieving a resolution of this matter and is not to be
16 construed as reflecting upon the merits of the
17 allegations of the complaint.

18 6. Pending applications for rebates for
19 systems using the DyoCore turbine shall be processed
20 as follows:

21 A. R1 Forms

22 i. All Incomplete Applications Shall be
23 Rejected

24 The ERP Guidebook. 10th Edition

25 provides that "[f]unding reservations are made only

1 for complete applications on a firstcome, first-served
2 basis. Applications that are missing application forms
3 or have omissions or discrepancies will not be
4 approved or processed." Thus, the Energy Commission
5 adopts the Committee recommendation that applications,
6 or R1 Forms, for small wind systems that use DyoCore
7 turbines which lack information necessary for
8 processing, or reviewing, and thus, are incomplete,
9 should be rejected.

10 There are currently 1,086 pending
11 applications for small wind systems that use DyoCore
12 turbines. Staff has determined that 631 of these
13 applications are incomplete. The other 455
14 applications have been deemed complete. The
15 Commission adopts the Committee recommendation that
16 the 631 incomplete applications be rejected.

17 ii. All Complete Applications That Identify
18 Small Wind Systems with DyoCore Turbines Should Retain
19 Their Current Place In the Queue For Consideration
20 Under the Eleventh Edition of the ERP Guidebook

21 The Commission orders that the 455
22 applicants whose applications have been determined to
23 be complete and which identify small wind systems that
24 use DyoCore turbines be given preferential treatment
25 by retaining their current place in the queue when the

1 program restarts provided that the applicants comply
2 with the requirements of the Eleventh Edition of the
3 ERP Guidebook. These applicants will be given
4 preferential treatment by retaining their place in the
5 queue for 180 days after the Eleventh Edition of the
6 ERP Guidebook is adopted. Applicants that fail to
7 reapply within this 180 day period by submitting a new
8 application, or R1 Form, in accordance with the
9 Eleventh Edition of the ERP Guidebook, will lose their
10 place in the queue and be treated as an ordinary
11 applicant should they choose to reapply at a later
12 date.

13 B. R2 Forms

14 i. R2 Forms issued to Distributors and
15 Retailers

16 With regard to R2 Forms issued to
17 distributors and retailers, the Energy Commission
18 adopts the Committee recommendation that the following
19 categories of actual and provable costs incurred as of
20 October 11, 2011, be reimbursed by the ERP:

- 21 • Equipment Turbine component costs.
- 22 • Installation and other related costs,
23 e.g., engineering, permitting, financing, electrical
24 component assembly, general administrative costs,
25 sales tax, and shipping.

1 • Staff compensation, e.g., management sales
2 staff, legal, accounting, and administrative
3 personnel. Management costs and salaries shall be
4 capped at 50 percent of all other costs.

5 • Fifteen percent overhead based on the
6 expected rebate level of the R2 Forms (as if rebates
7 for R2 Forms were paid in full).

8 • Five percent profit based on the expected
9 rebate level of the R2 Forms.

10 • A cap on the total payment so that it
11 cannot exceed what the Energy Commission would have
12 paid at the expected rebate level of 1.6 kW at 18 mph
13 winds.

14 Further, any actual and provable unavoidable
15 costs incurred until the claim is submitted or
16 November 15 whichever is sooner, e.g., accrual of
17 reasonable interest or finance charges, shall be
18 reimbursed pursuant to the above formula.

19 In the case of distributors and retailers
20 who were issued an R2 Form and assigned a rebate
21 payment for a small wind system that uses the DyoCore
22 turbine, yet ultimately decided to install a different
23 system and incurred costs toward the installation
24 prior to October 11, 2011, these applications shall be
25 processed pursuant to the Tenth Edition of the ERP

1 Guidebook.

2 ii. R2 Forms issued to End-Use Consumers

3 The ERP shall reimburse applicants who are
4 end-use consumers for actual and provable costs that
5 they have incurred for small wind systems that use the
6 DyoCore turbine.

7 The total sum that could be paid out to all
8 parties to a particular application, including end-use
9 consumers, distributors and retailers, shall not
10 exceed the rebate amount that was requested, based
11 upon a rated output of 1.6 kW at 18 mph winds for the
12 DyoCore turbine.

13 In the case of end-use consumers who were
14 issued an R2 Form and assigned a rebate payment for a
15 small wind system that uses the DyoCore turbine, yet
16 ultimately decided to install a different system and
17 incurred costs toward the installation prior to
18 October 11, 2011 , these applications shall be
19 processed pursuant to the Tenth Edition of the ERP
20 Guidebook.

21 C. Procedures Applicable to All Payments

22 i. Payment Subject to Approval by State
23 Controller

24 Payments under this Order shall be subject
25 to approval by the State Controller's Office.

1 ii. Requirements for Applicants before
2 Receiving Payment for R2 Forms

3 Applicants must satisfy the following
4 conditions before receiving payments pursuant to this
5 Order:

6 • Any applicant that is a distributor or
7 retailer must refund all deposits it has obtained from
8 end-use consumers prior to receiving payment for R2
9 Forms under the proposed formula.

10 • Applicants must execute a release
11 agreement that releases all claims against the Energy
12 Commission and KEMA, Inc. arising from the applicant's
13 involvement in the ERP.

14 • A distributor or retailer seeking
15 reimbursement pursuant to this Order must submit a
16 declaration in which it attests under penalty of
17 perjury that any payment that it receives under the
18 proposed formula will not directly benefit DyoCore,
19 its employees, managers, owners, investors, or any
20 other individuals affiliated with DyoCore.

21 • Applicants must submit backup
22 documentation for all claimed expenses associated with
23 the applicant's R2 Forms as follows:

24 o For materials and equipment, receipts or
25 other proof of purchase.

1 o For staff and consultants, copies of time
2 sheets showing hours associated with the R2 Forms or
3 sales contracts showing the amount of the commission.

4 o For management compensation, flexibility
5 in the types of documents allowed compared to staff
6 and consultants.

7 o Other documentation as appropriate.

8 • Applicants must submit proof that
9 applicants have not or cannot receive additional
10 payments from other sources that would result in
11 double recovery (e.g., an insurance claim that would
12 pay for what the Energy Commission has paid for
13 through this process). This requirement does not
14 preclude applicants from seeking recovery from DyoCore
15 for amounts not covered by the payment that results
16 from application of this Order.

17 It is so Ordered.

18 CHAIRMAN WEISENMILLER: Thank you. If
19 anyone has a specific clarifying question. Raoul,
20 please stay at this point. Obviously I'm not looking
21 for argument but in terms of if you have a clarifying
22 question.

23 Wait. To the microphone and identify
24 yourself.

25 MR. CARLONE: Terry Carlone. Synergex

1 Ventures. Just a question. Are the funds that are
2 being paid out to these claimants under the wind
3 program going to be taken out of the wind program and
4 leave the fuel cell portion intact? Because the
5 Commission is trying to bifurcate the two or are they
6 coming out of some general administrative fund where
7 the wind people are going to be have a decreased
8 amount of funds available?

9 HEARING OFFICER RENAUD: We'll look to staff
10 for an answer.

11 COMMISSIONER PETERMAN: I think the right -
12 well, okay. I think you're referring to specifically
13 the program funding amounts that are in the proposed
14 ERP Guidebook. Money for this matter was set aside in
15 advance in anticipation that something would have to
16 be potentially paid out. This is not effecting the
17 numbers that you're referring to.

18 CHAIRMAN WEISENMILLER: Okay. Now again,
19 are there any other clarifying questions? If so,
20 please to the microphone, identify yourself.

21 MR. MALAN: Chair, Commissioners. This is
22 Justin Malan of behalf of the Distributed Wind Energy
23 Association.

24 I'm not going to get into the details here.
25 We have two clarifying questions for you. One, at the

1 prehearing I understood that staff can make an
2 independent action either to refer this to the AG or
3 to call for an evidentiary hearing. I'd like to hear
4 a response from you as to whether that is the case.

5 And, secondly, to what extent does this
6 issue have to be addressed prior to the restarts? In
7 other words, prior to the resolution of 16 and 17 on
8 your agenda?

9 CHAIRMAN WEISENMILLER: The order clearly
10 dismisses the complaint and the settlement has
11 provisions dealing with the AG question. Again, I
12 think -

13 MR. MALAN: That's not the question I asked.
14 I asked whether the staff could take independent
15 action. My understanding of the prehearing was that
16 if the Commissioners did not recommend action that
17 staff had the authority to do so.

18 CHAIRMAN WEISENMILLER: Michael, do you want
19 to?

20 MR. LEVY: Yes. The first thing is the AG
21 complaint. What the Committee's order does doesn't
22 speak to what may happen in the future. It says based
23 upon the record before the Commission. In this
24 proceeding, there is no recommendation for referral to
25 the Attorney General's Office. Any other issue beyond

1 that has not been decided or determined or not
2 addressed.

3 In terms of the evidentiary hearing, the
4 dismissal of the complaint obviates the need for an
5 evidentiary hearing. So under this proceeding there
6 won't be an evidentiary hearing.

7 CHAIRMAN WEISENMILLER: Thank you.

8 MR. MALAN: And then the second question was
9 to what extent is the resolution of this Item 16
10 dependent – or the resolution of 16 and 17 dependent
11 on the resolution of 15?

12 COMMISSIONER PETERMAN: I'll say since we're
13 handling 15 now that's a moot point or question.
14 We'll do 16 and 17 after this.

15 CHAIRMAN WEISENMILLER: We have a proposed
16 order. We're going to shortly vote on that order and
17 once we do, then we would move onto the other items on
18 our agenda.

19 MR. MALAN: No further questions.

20 CHAIRMAN WEISENMILLER: Okay, now, in
21 addition I would like to direct the Hearing Advisor,
22 staff and parties, after we're done, to have a
23 discussion on the documentation questions to try to
24 resolve or clarify, as we discussed earlier, what the
25 expectations are.

1 MR. PIERCE: Two clarifying quick questions.
2 The ruling calls for some specific documentation and
3 some other things. Could it be inserted that if
4 that's just like timesheets, for example, is mentioned
5 in there specifically, that substitute documentation
6 be accepted, if applicable, type of thing?

7 HEARING OFFICER RENAUD: Well, what it says
8 now is "copies of time sheets showing hours associated
9 with the R2 Forms or sales contracts showing the
10 amount of the commission." Is there some other kind
11 of documentation that you'd like to be put in there?

12 MR. PIERCE: Just, proof that we – payroll
13 type of thing or cancelled checks or something.

14 HEARING OFFICER RENAUD: Paycheck stubs?

15 COMMISSIONER PETERMAN: Can we insert
16 something more general like 'other acceptable payroll
17 documentation'? I leave that up to –

18 HEARING OFFICER RENAUD: Let's say "copies
19 of timesheets or other appropriate documentation" –
20 "other acceptable documentation."

21 MR. WARD: If I heard the list correctly, it
22 modeled what was already in the Committee's
23 recommendation which at the very end says "other
24 documentation as appropriate."

25 HEARING OFFICER RENAUD: Good point.

1 Yeah.

2 MR. PIERCE: I think my ears didn't hear
3 that part. Sorry. Thank you.

4 And the last thing is -

5 HEARING OFFICER RENAUD: Let me stop there
6 because that says "other documentation as appropriate"
7 and I'm not sure that means in lieu of. So if we're
8 trying to be crystal clear here, I think I'd recommend
9 we'd add, where you're saying, to add something along
10 the lines of "copies of timesheets or other
11 appropriate documentation." Something like that.

12 COMMISSIONER PETERMAN: Would that be
13 acceptable to the parties?

14 MR. WARD: Yes.

15 CHAIRMAN WEISENMILLER: Or to the other
16 Commissioners? Yes.

17 COMMISSIONER PETERMAN: Would that be
18 acceptable to my fellow Commissioners?

19 CHAIRMAN WEISENMILLER: Yes. When we go to
20 considering to adopt this, certainly we should make
21 sure that you've found a wording with that correction.
22 Okay.

23 MR. PIERCE: Thank you. Just hard to go
24 back nine months later or six months later and try to
25 get exacts on some things.

1 And the last is there's a cap on the amount
2 of compensation that the full level of the R2s. Does
3 that include the interest or the unavoidable expenses
4 that accrue between October 11 and whatever the cutoff
5 time is? Or is that amount above and beyond the full
6 amount of the R2s? Just for clarify.

7 MR. WARD: From the staff's perspective, the
8 intent was always to cap the entire payment amount as
9 no more than what would have been paid out under the
10 R2s.

11 HEARING OFFICER RENAUD: I believe that's
12 what it says. There is a provision that says "the cap
13 on the total payment so that it cannot exceed what the
14 Energy Commission would have paid at the expected
15 rebate level." Now after that comes the description
16 of the interest cut off period but it doesn't say that
17 the interest is in addition to that. Although if
18 there's any question about whether or not that's
19 clear, we can, obviously, -

20 COMMISSIONER PETERMAN: That is the DyoCore
21 Committee's recommendation to the Commission. That
22 (inaudible) of the interest charges.

23 CHAIRMAN WEISENMILLER: Okay. Thank. We
24 also have a clarifying, if you're finished with your
25 questions, we have a clarifying question -

1 MR. PIERCE: Thank you.

2 CHAIRMAN WEISENMILLER: from someone on the
3 phone. Mr. Hacker?

4 MR. HACKER: Hello. Doug Hacker, HH Wind
5 Power. I was just going to inquire about the
6 underlying framework for coming to the decision.
7 Would it be, for example, the nature of correcting
8 damage to the public by the situation?

9 CHAIRMAN WEISENMILLER: Now, we're going to
10 have a discussion on the basis for the decision. I'm
11 just asking now if people have clarifying questions on
12 what's in the decision.

13 MR. HACKER: Okay. Thank you.

14 CHAIRMAN WEISENMILLER: So if you have a
15 clarifying - so, again, do you have a clarifying
16 question?

17 MR. HACKER: No, not on the specifics. I'm
18 sorry.

19 CHAIRMAN WEISENMILLER: That's fine.

20 MR. WALP: Ray Walp, California GreenTeam.
21 I'd like to know, I presented a case here for an
22 exception for our particular RIs and I'd like to know
23 how this approval is going to either include us or
24 disclude us?

25 COMMISSIONER PETERMAN: Mr. Walp. We are

1 going to discuss some of the rationale for the
2 decision after we're done with the questions and we'll
3 address your question specifically.

4 MR. WALP: When you come back?

5 COMMISSIONER PETERMAN: Probably in about 30
6 seconds. It depends on if anyone else has anything to
7 say. But we can address that directly. So, yes, we
8 did. We heard the case that you brought and we
9 considered what you told us and we'll explain our
10 rationale. Just in terms of understanding the
11 decision, no it does not coverage the expenses for
12 someone who has an R1. It does allow you to stay in
13 the queue and have preferential treatment for the 180
14 days. But besides that, nothing is different from the
15 proposed DyoCore recommendation, DyoCore Committee
16 recommendation, earlier.

17 MR. WALP: Okay.

18 MS. JUCKHARDT: Can I just ask a clarifying
19 question? I hate to make Mr. Renaud get back up, but
20 just to make sure that I understand. Are you now then
21 cutting off interest charges and all of that as of
22 November 15?

23 HEARING OFFICER RENAUD: Yes. Until the
24 claim is submitted or November 15, whichever is
25 sooner.

1 COMMISSIONER PETERMAN: Or sooner.

2 MS. JUCKHARDT: Until the claim is submitted
3 or the claim is paid?

4 HEARING OFFICER RENAUD: Submitted. That's
5 what we agreed on, I think.

6 MR. PIERCE: Submitted to the staff or to
7 the Controller?

8 HEARING OFFICER RENAUD: To the staff.
9 Maybe we should write that in.

10 CHAIRMAN WEISENMILLER: Okay.

11 MS. JUCKHARDT: So then you're making it in
12 our interest to delay it? If you're saying to submit
13 it to staff? Under the original draft it said to
14 submit it to – submit a request for repayment by the
15 Energy Commission to the State Controller's Office.

16 COMMISSIONER PETERMAN: Yeah. I actually
17 thought it might be State Controller. I'd like to
18 hear the reason for "to staff." The Commission is
19 open to hearing the arguments on either one.

20 HEARING OFFICER RENAUD: Let's see. Okay.
21 So we're talking about "any actual and provable
22 unavoidable costs incurred until the claim is
23 submitted or November 15, 2011 whichever is sooner."
24 So after November 15, no further costs would be
25 allowed and if the claim is submitted –

1 COMMISSIONER PETERMAN: I think the
2 discussion –

3 HEARING OFFICER RENAUD: Maybe we should be
4 saying –

5 COMMISSIONER PETERMAN: I thought the
6 discussion point was, however, that they would have to
7 submit information to staff, there'd be some
8 processing and then it'd be submitted to the
9 Controller in the expectation that that shouldn't take
10 more than four days but giving up to November 15 in
11 case that whole process took longer. So I think the
12 correction would be "submitted to the State Controller
13 or November 15" but I would appreciate staff's
14 comments on whether that would be the correct
15 interpretation as well as any other Commissioner
16 comments if they disagree with that.

17 MR. KNAPP: So our understanding was where
18 we left off that staff was going to deferring to the
19 Commission in terms of setting an appropriate date to
20 cutoff the accrual of interest and so it sounds like,
21 to the extent if that date is November 15, I think
22 that's what Ms. Juckhardt is stating that, in essence,
23 if you give them the option it would be – they would
24 have the incentive of coming in on November 15 as
25 opposed to coming in before then. I think our concern

1 as an administrative matter was that we couldn't go
2 right up until the date of the warrant being issued to
3 the State Controller's Office. That we just wanted a
4 fixed date to be able to know - to be able to
5 calculate the interest and have a fixed number that we
6 would have in the warrant that would get submitted.

7 COMMISSIONER PETERMAN: But was your
8 statement that you expected that process to happen
9 very quickly, assuming there was no date assigned,
10 that the expectation would be that the work would be
11 filed in the next couple of days, for you to be able
12 to submit the claims to the State Controller four days
13 after that. So you would expect that to be before
14 November 15?

15 MR. KNAPP: We would expect to be able to
16 move very quickly. If the Commission is approving the
17 recommendation that we made with expedited paper at
18 the State Controller's Office, then the State
19 Controller's Office would take 4-5 business days to
20 cut the check.

21 I would hesitate to say that our review
22 would take four days in all instances and not knowing
23 exactly what we will receive but what we certainly are
24 committed to making this move as quickly as we can and
25 we welcome the opportunity to adjourn and talk with

1 the distributors more and be able to get to provide
2 them details of exactly how we would like the
3 documentation to be presented to us to expedite our
4 review.

5 Is that an answer to your question?

6 COMMISSIONER PETERMAN: Yes. So just to
7 clarify to what the DyoCore Committee's intention was
8 with the proposed language, it was not to necessarily
9 extend the collection of interest until November 15
10 but more so to allow for the fact that if it takes
11 some time for processing that some of that interest
12 could still be collected. So, based on that
13 clarification, I think then the correct language is
14 "the dates submitted to the State Controller's Office
15 or November 15 whichever one is sooner" - "November 15
16 to allow for any extra delay."

17 MR. WARD: I think that would meet the
18 purpose and intent of what we were intending which was
19 that they should be able to collect interest even
20 during the process time up to a date certain.

21 COMMISSIONER PETERMAN: But we do not want
22 to encourage delaying submitting applications in order
23 to collect further interest. Does that clarify?

24 MS. JUCKHARDT: Yeah. My concern was that
25 it was the date submitted to staff and we want to

1 submit to staff as early as we can and then allow for
2 a little back and forth to make sure that we have the
3 appropriate –

4 COMMISSIONER PETERMAN: That is our
5 intention as well so if you could clarify that, Mr.
6 Renaud, we'd appreciate it.

7 HEARING OFFICER RENAUD: All right. So it
8 would be "any actual and provable unavoidable costs
9 incurred until the claim is submitted to the State
10 Controller's Office, but in any event no later than
11 November 15"? Something like that? All right.

12 CHAIRMAN WEISENMILLER: All right. So with
13 that let's – having answered the questions and, again,
14 certainly directed parties to try to resolve questions
15 so those things can be processed quickly.

16 It's time for us to talk about the basis for
17 our decision.

18 COMMISSIONER PETERMAN: Let us do that and I
19 think we'll all chime in based on our discussion and
20 then we'll probably have some closing words on the
21 issue before we or maybe after we take a vote.

22 So first of all this has been a very
23 difficult process for everyone engaged and we
24 appreciate the, particularly the DyoCore Committee,
25 appreciate all the work that the applicant, the

1 interveners, the staff and the public have put into
2 trying to address this complicated question.

3 Specifically, there were almost 1,000 pages
4 of materials submitted, evidence submitted, as part of
5 the prehearing conference. Many of the concerns
6 raised today were actually addressed in some of those
7 so I'm sorry if you feel you didn't get as much
8 discussion about the issues that you brought to us but
9 please know that the Committee did review all of the
10 material and was very thoughtful in reviewing it.
11 Thank you for the time we took to prepare that.

12 No doubt the suspension of the program back
13 in March resulted in some financial consequences for
14 many parties. However, if we had not suspended the
15 program there would have been financial consequences
16 for many other parties as well. Including the
17 ratepayers and the public. Most important to me, as a
18 Commissioner, was making sure that the program
19 effectively delivered its goals in terms of
20 (inaudible) emerging renewables, cost sharing with
21 customers, getting these products out there and
22 providing some opportunities for the different
23 distributors, installers and technology manufacturers.
24 By suspending the program we will not have money to
25 continue in this program, to continue to promote these

1 technologies.

2 I think the decision that's before us today
3 is fair. Specifically, looking at the R2s. Those who
4 look closely at the formula, it covers costs that are
5 traditionally not covered by this program and, I
6 think, extends to try to compensate those who had R2
7 claims in terms of giving them some compensation for
8 the expenses they have incurred so far.

9 (Inaudible) that have looked at our
10 Guidebook, you'll see that there are R1, R2 and R3 and
11 it's not until you get into the R3 form where your
12 system is truly certified as operating as planned.

13 So, again, the R2s when we first make some
14 type of commitment but, and we can discuss this more
15 in a second because it's to your question, sir, but in
16 terms of reliance in getting an incentive, the R1 nor
17 the R2 we see as having sufficient reliance claim.

18 But, again, with this decision we're proposing to go
19 about appreciating that people have incurred financial
20 expenses and we want to accommodate them to the extent
21 possible.

22 Would you like to say something about the
23 R1s?

24 COMMISSIONER DOUGLAS: When you're done,
25 Commissioner Peterman, I'll make some general

1 comments. Are you ready?

2 So I wanted to add that I agree that this
3 was a difficult situation. I appreciate the work of
4 Commissioner Peterman and Commissioner Boyd and the
5 DyoCore Committee. It's never fun to get this kind
6 of assignment. Particularly when the job in front of
7 you is not to develop something that is really good
8 but is rather to manage a situation that is not good
9 and not good for a broad number of people, a broad set
10 of interests.

11 The job before the Commission today and the
12 job that the Committee has done on our behalf and
13 recommended to us is really a job of balancing harms
14 in a situation in which, I personally, don't see how
15 everybody is made whole. We have customers out in
16 California, in many parts of the state, with turbines
17 installed that will not perform as advertised. We
18 have the public purpose of the funds to the extent
19 that the funds go to turbines that don't perform as
20 advertised is undermined and so the state doesn't get
21 the benefits that we certainly hoped for from that
22 portion of the funds.

23 The program suspension certainly harmed
24 program participants and we heard about that today.

25 I also heard and accept that the proposal to

1 pay the R2 costs and the R2 applications may not fully
2 cover the sunk costs of all of the distributors and
3 may, in fact, miss large portions of the costs of some
4 of the distributors. Some parties may incur interest
5 costs if it takes beyond November 15 for them to have
6 their funds processed and, of course, all of this is
7 coming out of the remaining funds for the Emerging
8 Renewables Program, when it resumes. And this point
9 has also been made by participants today.

10 I believe that the settlement that is
11 reflected in the Committee Order fairly balances these
12 issues and does what it needs to do to the maximum
13 extent possible, made good on the commitments of the
14 state while also protecting the public and the utility
15 ratepayer.

16 I listened to Mr. Walp's situation and I
17 appreciate him being here to make his case before us.
18 It was important that he do so and you had our
19 attention and we listened. From my perspective, while
20 I am sympathetic, I also think that making that
21 exception and making other exceptions beyond what we
22 have already put out that we would do goes beyond the
23 purpose of what we're trying to do today.

24 As the attorney member of the Commission
25 and, as you know, we have particular expertise by

1 statute on the Commission, but as the attorney member
2 of the Commission, my mind was immediately into my
3 contracts law and what is reasonable reliance and what
4 are the reasonable business practices under this kind
5 of situation. I hope that you are able to see your
6 way through this and I hope that you might have any
7 form of insurance or other way to make your way
8 through this. But, from my standpoint, if we were to
9 stretch out to your situation, there would be other
10 situations as well that might be equally meritorious
11 and, I think, go beyond what we're trying to do today.

12 So from that standpoint, I also support the
13 Order basically drawing the line at the R2s and
14 understand staff's point that even going to the R2s is
15 taking what is probably and arguably an over inclusive
16 group given that really it's when you get into the R3s
17 that we feel we've gotten a commitment.

18 Nevertheless, we need to get through the
19 day. We need to get on with the program. We need to
20 move forward with Emerging Renewables. We're
21 committed to Emerging Renewables so this has been an
22 uncomfortable bump on that road but we're on it and
23 we're committed to moving forward with this program
24 and with the other renewable items on today's agenda.

25 So those are my comments.

1 CHAIRMAN WEISENMILLER: I think much has
2 been said but I think I want to hit a few points in
3 terms of why I'm voting the way I am.

4 First, I would really like to thank
5 Commissioner Peterman for taking this on. I think we
6 all remember just after being sworn in, at her first
7 Business Meeting, she basically got this assignment.
8 And, I think, it's not an easy assignment. I mean,
9 we've all heard about the pain and suffering that came
10 out of this. This sort of business plan that has been
11 stalled. The businesses whose future was decided by
12 this. And that I think she's approached this in a
13 very thoughtful process. She certainly listened to
14 people. She's tried to balance any number of
15 conflicting concerns and come up with a decision that
16 does the best we can to deal with what's a pretty
17 miserable situation.

18 And, I think in terms of having said that,
19 things we want to emphasize is that I returned to
20 public service to basically – from having been a small
21 businessman for decades. Having a firm and dealing
22 with the basic issues of meeting a payroll, trying to
23 find healthcare. So I certainly, really understand
24 the challenges of doing business in California. But I
25 came back to state service really to push renewables

1 and energy efficiency and to try to move us in that
2 direction to deal with the current economic
3 challenges, climate change challenges, national
4 security challenges and the reality is that we need to
5 make sure that we're getting green power. That we're
6 not getting just inflated claims. Unfortunately, in
7 the DyoCore case, we were getting inflated claims. We
8 weren't getting the green power that we were asking
9 our citizens to pay for. That's just not acceptable.
10 For these programs to be viable we really have to make
11 sure that we're delivering the results to people. And
12 so in that context, (inaudible) this has been the
13 toughest time for California in terms of the budget
14 deficit, in terms of the pain in our business
15 community with and our citizens. But it's been a
16 (inaudible) to be in state service. And, I think,
17 I'll take my hat off to the people in the renewable
18 office who have worked long, hard hours because they
19 really believe in renewables to deal with these
20 issues. I remember getting a call from an attorney
21 saying that he had called one of his attorneys, Gabe,
22 at eight o'clock at night and he was at his desk.
23 Again, he's not getting paid here to be here at eight
24 o'clock at night. Not getting compensated as what
25 other attorneys are. So that shows that real

1 dedication here. But I think the renewable office is
2 very committed to getting real, green power. Not just
3 inflated claims.

4 So I think as we've talked about the
5 realities of the situation was that the whole DyoCore
6 thing just sounded too good to be true and that forced
7 us to look at what was going on and when we did it was
8 a gold rush of applications. We got just an
9 incredible ground swell of applications on that last
10 day. And I think this settlement is trying to balance
11 that, to get the programs moving forward and, again, I
12 realize that a lot of people have been damaged by it
13 but we're doing the best we can in trying to balance
14 the state's interest in getting real renewables in
15 this program back on the ground and seeing how we can
16 cover some stuff.

17 I know - we're accepting the settlement.
18 God knows we could have been delayed another six
19 months by trying to really litigate out the facts here
20 and I'm glad that we're accepting that it's not
21 perfect but it's time to move forward.

22 So, again, it's certainly a tough day.
23 Tough consequences from this but, believe, we've
24 thought long and hard about it, particularly
25 Commissioner Peterman and have come up with what we

1 think is the best that we can do.

2 So with that I'm certainly prepared to vote
3 for this decision.

4 COMMISSIONER PETERMAN: I'll just add that
5 we'll - hopefully all the parties including ourselves
6 will take the lessons learned from this experience and
7 go forward with continuing to support renewables.

8 And I'll second that motion.

9 CHAIRMAN WEISENMILLER: Actually, you have
10 to make the motion.

11 COMMISSIONER PETERMAN: Oh. I need to make
12 the motion.

13 So, I think this is the right way to do it.
14 I motion number 15, Item 15, including the -

15 CHAIRMAN WEISENMILLER: Okay.

16 COMMISSIONER DOUGLAS: Why don't we ask the
17 Hearing Officer to help formulate a motion that covers
18 the changes to the Committee Order Draft that we've
19 agreed to. At times it's hard to tick it all off
20 automatically and I bet that he was taking notes.

21 COMMISSIONER PETERMAN: Obviously I'm not
22 the lawyer member of the Commission.

23 [LAUGHTER]

24 HEARING OFFICER RENAUD: Well, I think what
25 you are moving to adopt would be what I read into the

1 record subject to the changes that were made as a
2 result of comments. And I think that they are clear
3 on the record as well but I could read those.

4 CHAIRMAN WEISENMILLER: Please at least
5 identify the areas where we've made changes. I think
6 there were two.

7 HEARING OFFICER RENAUD: From what I read?

8 CHAIRMAN WEISENMILLER: Exactly.

9 HEARING OFFICER RENAUD: All right. The
10 first would be on the issue of the cutoff for interest
11 and other expenses. That paragraph would read:

12 Further, any actual and provable unavoidable
13 costs incurred until the claim is submitted to the
14 State Controller's Office but in any event no later
15 than November 15, 2011.

16 And then on the documentation, which is
17 under C2:

18 For staff and consultants. Copies of
19 timesheets or other appropriate documentation showing
20 hours associated with the R2 forms or sales contracts
21 showing the amount of the Commission.

22 That's it.

23 CHAIRMAN WEISENMILLER: Thank you.

24 COMMISSIONER PETERMAN: So I'll move Item 15
25 as read by Hearing Officer Renaud including the

1 changes just mentioned.

2 COMMISSIONER DOUGLAS: Second.

3 CHAIRMAN WEISENMILLER: All those in favor?

4 (Ayes.) This Item passed unanimously.

5 Thank you.

6 Okay. Let's go on to Item 16. Emerging
7 Renewables Program Guidebook. Anthony?

8 MR. NG: Good afternoon, Mr. Chairman,
9 Commissioners. This Item is for the possible adoption
10 of changes to the Emerging Renewables Program
11 Guidebook. I know this meeting has been quite lengthy
12 but I've prepared a short presentation to go over the
13 major changes.

14 CHAIRMAN WEISENMILLER: Please do so.

15 MR. NG: Very good. So, quick background.
16 I know that we've been talking a lot about the ERP in
17 the last couple of hours. I don't need to go through
18 this very much but the Emerging Renewables Program
19 provides rebates for customers who purchase and
20 install small wind energy systems and fuel cells using
21 renewable fuels.

22 As we all know, the ERP was suspended on
23 March 4, 2011 predicated by a significant increase of
24 the number of rebate applications received by the
25 Energy Commission that claims all or nearly all of a

1 customer's total cost.

2 This was a particular concern to the
3 Commission because applicants that had no economic
4 stake in the system may have no interest in verifying
5 that the installation site has adequate wind resources
6 to accommodate the wind energy system and generate
7 enough electricity to offset the consumer's electrical
8 load. Thus, wind energy systems installed in
9 locations with a poor wind resource are likely to
10 underperform and result in a poor use of ERP funds.

11 Since the suspension was issued, staff has
12 held multiple workshops and worked closely with
13 stakeholders to develop changes to the program that
14 would address these deficiencies and the changes being
15 proposed today are the – is the culmination of that
16 work. Next slide, please.

17 So the major changes in this version of the
18 ERP Guidebook primarily deal with three primary areas:
19 the incentive amount, funding limits and the eligible
20 equipment listing criteria for small wind. Each of
21 which I'll be going into more detail.

22 So the first change, primarily, deals with
23 changes to the incentive amount. The first being that
24 the rebate level for small wind systems will remain at
25 \$3.00 per watt for the first 10 kW for 120 days after

1 the Guidebook is adopted, then dropped to \$2.50 per
2 watt for the first 10 kW.

3 When the ERP was suspended back in March it
4 took place approximately 30 days before a scheduled
5 rebate decline for small wind energy systems.
6 Recognizing this, the original suspension notice
7 stated that the higher rebate would be extended for
8 approximately 30 days once the suspension is lifted.
9 However, this further extension of 120 days is to
10 address new proposed requirements for small wind
11 turbines needing certified power curves to participate
12 in the program which I'll be going over in more detail
13 shortly.

14 It is expected that many turbines currently
15 listed will need to be relisted once they have
16 obtained the certified power curve and that it could
17 take upwards to 90 days to acquire one. Thus, the
18 extension of the high rebate level gives small wind
19 manufacturers essentially a grace period to comply
20 with the new rules and still participate at the higher
21 level.

22 The second major change to the incentive
23 amount is the establishment of a 50 percent cap for
24 both small wind energy systems and fuel cells such
25 that the rebate can no longer exceed 50 percent of the

1 net purchase price of the system. This 50 percent cap
2 guarantees that an applicant will retain an economic
3 interest in making sure that the system that they are
4 applying for works. Next slide.

5 So the second major area of change deals
6 with funding limits. So the first one is that given
7 the limited amounts of available funds the remaining
8 available funds will now be split evenly between
9 rebates for small wind energy systems and fuel cells.
10 Approximately \$20 million is available for the
11 Emerging Renewables Program of which \$10 will be made
12 available to small wind and \$10 million will be made
13 available to fuel cells.

14 The second stipulation with regard to
15 funding limits is that no single manufacturer or
16 retailer may claim more than 25 percent of the annual
17 funding allocation for the Emerging Renewables
18 Resources' account.

19 Approximately – It is estimated that
20 approximately \$57,647,000 will be collected by the ERA
21 in 2011, 25 percent of which is \$14,411,000. So,
22 thus, this stipulation details that no single
23 manufacturer or retailer may claim more than,
24 approximately, \$14 million in rebates per year.

25 These caps are established with the desire

1 to both spur competition and to allow greater use of
2 limited funds. As a practical matter the 25 percent
3 limit of \$14.4 million per year does not necessarily
4 impact current manufacturers as there is only a \$10
5 million of allocation of funding currently available
6 for each technology. Next slide, please.

7 The last major changes deals with changes to
8 the equipment listing criteria for small wind energy
9 systems. First major change is that manufacturers can
10 no longer provide 12 continuous months of performance
11 data to receive listing with the Energy Commission's
12 eligible list of small wind turbines. The ERP
13 previously allowed small wind manufacturers to submit
14 12 continuous months of performance data as no other
15 safety or performance standards for small wind was
16 identified to be both affordable and to be completed
17 in a timely manner.

18 In the past the only applicable standards
19 for small wind turbines was the International
20 Electrotechnical Commission, or IEC, 61400-2 standard.
21 This standard had been identified to staff on repeated
22 occasions as to the both cost-prohibitive and time-
23 prohibitive. Therefore the option for allowing
24 manufacturers to provide 12 consecutive months of
25 performance data to participate in the program was

1 seen as a way to allow manufacturers to participate
2 without going through a costly certification.

3 However, recently, the small wind industry
4 did produce a new standard, a new performance and
5 safety standard, the American Wind Energy Association
6 Standard which is both significantly less costly and
7 takes less time to perform and furthermore testing of
8 certification bodies have begun testing and certifying
9 to the new standards. Thus, staff now believes it is
10 an appropriate time to require that all turbines be
11 third party certified.

12 So with that the new proposed rules state
13 that turbines which need to be added to the list must
14 be certified either to the IEC 61400-2 standard or the
15 AWEA 9.1-2009 standard. Next slide.

16 For turbines currently listed with the
17 Energy Commission's list of eligible equipment they
18 must provide a certified power curve to the standards
19 of IEC 61400-12-12 or Sections 2 of the AWEA
20 standards. And, furthermore, the certified power
21 curve is for them to remain on the list in the
22 immediate timeframe; past 12 months they will need a
23 full certification to the full IEC 61400-2 standard or
24 the AWEA 9.1 standard. And the distinction here is
25 that the full standard required is a power performance

1 standard which is significant because the rebates are
2 paid on the rated output of the systems. Whereas the
3 second certification is more of a safety integration
4 test. Next slide.

5 So a few more details about the
6 certification. The third party certifications must
7 come from either the Small Wind Certification Council
8 or a nationally recognized testing laboratory. For
9 the more of the ratings for small wind energy systems
10 will now be standardized at 24.6 miles per hour or 11
11 meters per second. This wind speed is the
12 standardized wind speed that small wind turbines are
13 rated at when the power performance test is conducted
14 so it seemed natural to use that power performance
15 rating as the standardized rating for purposes of
16 determining the rebate.

17 So those are the major changes to the ERP
18 Guidebook in this round. I'd be happy to answer any
19 questions you may have. I'd also like to add if the
20 Guidebook is adopted today the changes will go into
21 effect immediately and the following Item on the
22 agenda we'll consider lifting of the ERP Suspension
23 thereby resuming program activity.

24 CHAIRMAN WEISENMILLER: Thank you for your
25 presentation. Commissioner Peterman?

1 COMMISSIONER PETERMAN: Commissioners,
2 before you have – ask any questions you have of staff
3 I would like to make two suggestions to staff. At
4 least one they're already familiar with regarding
5 additional changes to the Guidebook and my suggestions
6 that these changes be Noticed and then Adopted at the
7 November 16 Business Meeting. And that we would go
8 ahead with adopting the Guidebook as is today but
9 noting that these two changes will come in a couple of
10 weeks.

11 So the first suggestion, and I'm making
12 these as Lead Commission on Renewables – the first
13 change would be extending the \$3.00 rebate for wind
14 projects for 180 days instead of the 120 days. A
15 number of concerns and comments – we've received a
16 number of concerns and comment about these two items
17 and so the rationale for extending it to 180 days is
18 to account for the fact that it might take some wind
19 turbine manufacturers longer than anticipated to be
20 certified using the third party certification and we
21 want to provide consumers with as much choice as
22 possible in terms of the wind turbine they select.
23 And so that's the recommended change number one.

24 Also, if we see that there is a need for
25 longer than 180 days, I would ask the Commission to

1 consider that. However, we're recommending 180 days
2 for now.

3 And the second suggestion that I would have
4 for staff is to remove from the guidebook the funding
5 limit of 25 percent on any one technology or
6 manufacturer for funding. Mr. Ng did an excellent job
7 explaining the rationale for the 25 percent limit.
8 Specifically, the rationale is that we want to
9 encourage competition as well as a number and variety
10 of technology providers. However, as he also noted,
11 currently that 25 percent cap is not binding for
12 anyone within participating in the program. And there
13 is some concern that it might limit consumer choice
14 and we want to make sure that consumers can avail
15 themselves to whatever technology they choose.

16 So, considering that and considering the
17 disruption the program has received to date because of
18 the DyoCore matter which we've just gone over, I would
19 recommend removing this funding limit in this version
20 of the guidebook. However, I would also advise staff
21 to carefully monitor these markets and if we see there
22 is a lack of competition, I will not hesitate to
23 recommend that the Commission impose a funding limit
24 of 25 percent or less.

25 So with that, those are my two suggestions

1 and welcome any comments staff has or my fellow
2 Commissioners have on the matter.

3 CHAIRMAN WEISENMILLER: First, I would like
4 the staff to comment on your two suggestions. I think
5 we have about a half dozen speakers to comment and,
6 perhaps, even increasing. So let's go on to staff.
7 Do you have any comments on Ms. Peterman's two
8 comments?

9 MR. NG: No comments specifically.
10 Certainly we can make those changes and Notice it for
11 the November 16 Business Meeting. And so we will do
12 that.

13 MR. HERRERA: Gabe Herrera with the
14 Commission's Legal Office. Just as a procedural
15 matter, what would need to happen if the Commission
16 were to Notice those changes as proposed Guidebook
17 changes pursuant to Public Resources Code Section
18 25747A, that Notice would need to be issued by this
19 Friday. These changes seem pretty small in terms of
20 the actual text we would need to change in the
21 Guidebook so I don't see a problem Noticing that by
22 this Friday.

23 CHAIRMAN WEISENMILLER: Okay. Thank you.
24 So Mickey Oros, you have any comments on this?

25 MR. OROS: Thank you so much. My comment is

1 you've made me a very happy camper. We were standing
2 - we were really here presenting ourselves this
3 afternoon in asking that the 25 percent be removed and
4 thank you Commissioner. That's very kind.

5 I may just close in saying thank you and not
6 overselling myself. I think I'm just going to cap it
7 right there. I can't say enough. Thank you very
8 much. Appreciate it.

9 CHAIRMAN WEISENMILLER: Okay. Thank you.

10 COMMISSIONER PETERMAN: Also may I just add
11 that as someone who follows economics and markets that
12 even when there's not many players in a space that
13 those in the space still strive for cost reductions
14 and lower cost technologies because that's what we're
15 shooting for and whether we do that through innovation
16 within a company or through competition, that's
17 ultimately what this program is trying to encourage
18 and what we'll continue to be looking out for.

19 CHAIRMAN WEISENMILLER: Okay. Terry
20 Carlone.

21 MR. CARLONE: Thank you very much. I had
22 two comments. The first one I believe the Commission
23 has dealt with and that's the 25 percent limit.

24 So subject to the Commission adopting that
25 and there be no further debate on that I would reserve

1 my comments on that for later.

2 Again, thank you. I will say our company,
3 Synergex Ventures, invests venture capital in early
4 stage companies. We are one of the earliest investors
5 in Alteryg Systems and I will say to address
6 Commissioner Peterman's comments, Alteryg has reduced
7 its costs more than 38 percent over the last two years
8 and it continues to strive to be the low cost
9 manufacturer.

10 There is one nomenclature issue though. I
11 believe, if it pleases the Commission, I believe you
12 all have an 8 ½ by 11 inch statement. Is the entire
13 25 percent thing. Is your motion to strike all of
14 that?

15 COMMISSIONER PETERMAN: That is my
16 recommendation to staff.

17 MR. CARLONE: This is related to that, but I
18 believe there may be some other references to
19 retailers in the Guidebook and I just would point out
20 that the word retailer never appears on the R1. If
21 the staff would look at that as they're reviewing the
22 program. It talks about purchasers and sellers and
23 manufacturers but retailer is never mentioned. That
24 caused us a little concern as it was going to relate
25 to the 25 percent cap because we didn't quite know

1 where that would be but there may be some other
2 references in there.

3 With that, I'm done. Thank you.

4 COMMISSIONER PETERMAN: Related to that,
5 I'll ask staff to look, in terms of definition
6 section, about whether it warrants having definitions
7 for purchasers, retailers, etc. and we could also add
8 that to the notice if necessary.

9 MR. NG: Certainly Commissioner. We could -
10 I made a note of that and we'll look into that as
11 well.

12 CHAIRMAN WEISENMILLER: Okay. Thank you.
13 Justin Malan, are you still -

14 MR. MALAN: Mr. Chairman, Commissioners.
15 Justin Malan for the Distributed Wind Energy
16 Association. After a long day, again, I'd just like
17 to thank you for resolving this.

18 Our comments, we did participate in the
19 prehearing of the DyoCore comments on record. You
20 know what our comments are with respect to the
21 evidentiary hearing. We're not going to go through
22 that again. That issue's passed.

23 Just wanted to say that we were very
24 supportive of the changes that you have in your new
25 Guideline. We believe that they should address the

1 issues that led up to the DyoCore fiasco and we do
2 very much appreciate the recommendation to extend the
3 \$3.00 out to 180 days. It may need to be extended
4 further but at least for now we're appreciative that
5 that can help us start up the industry which has taken
6 a really hard hit.

7 So thank you again.

8 COMMISSIONER PETERMAN: And, I'll also just
9 add again, regarding the 180 days. We appreciate the
10 concerns that the demands for this product has
11 declined potentially due to not only the suspension of
12 the program but also just some of the discussion
13 around the DyoCore complaint. We will monitor and see
14 if there is market activity as well as if there is any
15 issue with certification. But, if not, after 180 days
16 the incentive will decline however we will extend the
17 days if necessary.

18 MR. MALAN: Thank you.

19 CHAIRMAN WEISENMILLER: Thank you. Anyone
20 else in the room who wants to speak on this? Okay.
21 Thanks.

22 MR. OROS: Thank you. Once again, Mickey
23 Oros with Alteryg Systems. There was one topic that
24 was talked about in both drafts but not made comment
25 this afternoon and that is with regard to permits or

1 bills. Excuse me, the bills themselves and submission
2 of that.

3 MR. NG: Are you speaking about the utility
4 bills, Mr. Oros?

5 MR. OROS: Yes, sir.

6 MR. NG: I believe a revision to the revised
7 draft of the Guidebook was posted two Fridays ago and
8 it does include an exception that utility bills as old
9 as September 4 which is six months before the
10 suspension date would be accepted for a period of 180
11 days after the program is reestablished.

12 MR. OROS: I just didn't see that in your
13 comments.

14 MR. NG: It wasn't in my presentation but it
15 is part of the Guidebook change.

16 MR. OROS: Thank you. Thank you so much.

17 CHAIRMAN WEISENMILLER: Okay. I think we're
18 going onto the phone now. David Raine, are you still
19 on the line?

20 Actually, sorry, we're switching. So we're
21 opening up and going to phone now.

22 First question is David Raine. I think we
23 may have up to four speakers. If Mr. Raine is not on
24 the line then Mr. Sherwood? Okay. So if Mr.
25 Buchannan, if you're on the line, go ahead.

1 MR. BUCHANNAN: Yes. Hello. This is Eugene
2 Buchanan with the GridNot Corporation and I have a
3 question specifically about the certified power curves
4 and how that will affect what will be listed if the
5 set of Guidelines is adopted as they are and they are
6 required to have a certified power curve for products
7 that are already on the CEC list. What will be
8 remaining after this is ratified if that is to be the
9 case. What turbines would we be able to use to
10 complete our R1s or R2s? With that being said, is
11 there a short list that we can obtain now so that we
12 can adjust our business strategy to maybe take
13 advantage of what would be left with that criteria
14 being put into place?

15 CHAIRMAN WEISENMILLER: Okay. The staff is
16 huddling to respond to you. So expect a response soon
17 but not at this instance.

18 MR. BUCHANNAN: Okay. So let me say this
19 then. It is our understanding though that – hello?
20 Am I online still?

21 COMMISSIONER PETERMAN: They're ready to
22 respond.

23 CHAIRMAN WEISENMILLER: They are ready to
24 respond.

25 MR. BUCHANNAN: Okay.

1 CHAIRMAN WEISENMILLER: Hang on. They'll
2 respond and then you can –

3 MR. HERRERA: This is Gabe Herrera with the
4 Commission's Legal Office. So the way the Guidebook
5 is structured right now there's going to be a delay
6 before the program actually restarts. The idea would
7 be to, if the Commission adopts the Guidebook changes
8 today, then the program would restart on November 9, a
9 week from now. And between today and that period of
10 time we would expect maybe manufacturers that do have
11 power curves that meet the new requirements to submit
12 that information to the Energy Commission so that then
13 the Energy Commission could then update the equipment
14 list by the time the program restarts on the 9th. I
15 understand that they may be a handful of turbines that
16 may be in a position to provide that information, the
17 certified power curve, but we won't know for sure
18 until we give them an opportunity to submit that
19 information to us.

20 MR. BUCHANNAN: Okay. So, right now
21 everything on that list is, essentially, delisted if
22 it is a – if this is ratified in its current
23 condition? There will be no turbines available for
24 use, if it's ratified as it is currently. Right?

25 MR. HERRERA: Gabe Herrera again. So if no

1 manufacturers come forward with a certified power
2 curve that meets the new requirements then, yes, all
3 the equipment will be removed from the list. Then
4 what can happen going forward, Mr. Buchannan, is that
5 as manufacturers that are currently on the list get
6 that certified power curve they can then provide that
7 to the Energy Commission which will then update the
8 list to add their turbines. So what could happen
9 between now and over the course of several months is
10 that turbines are added one at a time as that
11 information becomes available.

12 MR. BUCHANNAN: Okay. So we'd pretty much
13 know as a retailer and someone that did this will not
14 have a program once this is ratified until some
15 retailers can come back and give certified power
16 curves which, right now, I would suspect that the
17 Small Wind Certification Council has a short list of
18 what's been certified under the NTS standard which
19 would have certified power curves. So I would expect
20 that we will see the short list from Small Wind
21 Certification Council come onto the list as the
22 available turbines, is that what we're sort of
23 foreshadowing or foreseeing?

24 MR. NG: Mr. Buchannan, this is Anthony Ng
25 with the Renewable Energy Office. So we can't - we're

1 not going to necessarily transplant the SWCC list
2 wholesale onto our list. It is still up to the
3 manufacturers to submit the certified power curve to
4 us in order to remain on the list.

5 MR. BUCHANNAN: Okay. We've spoken with
6 Paul (inaudible) and Ken (inaudible) from Texas A&E
7 about producing a certified power curve. And the
8 minimum amount of time they said that you could
9 possibly do it in would be three months but more
10 likely 6 months - 1 year to actually reduce a live,
11 filmed, certified power curve based on the IEC
12 standards. With this being said, it leads the
13 question that the CEC has made a statement that the
14 AWEA standard would be less expensive to certify to
15 than the IEC standard but when you read through the
16 AWEA standard all they do is call out the IEC
17 standard. So is that statement being made by the CEC
18 that an AWEA certification through something like a
19 Small Engine Certification Council would be less
20 expensive than a nationally recognized assessing
21 laboratory based on the fact that the AWEA standard,
22 essentially, references the IEC standard and requires
23 almost all the same certifications with the additional
24 criteria of the 25 ½ mile wind that specifically
25 benefits certain types of technology.

1 MR. NG: So it is staff's understanding that
2 it is true that the AWEA standard and the IEC standard
3 do share many similarities. However, the AWEA
4 standards do not necessarily replicate the IEC
5 standards wholesale; if they did, they would be the
6 same standards. And, so, it is staff's understanding
7 that the AWEA standards takes from the IEC standards
8 those parts that are necessary to generate both a
9 power performance and a safety performance check and
10 also because it requires less than the entirety of the
11 IEC standard. It is staff's understanding that it
12 takes less time and less money to certify to the AWEA
13 standard.

14 MR. HERRERA: This is Gabe Herrera again,
15 Mr. Buchannan. So, I mean, one of the reasons that
16 staff recommended that the \$3.00 a watt rebate level
17 remain fixed for 120 days is, again, it was our
18 understanding that it could take upwards of 90 days to
19 get certification of SWCC. The Commission, as part of
20 the DyoCore complaint matter, has now pushed the
21 preferential treatment for complete R1 applicants out
22 to 180 days.

23 You head Commissioner Peterman recommend
24 that staff also push the \$3.00 a watt rebate level for
25 small wind out a 180 days. I guess - we're certainly

1 going to monitor how long it takes to get
2 certification and if it turns out it's taking longer
3 than expected that would be one of the reasons for
4 staff to come back and recommend that \$3.00 watt
5 rebate level continue for even a longer period of
6 time.

7 MR. BUCHANNAN: One last question. How did
8 the staff come to the idea that we would - before
9 there was a leeway period of 1 year to 18 months to
10 get a complete certification under the AWEA standards.
11 What gave the Commission and the staff there the idea
12 that they should impose a certified power curve
13 immediately and not give the same leeway that was
14 originally discussed when we were looking at this?
15 What prompted that change essentially? I'd like an
16 explanation of that.

17 MR. HERRERA: So one of the rationales was
18 that if we did not require a certified power curve
19 that could reflect what the actual performance of a
20 turbine would do in the field than what we would end
21 up is the situation that we had in the DyoCore case
22 where we had perhaps overstated performance claims by
23 manufacturers leading to higher than justified rebate
24 levels. And we didn't want to, I guess, be put back
25 in that situation where we extended higher performance

1 claims for turbines based on representations by the
2 turbine manufacturer in such a way that resulted in
3 excessive rebates being committed and paid out. We
4 didn't want to be back in that situation again and it
5 seemed like the cleanest way not to would be to start
6 fresh and require some sort of certified power curve
7 that was a true indication of what the turbine could
8 do, and perform and could justify the rebate levels
9 that were being requested.

10 MR. BUCHANNAN: Okay. Well, at least let me
11 give this final question which is qui bono. Who
12 benefits from this? I see the Small Wind
13 Certification Council in those list of turbines will
14 be my short list and then I asked the question who
15 benefits and I look at the individuals that are
16 involved in this. This leads to some very interesting
17 questions on how this came to be because the benefits
18 are very specific in leads into some very few
19 individuals. And that, to me, I don't think is
20 necessarily the best decision the CEC can make. And
21 given what's been done with the DyoCore, if another
22 scenario were to occur where a bad power curve was
23 there within that 18 months, I think that would become
24 apparent and the staff could make another complaint
25 similar to DyoCore and suspend those applications and

1 what the process was, through the same process that we
2 did just now instead of damaging all of Californians
3 for a long period of time go after the individual
4 culprits that are causing the problem.

5 CHAIRMAN WEISENMILLER: I think we're going
6 to move on. I don't think we're going to
7 (indiscernible). Thank you.

8 MR. BUCHANNAN: This benefits in the
9 industry and it's not fair.

10 CHAIRMAN WEISENMILLER: Okay. Thank you.
11 You've had your three minute at least. We're not
12 going to deal with another DyoCore. We don't need
13 another suspension so let's move on.

14 Mr. Raine? Okay. Mr. Sherwood.

15 MR. SHERWOOD: Hi. My name's Larry Sherwood
16 and I'm the Executive Director of the Small Wind
17 Certification Council and I don't really have a
18 statement to make but I would just like to respond to
19 the last comment that you had in terms of the testing
20 process and the time to receive the power performance
21 certification. There is, in the standards, both the
22 IEC and the AWEA standard, there is a requirement for
23 a duration test. And that duration test, depending on
24 the site, could take 6 months to 1 year, even longer,
25 to conduct. That's why the certification takes so

1 long to do. It's because that test takes a long time
2 to conduct. The power performance test, what I've
3 been told, is that that test takes in the order of
4 magnitude weeks to conduct. Again, it depends on the
5 site where you're testing but it's a relatively short
6 test and for the turbines that are already under test
7 for certification, many of those turbines already
8 would have the data available today for the power
9 performance certification. So that certification
10 could happen relatively soon in our system we do not
11 have any certified power curves or any certified
12 turbines today.

13 So just some additional information.

14 CHAIRMAN WEISENMILLER: Thank you. Mr.
15 Summerville? That's all on the line. Okay. We had a
16 couple of others but they've dropped off.

17 Thanks everyone for the comments.

18 Commissioners?

19 MR. HERRERA: Chairman, if I could just make
20 some comments concerning CEQA on the record and before
21 the Commission decides on this matter?

22 CHAIRMAN WEISENMILLER: That'd be very good.

23 MR. HERRERA: Thanks. So the Energy
24 Commission's Legal Office has reviewed the guidelines
25 to determine whether the adoption of the guidelines

1 constitutes a project under CEQA and, if so, whether
2 it's subject o environmental review under CEQA, the
3 California Environmental Quality Act. In the case of
4 these guideline revisions here, the adoption of the
5 Guidebook revisions would not be considered a project
6 under CEQA because the guidelines fall within an
7 exception. Specifically the exception in Title 14 of
8 the California Code of Regulation, Section 15378,
9 Subdivision B2 and B4. In that the activity relates
10 to, excuse me, that the adoption of the guidelines
11 relates to an activity pertaining to general policy
12 and procedure making and the creation of a funding
13 mechanism which does not involve any commitment to any
14 specific project which may result in a potentially
15 significant physical impact on the environment.

16 In addition, the adoption of the guideline
17 revisions are exempt under what's commonly known at
18 the Common Sense Exception and that is in title 14,
19 California Code of Regulations, Section 15061
20 Subdivision B3. That section indicates CEQA only
21 applies to projects that have a "significant effect on
22 the environment" which is further defined in Public
23 Resource Code Section 21068 and Title 14, California
24 Code of Regulations Section 15382 as being a
25 substantial adverse change in the environment.

1 Thank you.

2 CHAIRMAN WEISENMILLER: Thank you.

3 COMMISSIONER PETERMAN: I'll just offer some
4 comments. First of all, thank you staff of all of
5 your work on the Guidebook. I think it reflects much
6 effort in order to clarify the rules around this
7 program as well as to make sure that the systems that
8 we are subsidizing truly manifest the benefits that
9 they're purported to. I appreciate that the
10 certification process will be time consuming for many
11 of those participating but I think we're guaranteed to
12 get a product that meets both the program goals as
13 well as best maximizes and utilizes ratepayer
14 investments. I think those of you familiar with this
15 space know that the California program is looked at
16 and referenced by a number of other states, including
17 our equipment list, and we take that role seriously
18 and we want to make sure that everything is on there
19 we can stand behind and I think this will avoid a
20 number of the issues that were run into under the
21 DyoCore complaint and I look forward to the Commission
22 voting on this Guidebook. And then moving ahead with
23 the restart of the program and so as a Commissioner
24 involved with renewables, I do recommend this for
25 adoption.

1 COMMISSIONER DOUGLAS: Thank you,
2 Commissioner Peterman. Again as an alumni of having
3 worked on this Guidebook and been assigned this once
4 in my tenure on the Commission, I definitely
5 appreciate your work on it and I'll look forward to
6 supporting it. And I'll also look forward to this
7 program moving forward again.

8 CHAIRMAN WEISENMILLER: Again, I'll be very,
9 very brief. Again, I'd like to thank you for your
10 activity going through the Guidebook and reflecting on
11 the lessons learned from DyoCore and other issues and
12 the general cleanup. Again, I think we're ready to
13 move forward.

14 COMMISSIONER PETERMAN: Also, I'll just use
15 this opportunity as well to formally thank my fellow
16 Commissioner, Commissioner Jim Boyd who's been
17 instrumental in his help with suggestions for guidance
18 on this guidebook as well as DyoCore complaint and all
19 renewable matters. He's not with us today but he is
20 in terms of the results of these final products and so
21 with that, I will move Item 6, the adoption of the
22 Energy Renewables Program Guidebook.

23 COMMISSIONER DOUGLAS: Item 16.

24 COMMISSIONER PETERMAN: Oh, sorry. Item 16.
25 Sorry. Long day.

1 COMMISSIONER DOUGLAS: It has been a long
2 day. I second your motion.

3 CHAIRMAN WEISENMILLER: Okay. All those in
4 favor?

5 (Ayes.) This passes unanimously. Thank
6 you.

7 COMMISSIONER PETERMAN: I want to say some
8 more words thanking staff because I think we all
9 appreciate, again, the amount of work that went into
10 this by the Renewable Staff as well as our legal
11 office as well as our communications and Executive
12 Office, a number of hands were on deck in terms of
13 having workshops and fielding calls and we appreciate
14 the sensitivity and the time that went into this
15 product and continue to appreciate your work on this
16 as well as all other renewable matters. So thank you
17 very much.

18 CHAIRMAN WEISENMILLER: Great. So now we're
19 on to Item 17. Emerging Renewables Program. Anthony?

20 MR. NG: Good afternoon, again, Mr.
21 Chairman, Commissioners. So this Item, now with the
22 Guidebook, just recently adopted. This Item now
23 proposes to or requests possible approval to lift the
24 temporary suspension of the Emerging Renewables
25 Program on November 9, 2011.

1 As Gabe mentioned earlier, staff is
2 suggesting the suspension be lifted a week from today
3 to give time to manufacturers to comply with the new
4 guidelines and to supply us with – to supply the
5 Energy Commission with a certified power curve to
6 remain on the eligible list of equipment so that they
7 could continue to participate in the program.

8 I would also like to reiterate the
9 stipulation as part of the DyoCore matter that was
10 resolved in Item 15. And that is the preferential
11 treatment of the RIs under the new Guidebook. Again,
12 just repeating the stipulation that was agreed to
13 earlier, that the preferential treatment of RIs will
14 apply to 455 applicants that submitted complete R1
15 applications prior to March 4, 2011 suspension of the
16 program and whose applications identified a small wind
17 system that uses the DyoCore turbine.

18 Those applicants must comply with the
19 requirements of the Emerging Renewables Program
20 Guidebook 11th Edition and those applicants are given
21 preferential treatment by retaining their current
22 place in the program queue for a period of 180 days.

23 And that applicants that fail to reapply
24 within this 180 day period by submitting a new R1
25 application in accordance with the Emerging Renewables

1 Program Guidebook 11th Edition shall lose their place
2 in the queue and be treated as an ordinate applicant
3 should they choose to reapply for funding a later
4 date.

5 CHAIRMAN WEISENMILLER: Okay. Thank you.
6 Any public comment? Great. Commissioners, any
7 questions or comments? Do I have a motion?

8 COMMISSIONER PETERMAN: I happily move Item
9 17 to life the temporary suspension of the Emerging
10 Renewables Program on November 9, 2011.

11 COMMISSIONER DOUGLAS: Second.

12 CHAIRMAN WEISENMILLER: All those in favor?

13 (Ayes.) This passed unanimously.

14 Congratulations.

15 [LAUGHTER]

16 MR. NG: Thank you.

17 CHAIRMAN WEISENMILLER: Thank you.

18 Item 18, minutes. We're going to hold that.

19 I think we need Commissioner Boyd for that Item.

20 Item 19. Lead Commissioner or Presiding
21 Member Reports.

22 COMMISSIONER DOUGLAS: I have nothing to
23 report.

24 COMMISSIONER PETERMAN: I think things have
25 been quiet in the renewable space. I'm just kidding.

1 [LAUGHTER]

2 COMMISSIONER PETERMAN: thank you for the
3 laugh back there.

4 I'll make it quick since it's been a long
5 day but I've had an opportunity to attend a number of
6 different events and conferences around the state in
7 the last week including the Yosemite Environmental Law
8 Conference, the Sacramento Clean Technology Conference
9 at Sac State an RPS meeting in Southern California.
10 And the biggest takeaway I have from these conferences
11 that I've attended in the last week is that how
12 diverse our state is both in geography and interest
13 and renewable opportunity. And I've had the
14 opportunity to go through cities as well as go through
15 farmlands and ranches and I'm very excited about the
16 opportunities to bring different types of renewables
17 to these spaces. And also the real economic need in
18 so many areas of our state and how we can better align
19 our investments and clean energy with also the need
20 for clean jobs as well as for rate relief. It was a
21 very sobering but inspiring week.

22 CHAIRMAN WEISENMILLER: I will also be
23 brief. Since coming back from vacation I went back to
24 DC to attend a conference at Brookings Institute which
25 was dealing with distributed generation. They looked

1 at not just renewables but also gas fired renewables
2 CHP. And, while we often look at it in terms of jobs
3 in climate, they also look very much at the national
4 security implications and it was a good opportunity
5 to, I certainly didn't have to go the distance but
6 well worth it to meet with Secretary George Schultz
7 and talk about these issues. Obviously he is very,
8 very concerned about climate. Very concerned about
9 security and sort of traced it back to, as you often
10 go back in history, obviously he can go back in
11 history much further than I can. Anyway, he talked
12 about how in 1973 when, I think he was Secretary of
13 Treasury, that when the first embargo came he went
14 back to Eisenhower who, basically, was concerned about
15 national security implications like our reliance on
16 foreign oil was about 20 percent.

17 Certainly President Eisenhower has
18 substantial national security credentials but also at
19 the same time as when the embargo happened to
20 influence our policies in the Middle East. So that
21 certainly hit home. So he's very, very concerned and
22 sees distributed generation as a key part of what we
23 need to do nationally to deal with the security
24 issues.

25 And, obviously, he's personally very

1 concerned about climate change. So it was – I guess
2 we both can compare inspiration notes but certainly it
3 was, I'd have to say, sobering and inspiring.

4 I also got a chance to see Dan Yergin again.
5 Dan was flipping through – Dan has a new book out and
6 was flipping through, showing me some of the pictures
7 from that. So, anyway, it was certainly a tiring trip
8 but good.

9 So with that note, we'll go to Chief
10 Counsel's Report.

11 MR. LEVY: I have no report. Thank you.

12 CHAIRMAN WEISENMILLER: Executive Director's
13 Report.

14 Mr. OGLESBY: Also, very briefly, I wanted
15 to report that last week, a week ago today, I
16 testified before the Senate Select Committee on Green
17 Jobs, Solar Wind and Clean Technologies. I covered
18 the Energy Commission's programs and how we benefit
19 emerging businesses, help develop emerging
20 technologies and provide job training.

21 It was gratifying to see how many of the
22 members who had testified before the Committee
23 referenced the PIER program as one of the sources of
24 funds that were critical to help them start up and
25 grow into these successful programs.

1 On Monday, I also testified in front of the
2 Senate Energy Committee on the status of our ARRA
3 program. I was happy to promote the progress we've
4 made in getting strict oversight of the funds, close
5 monitoring, reallocation of the funds and the request
6 for contingency plans and assured the Committee with
7 the new legislation that allows some transfers to be
8 made for general services at the last minute and with
9 our active monitoring of the programs we can assure
10 that we will be fully utilizing the funds that have
11 been allocated to us to create jobs and to promote
12 technologies and to improve efficiencies in
13 California.

14 CHAIRMAN WEISENMILLER: Also, I think the
15 three of us want to congratulate you on your new hire.

16 MR. OGLESBY: I'll be making an introduction
17 at the next Commission Meeting.

18 CHAIRMAN WEISENMILLER: That's good. Public
19 Advisor's Report.

20 Any public comment?

21 MS. SADLER: No report at this time.

22 CHAIRMAN WEISENMILLER: Okay. Any public
23 comment? The meeting is adjourned.

24 (Whereupon, at 3:45 p.m., the business
25 meeting was adjourned.)

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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 18th day of November, 2011.

A handwritten signature in cursive script, reading "Peter Petty", is written over a horizontal line.

PETER PETTY
CER**D-493
Notary Public