



Commissioners Present

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

Staff Present:

Michael Levy  
Rob Ogelsby  
Jennifer Jennings  
Lynn Sadler  
Harriet Kallemeyn

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Mike Monasmith	2
Richard Ratliff	2
Craig Hoffman	3
Kevin Barker	4
Shahid Chaudry	5
Cheng Moua	6
Joseph Wang	7
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Jim Holland	8
Rashid Mir	8
Pat Perez	9

Interested Parties

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Jeffery Harris, Ellison, Schneider & Harris for BrightSource Energy	2
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Mike Bachand, CalCERTS	8
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Conrad Asper, CBPCA	8
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1. CONSENT CALENDAR 11
- a. CITY OF HEALDSBURG. Possible approval of the City of Healdsburg's locally adopted building energy standards to require greater energy efficiency than the 2008 Building Energy Efficiency Standards.
  - b. TOWN OF WINDSOR. Possible approval of the Town of Windsor's locally adopted building energy standards to require greater energy efficiency than the 2008 Building Energy Efficiency Standards.
  - c. CITY OF CORONADO. Possible approval of Amendment 1 to Agreement CBG-09-016 with the City of Coronado to add \$839, for a total grant of \$125,762, and extend the term of the agreement to June 14, 2012. The amendment revises the scope of work, the project list, and the budget to allow the city to implement lighting retrofits in lieu of the previously approved HVAC projects. In addition, the city has requested a time extension to complete the revised scope of work. This revised grant meets all requirements of the Energy Efficiency and Conservation Block Grant program solicitation PON-09-001 and fully awards the grant funds available to the city under the program.
  - d. CITY OF RANCHO MIRAGE. Possible approval of Amendment 1 to Agreement CBG-09-182 with the City of Rancho Mirage to extend the project completion date from September 14, 2011, to June 14, 2012. As a result of staff layoffs, the city is not able to complete the project on time. This amendment will allow the city to fully utilize the grant funds and realize the energy savings as proposed in the original application.

## Items

1. CONSENT CALENDAR (Continued).
  - e. BRUCE WILCOX, P.E. Possible approval of Amendment 2 to Contract 400-09-001 with Bruce Wilcox, P.E. to extend the term one year to June 30, 2013. The project is research and documentation of issues identified during exploration of proposed measures for the 2013 Residential Building Energy Efficiency Standards. There is no change to the total amount of the contract.
  - f. ARCHITECTURAL ENERGY CORPORATION. Possible approval of Amendment 2 to Contract 400-09-002 with Architectural Energy Corporation to extend the term one year to June 30, 2013. The project is research and documentation of issues identified during exploration of proposed measures for the 2013 Non-Residential Building Energy Efficiency Standards. There is no change to the total amount of the contract.
  - g. PORTLAND ENERGY CONSERVATION, INC. Possible approval of Amendment 1 to Contract 400-10-002 with Portland Energy Conservation, Inc. (PECI) to remove "Reimbursable Task Costs" and "Total Task Cost" columns from Exhibit B Attachment B-1 Summary, add subcontractor Heschong Mahone Group to the contract, add new classifications, adjust rates, and add staff to PECI and subcontractors New Buildings Institute (NBI), Architectural Energy Corporation (AEC), and CalcERTS.
  - h. LAWRENCE BERKELEY NATIONAL LABORATORY. Possible approval of Amendment 4 to Contract 500-05-001 with Lawrence Berkeley National Laboratory for a 12-month no-cost time extension to September 30, 2012. This will allow the contractor to complete the technical reports and finish an analysis of implementation activities affecting demand response as a system reliability resource for the California Independent System Operator.

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1. CONSENT CALENDAR (Continued).
  - i. ASPEN ENVIRONMENTAL GROUP. Possible approval of Amendment 2 to Contract 700-08-001 with Aspen Environmental Group for a one year no-cost time extension to complete the Desert Renewable Energy Conservation Plan. The extension would allow completion of some contractor assignments started during the original term of the contract, and would provide back-up contract coverage during the ramp-up of the next STEP Peak Workload Contract, which staff expects to competitively bid and execute by June 30, 2012.
  - j. CITY OF SOUTH PASADENA. Possible approval of **POSTPONED** Amendment 1 to Agreement CBG-09-183 with the City of South Pasadena to change the scope of work. The original project included traffic signal upgrades and HVAC replacements. The revised scope of work includes the retrofit of incandescent pedestrian signals to LED pedestrian signals, and upgrades to City Hall such as a cool roof system, wall insulation, HVAC equipment, ducting modifications, temperature sensors and controls. The revised project meets all program requirements and the total grant amount of \$136,878 is unchanged.
2. HIDDEN HILLS SOLAR ELECTRIC GENERATING SYSTEM (11-AFC-02). 11
  - a. Possible adoption of the Executive Director's data adequacy recommendation for the Hidden Hills Solar Electric Generating System.
  - b. Possible appointment of a siting case committee for the Hidden Hills project.

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3. GATEWAY GENERATING STATION (00-AFC-1C). Possible approval of a petition to modify several Air Quality conditions to reflect the Bay Area Air Quality Management District current conditions and the Prevention of Significant Deterioration enforcement action that has been resolved by a court-ordered Consent Decree. The proposed changes will decrease the permitted emissions levels and make the Conditions of Certification consistent with the Prevention of Significant Deterioration Permit under the terms of the settlement agreements for the project.
4. ENERGY COMMISSION COMMITTEE APPOINTMENTS. Possible approval of appointments to the Energy Commission's Standing Committees and Siting Case Committees. 20
5. CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION. Possible approval of Agreement 001-11-ECD for a loan of \$2,056,229 to the California Department of Corrections and Rehabilitation for lighting system upgrades at the Substance Abuse Treatment Facility at California State Prison, Corcoran. This project will save approximately 3.63 million kilowatt hours and reduce greenhouse gas emissions by 1,249.27 tons of CO2 equivalent. The loan will be awarded at an interest rate of 3 percent. This project is estimated to save about \$330,568.00 annually and have a simple payback of 6.3 years. (ECAA funding.) 21
6. CITY OF YUBA CITY. Possible approval of Agreement 001-11-ECA for a loan of \$1,345,487 to the City of Yuba City to retrofit street lights. The project includes changing 3,338 street lights to LED technology. The project will save over one million kilowatt hours annually, or approximately \$122,317 in annual cost savings for Yuba City. The payback period is 11 years based on the loan amount. (ECAA funding.) 22

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7. COUNTY OF GLENN. Possible approval of Agreement 002-11-ECE-ARRA for a \$243,000 loan to the County of Glenn to install new energy efficient HVAC systems and interior lights. The county will use this loan, a PG&E rebate, and block grant funding to complete these two projects. These projects are estimated to save \$33,170 annually with a simple payback of 6.7 years. (ECAA and/or ARRA funding.)	24
8. CALIFORNIA CERTIFIED ENERGY RATING AND TESTING SERVICES (CalCERTS). Possible approval of California Certified Energy Rating and Testing Services (CalCERTS) as a Provider for Home Energy Rating Services (HERS) Building Performance Contractors.	25
9. 2011-2012 INVESTMENT PLAN FOR THE ALTERNATIVE AND RENEWABLE FUEL AND VEHICLE TECHNOLOGY PROGRAM. Possible adoption of the 2011-2012 Investment Plan for the Alternative and Renewable Fuel and Vehicle Technology Program. The purpose of the program is to develop and deploy innovative technologies that transform California's fuel and vehicle types to help attain the state's climate change goals. The Energy Commission is required to develop and adopt the Investment Plan to determine priorities and opportunities for the program, describe how funding will complement existing public and private investments, and serve as a guide for funding decisions.	103
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P R O C E E D I N G S

SEPTEMBER 7, 2011 10:10 a.m.

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

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

CHAIRMAN WEISENMILLER: Good morning. Let's start the Business Meeting. In terms of announcements, Item 1J on the Consent Calendar has been delayed. That's the City of South Pasadena Item. With that, we'll go to the Consent Calendar. I'm going to split the Consent Calendar up into two Consent votes and hold Item 1I, Aspen, for a second vote and I'll recuse myself for that. So do I have a Motion for all of the Consent Calendar Items but for I and J?

COMMISSIONER DOUGLAS: Move Consent Calendar except for Items 1I and 1J.

COMMISSIONER PETERMAN: I'll second.

CHAIRMAN WEISENMILLER: All those in favor?

(Ayes) This Item passes.

COMMISSIONER BOYD: All right. The Chairman recusing himself from this Item. We have Item 1I on the Consent Calendar, Aspen Environmental Group having

1 to do with the Desert Renewable Energy Conservation  
2 Plan.

3 COMMISSIONER PETERMAN: I'll second.

4 COMMISSIONER BOYD: We need a motion.

5 COMMISSIONER PETERMAN: I'll motion Consent  
6 Item I.

7 COMMISSIONER DOUGLAS: Second.

8 COMMISSIONER BOYD: All in favor?

9 (Ayes) Ayes have it, three to nothing.

10 CHAIRMAN WEISENMILLER: Thank you. Let's go  
11 to Item 2 which is Hidden Hills Solar Electric  
12 Generating System. That's 11-AFC-02 and Mike?

13 MR. MONASMITH: Morning, Chair and  
14 Commissioners. I'm Mike Monasmith, Staff project  
15 manager along with Dick Ratliff, Staff Counsel. On  
16 August 5, 2011, Hidden Hills Solar Holdings, LLC.  
17 Submitted an application for certification to  
18 construct and operate Hidden Hills Electric Generating  
19 System. The Project will be located on approximately  
20 3,300 acres of privately owned land leased in Inyo  
21 County immediately adjacent to the Nevada border. The  
22 project site is approximately 18 miles South from  
23 Nevada and approximately 45 miles west of Las Vegas.  
24 This project would use elevated mirrors to focus the  
25 sun's rays on a solar receiver steam generator atop

1 two 750 tall solar power towers to generate a total of  
2 500 megawatts of electricity.

3 Staff has completed its data adequacy review  
4 of the AFC and has decided it does not meet all of the  
5 requirements listed in Title 20 in the California Code  
6 of Regulations, Section 1704 Appendix B. Of the 22  
7 technical disciplines reviewed, we believe that the  
8 information contained in the AFC is deficient in 9  
9 areas, mainly air quality, biological resources,  
10 cultural resources, efficiency, land use, traffic and  
11 transportation, transmission system design visual  
12 resources and waters. Therefore staff has asked the  
13 Commission to find the AFC inadequate and adopt the  
14 list of deficiencies which were filed together with  
15 the Executive Director's September 2 data adequacy  
16 recommendation.

17 MR. RATLIFF: Commissioners, in addition to  
18 that, one of the things that we wanted to point is  
19 that in the area of biological resources there is a  
20 requirement that protocol surveys be done for golden  
21 eagles. The survey that has been provided is,  
22 according to U.S. Fish and Wildlife Service, not  
23 consistent with what they think would be adequate so  
24 we want to in the next week or two, sit down and have  
25 further discussions with U.S. Fish and Wildlife

1 Services and talk with the applicant about how that  
2 issue is going to be addressed and how we can get  
3 those—how that survey problem can be addressed and  
4 whether or not this can be an issue that's addressed  
5 in discovery or whether it needs to be addressed as a  
6 data adequacy issue.

7 MR. HARRIS: Oh, good morning. I guess it's  
8 time to have more coffee I guess. I apologize. I'm  
9 Jeff Harris here on behalf of the applicant Hidden  
10 Hills Solar.

11 I'm here with Clay Jenson who's the Senior  
12 Director of Project Development and also Susan  
13 Strachan who's the Principle with Strachan Consulting  
14 and the Environmental Project Manager for Hidden  
15 Hills.

16 I'd like to turn it over to Mr. Jenson, let  
17 him tell you a little bit about the project and then  
18 address a couple of things Mr. Ratliff raised as well.

19 MR. JENSON: Chair, Commissioners, Clay  
20 Jenson, Hidden Hills Solar. Thank you for the  
21 introduction. I had planned to give you a brief  
22 project overview but Mike's succinct summary provided  
23 most of the detail I had planned to provide.

24 With that, I'm just going to highlight a few  
25 areas that may be of interest in introducing the

1 project. You're all likely familiar with the Ivanpah  
2 Solar Project that's currently under construction. We  
3 are planning to use a similar technology platform but  
4 we're going to expand upon that platform.

5           One of the key things that you've seen in  
6 the staff report and Mike made mention to is the use  
7 of a 750 foot tower. The Ivanpah Project was just  
8 under 500 feet. We've realized that the next  
9 technological platform would bump up to the 750 feet.  
10 The advantage of doing that is that you're able to  
11 bring the heliostats, the mirrors, into a more  
12 concentrated area because you have less blocking  
13 between the mirrors. By pushing the mirrors more  
14 closely together, you're able to produce more energy  
15 per acre than you would be able to with a shorter  
16 tower.

17           So the goal is to reduce the footprint. So  
18 in comparison to other technologies especially but  
19 even compared to our Ivanpah Project that taller tower  
20 allows us to produce more megawatts per acre to reduce  
21 the disturbance footprint. So that's the key  
22 different to going with that 750 foot tower.

23           We have met with and received the No Hazard  
24 Determination from the FAA, worked with the Department  
25 of Defense Facilities and it looks to be a very

1 compatible location for taller towers as compared to  
2 the other regional projects.

3           The project, again, is a 500 megawatt net, a  
4 540 megawatt gross. That's 2 250 megawatt net  
5 projects with 2 750 foot towers. We are under  
6 existing contracts with Pacific Gas & Electric for-to  
7 be an off-taker for the energy produce from this  
8 project. And that goes with PG&E's efforts to meet  
9 California's RPS standard and to help reduce global  
10 warming impacts. The project will produce enough  
11 power to supply 175,000 homes. So we're thinking that  
12 this is a productive site for development of our next  
13 technological platform.

14           I've highlighted the key in the tower  
15 difference. You'll learn in future hearings and staff  
16 will concur that there's other subtle differences  
17 between our Ivanpah model that's help to improve the  
18 efficiency that we'll get into at a future date.

19           I wanted to conclude with thanking staff.  
20 There's a lot of effort that goes in, as you know, to  
21 these applications during the pre-filing process and  
22 through the data adequacy reviews. We've been very  
23 impressed with the proactive approach and we're  
24 looking forward to working through data adequacy  
25 moving forward. Thank you.

1           MR. HARRIS:  If I might, I just want to add  
2 a couple of things.  First with regard to the Golden  
3 Eagle issue that was raised, and staff has not had the  
4 benefit of this information yet, we have completed our  
5 data adequacy responses.  Those are right now going to  
6 print.  And, as you know, there's 125 copies and  
7 certain number of CDs that we'll let the lawyers  
8 figure out but have to be produced.  They're in  
9 production so staff hasn't seen this information yet.

10           Surveys were conducted, they were conducted  
11 on foot.  And that was done at the direction of the  
12 California Department of Fish and Game who said,  
13 essentially, you can't use a helicopter to use those  
14 surveys at this point because of the lambing season  
15 for the Big Horn Sheep.  So we've got a little bit of  
16 a loggerhead between a couple of resource agencies  
17 giving us directions on protocols.  I think this will  
18 be easily resolved when the biologists and not the  
19 lawyers get in the room and talk these things through  
20 after the meeting today.  So I just wanted to put that  
21 out there.  And we do have a record of conversation  
22 about the helicopter issue which we'll share with  
23 staff later.

24           The second thing that I wanted to add is  
25 that there are a few requests, and we've made this

1 known to staff, that we feel go beyond the  
2 requirements of Appendix B. As you all know, data  
3 adequacy is a pretty straightforward comparison  
4 between the information in the application and the  
5 requirements of Appendix B.

6           There are a few of these, and I just really  
7 want to make the record on this, that we think are  
8 really more appropriate for Discovery and staff, I  
9 think, are leaning in that direction potentially on  
10 some of these as well. I expect we're going to  
11 resolve these issues pretty easily through our  
12 discussions moving forward.

13           We've already been through things that are  
14 going to help that process. Number one, even if we  
15 felt it was Discovery, if we had the information  
16 available we've provided it. That'll be in the  
17 forthcoming document that I talked about that's in  
18 production as we speak.

19           Secondly, even the ones that we think are  
20 Discovery, at this point we've already started the  
21 work. We've released the staff to go out and doing  
22 the work and anticipate giving the information as the  
23 first set of data responses. We're moving on these  
24 things. I don't want you to think that we're standing  
25 on a technicality that it's not exactly required by

1 Appendix B. I think it's important that we expedite  
2 this given the hard efforts of your staff.

3 I think things are going very well. We're  
4 very happy with the working relationship with staff.  
5 We look forward to seeing you again very soon for data  
6 adequacy. Thank you.

7 COMMISSIONER DOUGLAS: Thank you for the  
8 report on the project. We also like to see solar  
9 projects come to us. So, we look forward to working  
10 with you. I will move to find the project not data  
11 adequate currently but hope to see you before us again  
12 and data adequate in the near future.

13 COMMISSIONER BOYD: Second.

14 CHAIRMAN WEISENMILLER: All those in favor?

15 (Ayes) This motion passes four to zero.

16 Thank you.

17 MR. HARRIS: Thank you.

18 CHAIRMAN WEISENMILLER: Next Item is number  
19 3, Gateway Generating Station, 00-AFC-1C. Possible  
20 approval of a petition to modify several Air Quality  
21 conditions to reflect the Bay Area Air Quality  
22 Management District current conditions and the  
23 Prevention of Significant Deterioration enforcement  
24 action that has been resolved by a court-ordered  
25 Consent Decree. Craig?

1           MR. HOFFMAN: Good morning, Commissioners.  
2 The Item before you again is reduction in air emission  
3 standards for the Gateway Project. When the project  
4 was first approved and licensed by the Commission back  
5 in 2001 the project was conditioned with the  
6 appropriate air emission standards. Since then, the  
7 EPA reduced their emission rates and by consent  
8 decreed by PG&E, the Bay Area Air Quality Management  
9 District and EPA; they identified lower rates in four  
10 areas. Basically in nitrogen oxide, nitrogen oxide  
11 limits and also sulfur dioxide. The petition before  
12 you at additional consent decree conditions to our  
13 conditions and makes us consistent with the Bay Area  
14 Air Quality District conditions. It's really a  
15 housekeeping measure for us. If there are any  
16 questions for us I might be able to answer.

17           CHAIRMAN WEISENMILLER: Is there anyone here  
18 from the applicant? Or the Bay Area Air Quality  
19 Management District? Any questions or comments from  
20 the-

21           COMMISSIONER BOYD: No questions but I'll  
22 just make a comment that it's always good to see  
23 something moving in what I would consider a positive  
24 direction with regard to air quality. If there are no  
25 further questions, I'll move to accept the staff

1 recommendation.

2 COMMISSIONER PETERMAN: I'll second.

3 CHAIRMAN WEISENMILLER: All those in favor?

4 (Ayes) This Item passes four to zero.

5 Item 4. Energy commission committee  
6 appointments. Possible approval of appointments to  
7 the Energy Commission's Standing Committees and Siting  
8 Case Committees. This has been a standing Item for  
9 awhile as we look through for potential—who has been  
10 waiting for a potential swearing in of a—but at the  
11 same time at this stage I think it's important to move  
12 forward on our consolidation of committees but our  
13 first step is going to be, in terms of filling one of  
14 the Siting Case Committee holes. So at this point,  
15 I'd like to appoint Karen Douglas as the second member  
16 on the Carlsbad Committee.

17 COMMISSIONER BOYD: I'll move that  
18 suggestion—recommendation.

19 COMMISSIONER PETERMAN: I'll second.

20 COMMISSIONER BOYD: It gets very lonely  
21 there all by myself.

22 COMMISSIONER PETERMAN: I'll second it.

23 CHAIRMAN WEISENMILLER: All those in favor?

24 (Ayes) This passes four-zero. Thank you.

25 Next, Item 5. California Department of

1 Corrections and Rehabilitation. Possible approval of  
2 Agreement 001-11-ECD for a loan of \$2,056,229 to the  
3 California Department of Corrections and  
4 Rehabilitation for lighting system upgrades. Shahid?

5 MR. CHAUDHRY: Shahid Chaudhry. Good  
6 morning, Commissioner Chairman. Good morning,  
7 Commissioners. I'm Shahid Chaudhry with Special  
8 Projects in the Division of Fuel Center and  
9 Transportation. I'm here today to request your  
10 approval for our loan of \$2,056,229 to the California  
11 Department of Corrections and Rehabilitation. The  
12 Department will use this loan to upgrade the lighting  
13 system at the Corcoran Facility.

14 The number of lightings is approximately  
15 15,000 and by doing so we're anticipating that that  
16 department will reduce the energy consumption by about  
17 3.6 million kilowatt hours.

18 The payback period on this project is  
19 slightly over six years. Staff recommends your  
20 approval may be granted please.

21 CHAIRMAN WEISENMILLER: Thank you.  
22 Commissioners, any questions or comments. I would  
23 note that this is ECAA funding.

24 COMMISSIONER PETERMAN: No questions but I  
25 do have a comment. The Department of Corrections has

1 also been a model agency in terms of installing  
2 renewables on its properties as well. It's great-  
3 great to see them putting in the energy efficiency  
4 work and I look forward to, in turn, working with the  
5 Department of Corrections on the state's goal for  
6 2,500 megawatts of renewables on state property. And  
7 glad to see this item on the agenda.

8 MR. CHAUDHRY: Thank you.

9 COMMISSIONER PETERMAN: If there are no  
10 other questions, with that I'll make the motion to  
11 accept Item number 5.

12 COMMISSIONER DOUGLAS: Second.

13 CHAIRMAN WEISENMILLER: All those in favor?

14 (Ayes) This Item passes unanimously.

15 MR. CHAUDHRY: Thank you very much.

16 CHAIRMAN WEISENMILLER: Thank you. Item 6.  
17 City of Yuba City. Possible approval of Agreement  
18 001-11-ECA for a loan of \$1,345,487 to the City of  
19 Yuba City to retrofit street lights. This is ECAA  
20 funding. Cheng?

21 MR. MOUA: That's correct. Thank you and  
22 good morning, Commissioners. My name is Cheng Moua  
23 and I'm with the Fuel and Transportation Division,  
24 Special Projects Office.

25 This Item is a request for approval of an

1 ECAA loan with an amount of \$1,345,487 for the City of  
2 Yuba City. Yuba City has requested this loan to fund  
3 their street light retrofit project which includes  
4 retrofitting 3,338 street lights to LED light  
5 technology. The current street lights are high  
6 pressured sodium lamps with a few metal halides and  
7 the project is estimated to reduce the city's annual  
8 energy use by over one million kilowatt hours. This  
9 results in an annual cost savings of over \$122,000.  
10 The total cost for the project is approximately \$1.5  
11 million. The City of Yuba City anticipates receiving  
12 \$215,000 from utility rebates. The rest of the  
13 funding is expected from the approval of this loan.  
14 The simple payback from this loan is 11 years based on  
15 the loan amount and the interest rate of 3 percent.  
16 Staff has determined that this loan request complies  
17 with all the program requirements and I'm here to seek  
18 your approval. Thank you.

19 CHAIRMAN WEISENMILLER: Thank you.

20 Commissioners, any questions or comments?

21 COMMISSIONER PETERMAN: Could you just  
22 confirm again what the payback period is?

23 MR. MOUA: It's 11 years.

24 COMMISSIONER PETERMAN: Thank you.

25 COMMISSIONER DOUGLAS: This sounds like a

1 very good project. If there are no comments, I'll  
2 move approval.

3 COMMISSIONER BOYD: Second.

4 CHAIRMAN WEISENMILLER: All those in favor?

5 (Ayes) This Item passes unanimously.

6 MR. MOUA: Thank you.

7 CHAIRMAN WEISENMILLER: Thank you. Number  
8 7. County of Glenn. Possible approval of Agreement  
9 002-11-ECE-ARRA for a \$243,000 loan to the County of  
10 Glenn to install new energy efficient HVAC systems and  
11 interior lights. This is ECAA and/or ARRA funding.  
12 Joseph?

13 MR. WANG: Good morning, Commissioners. My  
14 name is Joseph Wang and I'm the Proposer of this loan.  
15 The County of Glenn is applying for a loan of \$243,000  
16 to install three HVAC systems at three county  
17 facilities in Willows and Orland. The County also  
18 plans to use this loan to replace the old T12  
19 fluorescent lamps with new energy efficient TA lights  
20 in 13 buildings. This loan will be combined with  
21 county block grant funds and PG&E rebates to improve  
22 the energy efficiency in 16 county buildings. The  
23 combined project is expected to save about 82 kW of  
24 peak energy and also save about \$33,170 in annual  
25 energy costs and have a simple payback of 6.7 years.

1 These energy efficiency measures will also reduce the  
2 carbon dioxide emission by over 153,000 pounds a year.  
3 This project will be split funded by ECAA funds and  
4 ARRA funds and the interest rate will be e percent.  
5 Staff has completed review of this project and  
6 requests approval of this loan.

7 CHAIRMAN WEISENMILLER: Thank you.

8 Commissioners, any questions or comments?

9 COMMISSIONER BOYD: If there's no comment,  
10 I'll move approval.

11 COMMISSIONER PETERMAN: I'll second.

12 CHAIRMAN WEISENMILLER: All those in favor?

13 (Ayes) This Item passes unanimously. Thank  
14 you.

15 MR. WANG: Thank you.

16 CHAIRMAN WEISENMILLER: Item number 8.

17 California Certified Energy Rating And Testing  
18 Services (CalCERTS). Possible approval of California  
19 Certified Energy Rating and Testing Services  
20 (CalCERTS) as a Provider for Home Energy Rating  
21 Services (HERS) Building Performance Contractors.  
22 Jim?

23 MR. BARTHOLOMY: Good morning, Mr. Chairman  
24 and Commissioners. My name is Panama Bartholomy. I'm  
25 Deputy Director for the Efficiency and Renewables

1 Division here at the Commission. I'm going to be  
2 providing you with a brief presentation to provide  
3 some context for this Item and then throwing it over  
4 to Jim Holland and Rashid Mir from the Enforcement and  
5 Compliance Division Unit of my Division as well.

6           So thank you very much for your time and  
7 attention. We'll get right into the presentation.  
8 The Item you have before you is the culmination of a  
9 long journey from the Energy Commission, our support  
10 for building performance contracting in California.  
11 In short, building performance contracting involves  
12 contractors trained in building science and the  
13 understanding of buildings as a whole system and then  
14 skilled with the types of training they need to be  
15 able to bring about changes that reduce energy  
16 consumption and improve comfort in buildings.

17           The slide before you shows the long history  
18 over the last 20 years of the Energy Commission  
19 working with industry, working with Department of  
20 Energy and other parties to bring about a robust  
21 building performance contractor community both in  
22 California and across the nation.

23           In 1993, legislation passed that amended the  
24 Warren-Alquist Act in 1994 that put into effect the  
25 statutory foundation and direction to the Energy

1 Commission for the California Home Energy Rating  
2 System, or the HERS program. It called for, as the  
3 slide suggested, a consistent, accurate and uniform  
4 rating based on a single statewide rating scale that  
5 provides reasonable estimates and utility bill savings  
6 and cost effective recommendations for improving  
7 energy efficiency. It call on the Energy Commission  
8 to create a program for training and certification for  
9 home raters and quality assurance procedures and it  
10 called on us to create a centralized database for  
11 uniform reporting to be able to track progress within  
12 the program.

13           There are three major players within the  
14 HERS program in California - the Energy Commission,  
15 HERS providers and HERS raters and I'll just briefly  
16 go over each of those responsibilities.

17           The Energy Commission is responsible for  
18 promulgating and updating regulations to implement the  
19 statutes that give us a direction on HERS. The  
20 Commission also reviews and approves provider's  
21 applications for certification and to offer services  
22 under the program. And then we provide oversight for  
23 providers as well.

24           HERS providers in California do the  
25 training, the testing and the certification of home

1 energy raters, commonly called raters, as well as  
2 maintain the registries, the database on all HERS  
3 project filings and provide quality assurance  
4 oversight for the HERS raters. The raters themselves  
5 provide both field verification and diagnostic testing  
6 for Title 24 and provide whole house ratings for  
7 residents in the real estate community in California.

8           Just some background on the Energy  
9 Commission's role in this. The Energy Commission, on  
10 the promulgation updating of regs. We hold a series,  
11 as you are quite familiar with, our normal public  
12 workshops on both draft and final regulation. The  
13 regulation are finally adopted at a Business Meeting  
14 by the Commission and forwarded on to be reviewed and,  
15 hopefully, approved by the Office of Administrative  
16 Law. At that point, providers in California use those  
17 regulation to submit applications to be able to  
18 provide services here at the Commission.

19           The Commission staff reviews the curriculum,  
20 the tests, the data registry and all of the  
21 organizational infrastructure being proposed within  
22 that application. We see whether it meets the  
23 expectations of the regs and the statute. We work  
24 with the provider to make any needed improvements and  
25 then we come to the Commission and recommend either

1 approval or denial of that application. All of the  
2 material that is within the application from the  
3 providers represents a significant amount of  
4 intellectual property and work on the part of the  
5 providers and so the regulations allow for a  
6 confidentiality clause where the—all of the material  
7 is protected and not shared publicly in order to  
8 protect the intellectual property of each of the  
9 providers.

10           And, lastly, we provide oversight to all the  
11 HERS providers in California and check on their  
12 oversight and their quality assurance they perform on  
13 raters.

14           We began the implementation of the HERS  
15 program in California in 1999 in part to deal with, at  
16 the time, a rash of construction and installation  
17 defects happening in the building industry across  
18 California. We worked with the building industry to  
19 put into effect what are called HERS field testing and  
20 diagnostic raters where they become a key part of our  
21 compliance with Title 24, Part 6 the energy efficiency  
22 part of the building standards. These Title 24—I'm  
23 sorry, these HERS raters check key energy efficiency  
24 regulations in key climate zones of California to make  
25 sure that they're installed correctly and performing

1 up to a point where they are meeting our standards.  
2 We have over 1,000 individual raters right now who are  
3 working in Title 24 compliance within the state.

4           What we're discussing today though is Phase  
5 2 of the HERS program. The whole house energy rating  
6 program that really was envisioned by the legislature  
7 when they originally implemented the statutory  
8 language. This program will, as the statute directs  
9 us to, provide this consistent, accurate, uniform  
10 whole house energy rating for newly constructed and  
11 existing homes in California with labeling procedures,  
12 the training programs and everything else to bringing  
13 it fully compliant with the statute and the direction  
14 given to us.

15           We began the development of this second  
16 phase of the HERS program, commonly called HERS II, in  
17 2007 with a series of workshops here in Sacramento  
18 both staff workshops and Committee workshops over a  
19 two year period. We had a significant amount of input  
20 from a stakeholder advisory group. As we've had  
21 Efficiency Committee workshops and staff workshops on  
22 the development of the regulations for this program,  
23 accepted both public and written comments at workshops  
24 and on draft language. We had great representation  
25 from the home performance community, from HERS

1 providers, from utilities, building industry and  
2 significant amount of others.

3           Finally, in December 2008 at Chairman  
4 Pfannenstiel's last meeting here at the Commission,  
5 she really carried it through from the Efficiency  
6 Committee, the HERS Phase II Regulations were adopted.  
7 We then forwarded it on to OAL and the regulations  
8 were put into effect in September of 2009.

9           What the HERS II allows for is two different  
10 certifications for raters, and independent whole house  
11 rater and a building performance contractor rater. An  
12 independent whole house rater are independent raters  
13 without any financial raters as defined in the  
14 regulations with contractors who would eventually  
15 perform energy efficiency improvements on a home or  
16 building or contractors for a new home. So this is an  
17 individual rater that comes out using a standardized  
18 state software and standardized state assessment  
19 protocol. They can then work with a homeowner to  
20 explain to them how their home is performing and the  
21 most cost effective ways that they can upgrade their  
22 home to both reduce their bills as well as improve  
23 comfort within their home.

24           These independent raters provide these  
25 assessments for both consumers and realtors. They can

1 provide ratings for energy efficient mortgages and  
2 they perform both whole house ratings and the field  
3 verification for Title 24 and one stop at the  
4 homeowner's house.

5           What we're discussing today is the  
6 culmination of the movement toward a second path of  
7 Phase II for HERS which is the building performance  
8 contractor path. What this will allow is it allows  
9 building performance contractors to do ratings on  
10 homes as well as to perform the work on their homes.  
11 It will require that a HERS building performance  
12 contractor be at least a Class B building contractor  
13 and they will need to employ a building performance  
14 contractor rater that's trained and certified by a  
15 qualified provider.

16           Because you will have an individual company  
17 that will be providing both the work and the rating  
18 for these homes, these building performance  
19 contractors will have a heightened disclosure and  
20 quality assurance procedures imposed on them in order  
21 to protect consumers by HERS-by the HERS providers.

22           These building performance contractors are  
23 going to be trained to follow industry best practices  
24 for installation as defined by the Building  
25 Performance Institute and also be able to provide the

1 consumers with a single point of contact for both  
2 improvements as well as ratings and recommendations  
3 using a standardized approach, definitely cutting down  
4 on the amount of visits the contractor has to make or  
5 a program administrator has to make for a homeowner.

6 At that points, it concludes my presentation  
7 and I would like to hand it over to Jim Holland to  
8 talk about the application before you from CalcERTS,  
9 the applicant. The applicant is here in the room as  
10 well and if you have any questions for them, they'd be  
11 happy to answer them as well. Thank you very much.

12 MR. HOLLAND: Thank you, sir, for the  
13 background information in helping everyone understands  
14 the facts surrounding this item.

15 Good morning, Chairman and Commissioners.  
16 I'm Jim Holland of the Building Standards  
17 Implementation Office and with me is Rashid Mir of the  
18 same office.

19 Staff is requesting Energy Commission  
20 approval of the application by California Certified  
21 Energy Rating and Testing Services hereafter referred  
22 to as CalcERTS to become a provider for home energy  
23 rating system building performance contractors or HERS  
24 BPC for short. This approval does not change the  
25 current HERS regulation and becoming a HERS BPC is

1 completely voluntary.

2           The Energy Commission approved CalCERTS as a  
3 HERS provider for independent whole house raters at  
4 the July 28, 2010 Business Meeting. Today's request  
5 builds upon this prior approval. After an open public  
6 review process that included stakeholders such as HERS  
7 providers, HERS raters, HERS performance contractors  
8 and their affiliate organizations, the Commission  
9 adopted the current HERS regulation in December 2008.

10           The regulations went into effect of  
11 September 2009 and included the provisions for the  
12 HERS BPC program. The HERS BPC program is a special  
13 approval category under the HERS regulation. This  
14 designation combines a licensed Class B general  
15 building contractor and a HERS whole house rater to  
16 provide ratings for home that they have completed  
17 energy efficiency improvements on.

18           The HERS BPC will take into account the  
19 complex interactions of the home's various components  
20 and evaluate how they affect the efficiency, comfort,  
21 safety and durability of the home.

22           The Energy Commission has worked closely  
23 with the Building Performance Institute, BPI, to  
24 create a California conditions tailored program that  
25 aligns with BPI's practices. BPI's building analysts

1 and certifications are required to become a HERS BPC.

2 Staff has thoroughly reviewed the CalCERTS  
3 HERS BPC application package which includes training  
4 material, register upgrades, quality assurance plans  
5 and legal agreements and has found all aspects of the  
6 application package to be in compliance with the  
7 requirements of the HERS regulations.

8 It is for this reason that staff is  
9 recommending approval of CalCERTS as a provider for  
10 HERS building performance contractors. Thank you.

11 CHAIRMAN WEISENMILLER: Thank you. We have  
12 a number of requests for comments. I was going to  
13 start with CalCERTS, do you want to—

14 MR. BACHAND: Good morning, Commissioner  
15 Chairman Weisenmiller. I'm Mike Bachand from  
16 CalCERTS. Good morning. Thank you for an opportunity  
17 to speak before you this morning.

18 Before I forget and things get out of hand,  
19 I would like to thank the Commission, specially staff  
20 starting with Panama and all the people under his  
21 authority right now, Bill Pennington, Rashid Mir, Jim  
22 Holland, all the people who have worked with us on an  
23 unprecedented level to come to an approvable program  
24 that is quite rigorously reviewed and detailed in  
25 every way.

1           I'd also like to thank my staff for working  
2 very hard to bring this all together. I also wanted  
3 to say a few things about the process that we've been  
4 through other than the technical ideas of meeting the  
5 guideline of the Commission.

6           In 2007, during the workshops, before the  
7 approval of the 2008 Phase II Regulations, I stood at  
8 this microphone and asked for a solid definition of  
9 what a building performance contractor would be in the  
10 eyes of the Commission as it relates to the HERS  
11 regulations. And they provided that. And that was  
12 the target that we were shooting for.

13           In 2009 we started this process of working  
14 through the HERS II process, what a HERS II rater is,  
15 how a HERS II rater would relate to contractors and it  
16 was a lot of meetings and a lot of time spent working  
17 with not just Commission but a lot of stakeholders in  
18 the industry.

19           I want to make a firm statement here today  
20 that we are certainly willing to work with the  
21 contracting community, contracting associations as  
22 they might exist anywhere and other stakeholders to  
23 bring this to the best possible marketplace and market  
24 service that it can provide.

25           To achieve that, we have hired 7 people this

1 year, I have 4 licensed contractors on staff, 3 of  
2 them are building type contract managers and the 4<sup>th</sup>  
3 one is me. I aced my license a while back. My  
4 license starts with a 5 so that tells you how old I  
5 am. We've talked with BPI and Tiger Adolf, their  
6 director out here, and Conrad at CBPCA and some other  
7 people to determine what their needs and thoughts are  
8 on the process. We haven't come to any agreements or  
9 anything but we've talked about what we could do.

10 We are working on developing a contractor  
11 mentoring program that we think will be very  
12 innovative and helpful in the marketplace so that  
13 contractors who don't feel that they can go out and  
14 maybe do their first couple of jobs confidently, we  
15 will be able to bring qualified people to their jobs  
16 to help them. Those processes are in process. We  
17 don't have the program designed but they are on our  
18 drafting table to do.

19 We are starting to work with SMUD to meet  
20 with their contractors on their rebate programs about  
21 how a rater can make ratings more relevant to  
22 contractors. So maybe a rater can gather additional  
23 information other than what is required for the rating  
24 that would help a contractor understand by looking at  
25 the raters work what the house is like.

1                   We've worked on pricing issues. We've  
2 worked with hundreds—we have literally thousands of  
3 hours invested in this process and doing the  
4 curriculum we had to hire trainers to do the training  
5 while our Director of Curriculum Development, Russ  
6 King, wrote the curriculum and worked through that  
7 process. We had to relieve him from training at times  
8 in order to give him an opportunity to finish this in  
9 a timely fashion.

10                   We worked with BPI and CEC to combine our  
11 training with the BPI trainings so that there would be  
12 no overlap in trainings, people would not have to sit  
13 through the same course material twice. So we reduced  
14 our training which was a difficult and careful process  
15 so that we made sure that we maintained the integrity  
16 of the HERS information that needs to be transmitted  
17 to these people and yet not overlap stuff that they  
18 had already worked with.

19                   We were able to cut that training a little  
20 more in half so a 15 ½ day training dropped down to  
21 about 5 or 6 days or so. We worked with BPI also to  
22 design our QA program so that it would satisfy most of  
23 their requirements. They have a couple of  
24 requirements that are not directly pertinent, that  
25 they need to know about because of their affiliation

1 requirements or accreditation requirements, pardon me.  
2 But barring those, our QA process will satisfy the BPI  
3 QA process so that a homeowner doesn't have to come  
4 home after the job has been done and have our QA guy  
5 come in and take another day off next week to have the  
6 BPI QA person come in. We will be able to report  
7 those QA persons, those QA jobs to BPI.

8           We will work with and we've tried to work  
9 with some recognized training facilities to find out  
10 ways to allow them to deliver our curriculum but we're  
11 very careful about that for a couple of reasons.  
12 First of all, Title 20 requires that we, CalcERTS,  
13 certifies to the CEC that the rater has met and  
14 continues to meet all of the requirements of the  
15 program of the approval program.

16           We're ultimately on the hook, we feel, for  
17 the monitoring that and doing the QA and so forth. We  
18 want to make very sure that the training delivered is  
19 adequate, not talked to the test and has the high  
20 quality that we expect. We'd also like to reduce some  
21 of our development costs, of course. They are  
22 substantial.

23           Our building performance contractors  
24 program, we feel, will support the contractor's  
25 efforts out in the marketplace. There is going to be

1 some differences of opinion on that, I'm sure, but we  
2 feel that it will help consumers feel more confident  
3 that the work is being done on their home by higher  
4 qualified people. BPC, building performance  
5 contractors, can consider themselves the elite of the  
6 trained contractors. They've got more training on  
7 more things than any other contracting community out  
8 there. They should hopefully be able to market that.  
9 They should be able to say what their disclosures are,  
10 "We're disclosing to you that fact that our own person  
11 is doing this assessment but we're being looked at  
12 very carefully by oversight agency."

13           And that the higher training that they  
14 provide will actually bring a better understanding to  
15 the contractor of the goals of the work that they are  
16 doing. The overall goal as a whole house as a system  
17 approach.

18           And, finally, we feel that it aligns rather  
19 closely with the home performance with the Energy Star  
20 programs also. CalcERTS is an Energy Star version 3  
21 training provider also and so we are in touch with  
22 Energy Star on an ongoing basis to make sure that we  
23 are watching their programs and complying with those.

24           If you have any questions, I'd be happy to  
25 answer them either now or later. And I might require

1 some help from my staff on some of the questions.

2 Thank you very much.

3 CHAIRMAN WEISENMILLER: Commissioners, are  
4 there any questions or comments? Not yet. Okay, so  
5 let's go on to the next—thank you. Let's go on to the  
6 next speaker. Tamara?

7 MS. RASBERRY: Good morning. I am Tamara  
8 Rasberry from SEMPRA Utilities, the San Diego Gas &  
9 Electric Company and the Southern California Gas  
10 Company. When I sent out a notice to our offices in  
11 Southern California that this Item was up, I received  
12 an overwhelming response in support of this Item.

13 So I'm here today to ask and seek your  
14 approval of this Item from the Commissioners to  
15 approve CalcERTS as a provider for the HERS BPC.

16 And to just summarize some of the comments  
17 that I received that approving this program affords an  
18 opportunity for contractors to provide whole house  
19 ratings as part of their market services for home that  
20 they perform work on. It also aligns quality  
21 assurance procedures for both HERS and BPI. It also  
22 expands the role of the HERS raters as Panama said  
23 earlier. And the potential increase and participation  
24 by consumers by whole house retrofit programs by  
25 simplifying the process.

1           So I'm very happy that I could be here today  
2 because this is my last week of work so you won't see  
3 me for awhile. But in summary, we just thank you.  
4 Thank the team for their work. And ask for your  
5 support on this. Thank you.

6           CHAIRMAN WEISENMILLER: Thank you. The next  
7 speaker is Conrad Asper.

8           MR. ASPER: Mr. Commissioner and  
9 Commissioners. Thank you very much for allowing me to  
10 speak today. My name is Conrad Asper and I'm the  
11 Executive Director of the California Building  
12 Performance Contractors Association.

13           Before you today there is a seemingly  
14 routine piece of business and it's Item 8 on the  
15 agenda and it puts into motion the building  
16 performance contractors path as part of the Home  
17 Energy Raters program, known as HERS II. I want to  
18 let you know today that the CBPCA opposes the adoption  
19 of this at this time.

20           Indeed it's clear to us from events happened  
21 over the last few days that the current stakeholders  
22 in the construction and energy efficiency industries  
23 would like to have more time and a meaningful  
24 opportunity to discuss the wider implications of the  
25 further implementing of HERS II prior to the

1 Commission taking action on this issue.

2           Essentially, we're requesting that the  
3 Commissioners hit the pause button and ask the CEC  
4 staff to further examine the wider implications with  
5 current stakeholders of this implementation over the  
6 next few months.

7           The number that we saw in Panama's speech in  
8 presentation here was 2008. That number kept coming  
9 up as when this was last discussed publicly and this  
10 stakeholder's meeting that was put together---  
11 stakeholder's webinar September 2, last Friday, was a  
12 bit hurried. I really appreciate that it was put  
13 together because we did want to understand the HERS  
14 process and what was going on at this point. Through  
15 that webinar there were a lot of questions and  
16 concerns of the 50 some odd people that were on that  
17 call. And this was a call that was put together with  
18 basically 24 hours notice for us to send out emails to  
19 contractors to get them to come along to have a  
20 discussion about this.

21           We're not saying that this is wrong. We're  
22 not saying that this is a bad piece of policy. We're  
23 just saying that we want some more time for the  
24 stakeholders, the current stakeholders not  
25 stakeholders of 2008 but the current stakeholders, to

1 have an opportunity to voice concerns and talk about  
2 this a bit more. And that's really why I'm here  
3 speaking today.

4 Our position is that the stakeholders that  
5 are involved now, their ideas have matured  
6 tremendously since 2008 and HERS—the broader HERS  
7 issue and further implementation of that, I know that  
8 we're going to be having the opportunity, I hope, to  
9 be discussing that further but this adoption of this  
10 approval will push the implementation of the HERS II  
11 forward is how we see it.

12 There is a concern that was raised on the  
13 call that the adopted of Item 8 would create a virtual  
14 monopoly of the marketplace. I know that Mike is  
15 committed to talking to different training groups and  
16 stakeholders but once this is put into place, the  
17 motivation to be able to do that is much less. So I  
18 would be concerned that there wouldn't be the  
19 collaborative ability to have multiple training  
20 providers in the state once this is pushed forward for  
21 HERS II.

22 Other concerns, the HERS II—if this is moved  
23 forward today, there may be further questions in the  
24 marketplace. Will HERS II happen? Will it not  
25 happen? Should contractors invest in HERS II training

1 now or not? These concerns and questions are going to  
2 be further raised even at a time that the Commission-  
3 or Panama and the CEC staff had sent out a memo  
4 stating that we would not be requiring HERS II ratings  
5 on the current utilities program funding cycles. In  
6 essence it seems that-it appears to be that the CEC is  
7 putting the brakes on, forcing HERS II as a  
8 requirement while applying the gas to implement the  
9 building performance contractors path with HERS II  
10 certification.

11           The question is why are we doing that before  
12 we have meaningful conversation about HERS II moving  
13 forward. That conversation moving from, as I  
14 understand it, from that same memo is going to come  
15 over the next few months. Those are my main concerns.

16           Finally, I do want to put on record now that  
17 industry leaders-that industry leaders want to go on  
18 record as stating that the entire HERS II issue needs  
19 to be discussed with current stakeholders in light of  
20 current market realities. Such a meaningful  
21 discussion needs to occur given the emergence of this  
22 different landscape that has come into place since  
23 2008. We are interested now in really digging in at a  
24 whole new level of discovery in this and we hope that  
25 the Commission will put the pause button here and hold

1 on this and give current stakeholders more time to  
2 have further webinars not just the one that was on  
3 Friday but further webinars and discussions around the  
4 wider implications of what this will occur. So I  
5 think you very much for your consideration of this  
6 request and, again, I urge you to delay the decision  
7 and I request a full discussion on HERS II issues  
8 prior to moving forward.

9 CHAIRMAN WEISENMILLER: Thank you. Next  
10 speaker is Tiger Adolf.

11 COMMISSIONER PETERMAN: Can you come back?  
12 Sorry.

13 COMMISSIONER BOYD: Mr. Asper, would you  
14 come back?

15 COMMISSIONER PETERMAN: I just wanted to  
16 know if you could elaborate more specifically why you  
17 see approval of the HERS BPC leading to a virtual  
18 monopoly?

19 MR. ASPER: Well, there's only one provider  
20 currently and that's CalcERTS. As having been a  
21 provider for HERS, I know what it takes to really try  
22 and the resources and the time it would take to end up  
23 getting a HERS II certification to be able to actually  
24 be a provider that can participate in this. So that's  
25 not going to happen. CalcERTS has that position now.

1 It's very questionable if this other organization is  
2 going to get that position. My understanding is  
3 probably not but who knows. CBPCA certainly isn't  
4 going to get that position in the near future. So  
5 that then leaves collaborating with other training  
6 organizations to provide the service. Again, if this  
7 is passed, there's no real incentive for CalCERTS to  
8 collaborate with other training groups. I mean, they  
9 have it all. That's fine. That may be fine for the  
10 marketplace for now but for the foreseeable future  
11 there's not going to be other options for contractors  
12 to do this kind of training. And right now it's true.  
13 It's not a requirement in the programs that this will  
14 happen, however Commission can pull the trigger in the  
15 future and it is a requirement and then without having  
16 other organizations---training organizations in the  
17 game, they're going to be the only group in town that  
18 has a specific certification that then becomes  
19 required. Does that make sense?

20 COMMISSIONER PETERMAN: It does. I guess I  
21 just wanted to clarify and make sure that I have it on  
22 the record though that this will not preclude you from  
23 providing your services elsewhere?

24 MR. ASPER: I'm sorry, say again.

25 COMMISSIONER PETERMAN: Will there not be a

1 demand for your services after this? Will there not  
2 be a demand for your specific services?

3 MR. ASPER: It's debatable, of course. I  
4 feel that if a contractor can go to a one stop shop  
5 and get it all, what's the motivation to be able to go  
6 here for a piece and here for a piece and then do some  
7 kind of a bridge with a test to then get the final  
8 piece.

9 COMMISSIONER PETERMAN: The transaction cost  
10 will also be higher than to go to both parties?

11 MR. ASPER: Absolutely.

12 COMMISSIONER PETERMAN: Okay.

13 MR. ASPER: Absolutely. On the contractor.

14 COMMISSIONER PETERMAN: Okay. Thank you.

15 COMMISSIONER BOYD: Mr. Asper, I have a  
16 question, if you would please. Excuse me. I want to  
17 try to understand something that I thought I heard  
18 with regard to timing. You referenced 2008 as did Mr.  
19 Bartholomy but you referenced it as the last time  
20 there was any kind of dialogue on the subject. Or at  
21 least you left the impression that there's been no  
22 dialogue on the subject until last Friday. Have there  
23 been no webinars, workshops, consultations since 2008  
24 or in 2008 forward until last Friday?

25 MR. ASPER: It's my understanding there has

1 not been any specific dialogue recently in the last 6-  
2 8 months, maybe a year, as to whether-what the wider  
3 implications of having this building performance  
4 contractors pass implemented at this time would be. I  
5 think-it just kind of-we asked for this from Panama,  
6 I'm sorry, from the CEC. I shouldn't specifically say  
7 Panama because it's not-he's got a lot going on here.  
8 I appreciate-

9 COMMISSIONER BOYD: It started before his  
10 watch if that's what you're trying to say.

11 MR. ASPER: I do appreciate the friendship  
12 with the CEC and I'm not trying to make problems here.  
13 That's not my goal here in anyway. I'm just raising  
14 my hand here saying let's take a timeout here and have  
15 more discussion before it is implemented and approved.  
16 That's all I'm asking. I think it seems pretty  
17 reasonable but that's up to you.

18 COMMISSIONER DOUGLAS: Commissioners, let me  
19 just-I don't know if you have more questions  
20 Commissioner Boyd but you sent me a letter that I  
21 haven't had a chance to respond to. I got it  
22 yesterday morning and I spent some time following up  
23 on some issues that you raised. The first thing that  
24 I'd like to say is that it would be great if we could  
25 set up an appointment and talk about your views on

1 HERS II because I hear a lot in your comments  
2 ambivalence about HERS II. Right now, HERS II is not  
3 required. Right now, different providers have made  
4 different decisions about how much to invest in being  
5 certified for HERS II and it's not currently required  
6 and we're not requiring it for the ARRA projects so  
7 that I think that would be—I'd like to hear your views  
8 on HERS II.

9           In terms of the building performance  
10 contracting path, first of all it's in our regulations  
11 and we don't, typically, have public hearings before  
12 certifying a provider. We have a pretty rigorous  
13 process and my own view is that it's a very rigorous  
14 process. If it errors, it errors on the rigorous side  
15 and I'm not sure that it errors and we have a tough  
16 process for providers to get through in order to get  
17 certified in these various areas.

18           I think that there's a very different niche  
19 for the independent rater community and the building  
20 performance contractor and some people will be more  
21 attracted to one approach versus another. Some people  
22 will prefer the independent rater because they're the  
23 people who shop for the second opinion and it's often  
24 a good idea in the world to do that. Other people  
25 will get a recommendation from someone they trust,

1 someone who they view as a good contractor and have  
2 the reduced transaction cost and ability to move  
3 forward with that person. I think that there are  
4 safeguards and I think that we are very, very, very  
5 open to having, in fact we would like, to have more  
6 providers take this path. I think one of the  
7 questions that I asked staff in response to seeing  
8 your comments yesterday was about the issue of  
9 trainings. Have we made sure that someone can do BPI  
10 training in one place and have that count and not  
11 discounted? What if they were to go to CalCERTS and  
12 then get the building performance contracting HERS II  
13 certification? I think I'll ask staff to speak to  
14 that because that's pretty responsive to one of your  
15 concerns.

16 But in any case—I spent some time digging  
17 into some of the concerns you raised. And I want to  
18 invite you to come and speak with me more broadly  
19 about some of the broader issues that you've raised.  
20 Let me ask staff to talk about provisions you've made  
21 to make sure that somebody can take a BPI course from  
22 one provider and then have that count towards the HERS  
23 II building performance contractor certification.

24 MR. MIR: Good morning, Commissioners.  
25 Rashid Mir with staff. As part of the development of

1 the BPC program, CalCERTS had submitted applications  
2 before. We had talked to them I believe since  
3 September of last year. CalCERTS, the Commission and  
4 BPI and some home contractors, we had a very good  
5 discussion. And one of the things that they did ask  
6 for was to allow for a streamline process where home  
7 performance contractors who already have individuals  
8 who are certified through the Building Performance  
9 Institute as building analysts can take a path that  
10 they don't have to take, training that they've already  
11 been certified for. The Building Performance  
12 Institute has a lot of training and good standards.  
13 What they do not have is the California specific  
14 requirements and rules that are laid out through the  
15 Title 24 process for HERS field verification raters  
16 and then throughout HERS whole house program. So  
17 those, we believe, are very important training  
18 opportunities and needs for HERS raters and HERS  
19 building performance contractors.

20 CalCERTS is going to have a path where a  
21 certified building performance—someone certified  
22 through the Building Performance Institute as a  
23 building analyst can challenge tests. They'll still  
24 have to take all the tests required but the training  
25 will be reduced. They will not be retrained on the

1 stuff they already know but they will need to know—  
2 they'll be trained on the HERS specific items.

3           Just in terms of terminology, the providers—  
4 there's HERS providers, the three HERS providers  
5 CalCERTS is a HERS provider for whole house energy  
6 ratings and then there's BPI training affiliates who  
7 are affiliated with the Building Performance Institute  
8 and train people and get them ready for them to pass  
9 the BPI training test.

10           COMMISSIONER DOUGLAS: Thank you for that.  
11 I think we should let you comment since we've asked  
12 you to come back up here but let me ask you to comment  
13 also on the last thing that I'll say at this point  
14 which is you're asking us to deny approving the  
15 certification of somebody who has followed all of the  
16 rules that we have, who has complied with the existing  
17 regulations and who has invested significant resources  
18 in doing so under the existing rules. So I don't  
19 think, myself, that the equities are in favor of doing  
20 that but I would like to give you the opportunity to  
21 speak to that, if you'd like.

22           MR. ASPER: I don't know that I'd frame it  
23 as denying; in essence maybe that is what it would be.  
24 I don't know. It seems to me that it's asking for a  
25 delay so not approve it today but let's have some more

1 discussion about this. I have to question CEC staff  
2 put together a webinar so quickly in the 11<sup>th</sup> hour to  
3 communicate this. I appreciate this but in this  
4 webinar, it raised a lot of concerns and that's what  
5 solidified me to state my piece here. In tandem with  
6 that last week, BPI sent out to all the affiliates in  
7 the state a questionnaire. One of the conclusions is  
8 that there is confusion about the BPC—of what the BPC  
9 will entail and what it might mean to the industry.  
10 That's one of the main conclusions. Once you pull the  
11 trigger on this, you can't pull it back—I don't think.  
12 It's just something that I think needs a little bit  
13 more time from industry stakeholders, current industry  
14 stakeholders, to be able to have some meaningful  
15 dialogue about. It also, of course, leads to that  
16 further conversation that I really want to have with  
17 you Karen and I appreciate that you welcome the  
18 dialogue because we do need to talk about HERS moving  
19 forward as well. I'm a year into this. I'm new to  
20 the industry. So just doing my best here. I did hear  
21 confusion. I did hear concern on that seminar—on that  
22 webinar on Friday before the holiday weekend. I just  
23 thought it should be raised. I appreciate your  
24 consideration. Thank you.

25 CHAIRMAN WEISENMILLER: Thank you. Next

1 speaker is Tiger Adolf from the Building Performance  
2 Institute.

3 MS. ADOLF: Please forgive my technical note  
4 strategy here today. Chairman Weisenmiller and  
5 Commissioners, thank you for your time today. I am  
6 Tiger Adolf. Director of the Western Region for BPI.  
7 In my role, I'm not allowed to advocate. I may only  
8 educate and advise and that's what I'm here to do with  
9 you today, to share some concerns from the contractor  
10 and the training community and hopefully encourage you  
11 toward some positive next steps.

12 I have great respect for the people on both  
13 sides of this issue. The Commission staff, efficiency  
14 first, CBPCA and BPI contractors that you'll hear from  
15 today are all very passionate and what they all want  
16 to do is the right thing.

17 Cold showers and hot beer. That's why  
18 people call it contracting. Their house doesn't work.  
19 They don't need a score to tell them your house sucks,  
20 here's a report, I can't help you fix it but here's  
21 somebody who can, no I can't tell you who can but when  
22 you find somebody I can come back and give you another  
23 score. And then when the code changes in 3 years, I  
24 can come back and give you a score again because it's  
25 going to change at that time. That's not what they're

1 looking for. Homeowners want solutions. They want to  
2 hire somebody who can give them the hot showers and  
3 the cold beer and they hire building performance  
4 contractors like those sitting in the room to give  
5 them the solutions.

6           And the State of California values the  
7 score. You want that score in the hope that it will  
8 help you measure, what-energy reduction? Carbon  
9 reduction? These don't matter if nobody wants to buy  
10 it. If there's not a market for it.

11           The BPC has the ability to bring that  
12 package together and provide a one-stop shop for  
13 ratings and improvements together. That's why I see  
14 the value of BPC but the system is over complicated  
15 and the contractors question whether or not there is  
16 any business case for them to take this up because of  
17 the complexity of the system. They don't know if they  
18 can take that leap. They don't know if they can  
19 afford the additional week of training, even as  
20 simplified as Rashid, Bill, Mike and Russ have helped  
21 to make it be. It is still too complicated. There's  
22 a lot of debate over whether or not this particular  
23 asset rating structure will actually give you the  
24 information you want. Whether consumers are  
25 interested in it or whether this forum is something

1 that consumers will understand and it will give them  
2 any kind of value in the marketplace. Whether at time  
3 of resale or any other time.

4           And the CEC has invested a lot, over \$20  
5 million in creating a BPI certified workforce. It has  
6 been my pleasure in the past year to work with the CEC  
7 staff, Panama, Bill and Rashid in particular, as they  
8 supported the growth of a trained and professionally  
9 certified home performance industry all across  
10 California. That training effort has resulted in more  
11 than 1,460 certified professionals who are not  
12 participating in California's building performance  
13 industry.

14           It has enabled the development of training  
15 providers, 43 in all, and 20 of those headquartered in  
16 California, including CalcERTS who are the training  
17 providers. They are private, they are for profit.  
18 They are nonprofit. They are community colleges.  
19 You've supported a big growth of the industry though.  
20 They all want a long term sustainable training model.

21           Some of those indicate that if BPC passes,  
22 as it's currently structured with CalcERTS as the  
23 single source provider for trainer that they will  
24 simply close their doors, fire their people and stop  
25 training.

1           You have building performance contractors  
2 already. They're sitting in the back of the room.  
3 There's a whole bunch of them. And they're already  
4 jumped a whole lot of hurdles. They've jumped the  
5 bar. They've raised the bar. They've done what they  
6 needed to do to become Building Performance  
7 Contractors. But the way that this is structured it  
8 could be unattainable. The building performance  
9 contractors don't need another week of training,  
10 another certification, another investment of thousands  
11 of dollars to enable them to support your efforts in  
12 giving the homeowners what they need. The solution  
13 lies in leveraging your investment and relying on the  
14 BPI certified workforce that you've already created.

15           We have seen in many places across the  
16 country where the consultant has separated from the  
17 contractor who performed the work. That model fails.  
18 That's been recognized here and that's why BPC is  
19 being put forward. Homeowners don't want the score  
20 they want the solution. Contractors must own the  
21 process that delivers that solution. If they can  
22 include the score as part of their natural process  
23 that's integrated into their natural system, they're  
24 happy to do that. But it needs to be a simple  
25 straightforward score that doesn't require them to

1 hire another staff person and then 6 hours or 8 hours  
2 or 10 hours of remodeling to obtain that score on top  
3 of the assessment of something they've already done.  
4 That's a problem. The score in-and-of itself really  
5 hold no value to the home consumer right now because  
6 they don't understand them, they're too complicated  
7 and they don't tie to the market value in anyway. And  
8 because they change over time if you model the same  
9 house today and then model the house again, everything  
10 else remaining static after a code change; you're  
11 pebbly going to get a different score. That is not  
12 reliable for the homeowner and it confuses them. The  
13 homeowner wants the peace of mind. She wants results.  
14 She wants her house back, she wants it comfortable and  
15 she wants it efficient. She wants the peace of mind  
16 that comes with a high performance house. The  
17 contractors doing this work do it to help the people  
18 in the homes, not to give the building a score.

19           The CEC staff recognized the challenge of  
20 incorporating ratings into a functional business  
21 rating and they wanted to accelerate the path to BPC.  
22 They recognized both the need for duplicate training  
23 and to provide a business model that will allow the  
24 contractors to own the process so that the market  
25 objectives can be achieved. Ratings are obtained and

1 sales of improvement are made. Without a sale,  
2 there's no business, there's no profit, there's no  
3 reason to hire people. They need those sales in order  
4 for you to achieve verifiable energy savings.

5           Toward that goal, I provided education and  
6 technical support to the staff to determine the  
7 knowledge skills and abilities of the BPI certified  
8 professional workforce. And as they addressed the  
9 need to try to simplify the HERS II model and align it  
10 with national standards and certifications.

11           I assisted with the alignment to help CEC  
12 staff understand the technical overlap because it  
13 would lead to greater alignment with national  
14 standards. BPI certified professionals can avoid  
15 redundant training and have a faster entry into the  
16 system. This no way means that BPI endorses the HERS  
17 system, the rating methodology or the provider system  
18 but we did understand the need for the system to  
19 understand us.

20           It goes against the grain of open consensus  
21 based credible standards and credible standard  
22 development, to have a single source provider. When  
23 all training, certification, registry and quality  
24 assurance are embodied in one provider, no matter how  
25 well-intentioned that provider is, the monopoly aligns

1 itself with conflict of interest and that can cause  
2 problems. It adversely affects other training  
3 providers by eliminating their ability to participate  
4 in the training process. It impacts all of the  
5 contracts because they are involuntary forced to a  
6 single solution to acquire that training and when  
7 there is no competition, there is no control over  
8 pricing options, they have no ability to custom design  
9 training or to do in-house training of their staff.  
10 Seventy-nine percent of BPI affiliates responding to  
11 the survey that Conrad mentioned would be willing to  
12 provide training in support of the HERS II process if  
13 the curriculum were available for licensing.

14           A separate of training from the other  
15 processes would limit credibility while reducing the  
16 likelihood of conflict of interest that would result  
17 from the situation where the trainer is vested in the  
18 skill of the candidate that they ultimately test or  
19 see. Adopting the simple, consistent rating system  
20 will align with the national standards system that  
21 allows BPI certified professionals to deliver ratings  
22 without additional certification, it would provide  
23 third party credibility and open training process and  
24 a system where the contractors could provide feedback  
25 to help ensure, rather than prevent, your success.

1           BPI provides the professional credentialing  
2 basis for its program nationwide including energy  
3 upgrade California and more than 120 state and local  
4 energy efficiency climate weatherization and home  
5 performance Energy Star programs across the country.

6           California would benefit from relying on an  
7 improvement system using the BPI accredited contract  
8 companies such as New York and NYSERDA has done over a  
9 decade. Not every individual or company can make that  
10 grade but those that do see growth, they prosper, they  
11 hire employees and they make a profit because they  
12 provide the solutions that customers want while  
13 reducing the carbon footprint, improving the energy  
14 efficiency and lowering the cost of home ownership.

15           The contractors can give you what you need.  
16 You've already raised the bar. Now remove the  
17 impossible hurdle and make the HERS II system one that  
18 works. Give the contractors broad access to a  
19 reasonable rating system that integrates with the  
20 natural assessment processes, that doesn't increase  
21 their overhead and still allows them to provide  
22 solutions that home owners want to buy. When they see  
23 a bottom line and their reputation for quality work  
24 provide real comfort solutions, they can give you what  
25 you need and return the value to the community through

1 energy savings.

2           They can give the home owners what they  
3 want. They can give you what they need. BPC is  
4 another layer on an already dysfunctional system. You  
5 can set all the high level bills you want but without  
6 some keystone changes, you won't create a viable  
7 business model and you won't have the contractors buy  
8 in. They are here. They are ready to serve. These  
9 contractors have already invested the time and  
10 resources necessary to complete training, to obtain  
11 the proper diagnosis equipment and to provide the  
12 whole home existing ratings to Californians in a way  
13 that will result in sustainable, verifiable energy  
14 savings results.

15           Yet, it seems advisable that you take the  
16 time to address and fix the questions within the  
17 system. Let the contractors be part of your solution.  
18 They have a wealth experience and they can help you  
19 make it something that will work. Something that  
20 provides the information you need, while giving the  
21 California home owners value, real solutions and peace  
22 of mind.

23           CHAIRMAN WEISENMILLER: Thank you.  
24 Commissioners? Manuel Alvarez is our next speaker.  
25 Thank you.

1           MR. ALVAREZ: Morning, Commissioners. I'm  
2 Manuel Alvarez, Southern California Edison. I just  
3 have a brief—couple of points that I want to bring to  
4 your attention. I'm here today to support the action  
5 before you. I'm encouraging you to go ahead and  
6 support this action. But what I heard today, I guess  
7 there's a couple of issues that I want to bring to  
8 your attention. The criteria your should be looking  
9 for is maximum customer convenience and participation  
10 and then customers basically getting what they want  
11 and expect from these programs. I think the proposal  
12 before you delivers those.

13           We think that the work you've done, the  
14 changes you've made satisfy all the concerns we have  
15 and the analysis and the technical review you've  
16 perform actually provide the rigor it needs to ensure  
17 those accomplishments. So with that, it's always  
18 difficult to get in the middle of an industry squabble  
19 that we're not part of, but I think when we looked at  
20 this question, we reached a judgment that the  
21 customers are in fact being provided good service and  
22 good results, we believe the results will be delivered  
23 and so we're asking for your support.

24           This has been a complicated issue for the  
25 Commission for about 20 years and I actually managed

1 this program when I was at the Commission, a little  
2 bit before that, so the complexities haven't really  
3 changed. So I urge your support today. Thank you.

4 CHAIRMAN WEISENMILLER: Thank you. Next  
5 speaker is Dan Thomsen, Building Doctors Efficiency.

6 MR. THOMSEN: Hi. My name is Dan Thomsen.  
7 I own a company called Building Doctors down in Los  
8 Angeles, California. We're a home performance  
9 contractor, BPI accredited company. I have the HERS  
10 II rating from CHEERS from a year and half ago but  
11 it's gotten frozen because CHEERS is in limbo with  
12 most of the rest of the other providers with it. I'm  
13 also on the Board of Directors for Efficiency First  
14 which I'm sure you folks are very well aware of. I'm  
15 also the Southern California Chapter Chair. I also  
16 come up here with the blessing of the San Diego  
17 Chapter Chair and I'm going to rattle of the names of  
18 all of the companies, all the major contractors here  
19 in California that are against this combination.

20 To back up a little bit, and I made this up  
21 on the plane ride up there this morning, coming up  
22 here to stuff my speech. Nobody is against the  
23 streamlining of the process but let's streamline with  
24 something that's worth it. HERS II is flawed, flawed,  
25 flawed, flawed, flawed. A lot of that's

1 representative with the memo that came out from the  
2 CEC saying that we're not going to require it for the  
3 energy upgrade California program. Nobody is saying  
4 that CalCERTS is going to do a bad job training but if  
5 we're going to get married to something let's get  
6 married to something great. Let's not just throw  
7 something that's beyond flawed, the software program  
8 EnergyPro is flawed. It's just—it's just not the  
9 right merger at the right time. We're all absolutely  
10 struggling out here. It is a horrible, horrible,  
11 horrible, horrible economy. I put Panama through this  
12 and—am I allowed to ask you guys questions and all the  
13 CEC—how many of you guys are on salary. Can I see a  
14 raise of hands?

15 COMMISSIONER DOUGLAS: All Energy  
16 Commissioners are.

17 CHAIRMAN WEISENMILLER: We all—I don't think  
18 this helps your speech. Let's move on.

19 MR. THOMSEN: Actually it does help because  
20 your decision now is going to put pressure on me and  
21 every single contractor that I'm going to read, all 50  
22 of these contractors that I'm going to read are  
23 against it, all of the leading contractors in the  
24 Energy Upgrade California Program—we have to take 5  
25 days off, 9 days off to get yet another certification.

1 We don't need it. We don't want it at this time. It  
2 is ridiculous. Do you know what it's like to take 5  
3 days off of work right now? I'm taking a day off to  
4 come up here and spend my own time to voice our  
5 opposition to you. It's just not the right time in  
6 the market to do it. It's just absolutely not.

7           And I want to rattle off all the lead  
8 contractors - Get Green Remodel San Diego, ASI the two  
9 major—the lovely person that came up from San Diego  
10 Gas and Electric. All of the major contractors that  
11 are providing for Energy Upgrade California are  
12 against this. All of the major providers for where I  
13 am in Southern California Edison, we're against this.  
14 We don't want this at this time. Don't put yet  
15 another confusion for the market. We're just now  
16 getting traction. Energy Upgrade is starting to work.  
17 We're beyond happy with it. It's just starting to  
18 work. Phones are starting to ring. People are  
19 starting to talk. They're starting to get referrals  
20 back and forth. You're going to throw a wrench in the  
21 machine and it's going to do damage to it. And,  
22 again, you're just saying about doing the certifying a  
23 company to do the training, that's well and good but  
24 don't certify because, again, it's just going to echo  
25 and echo and cause confusion. Conrad is absolutely

1 right. Let's just put a hold on this for awhile until  
2 we can evaluate. Until we can decide if HERS II is  
3 the proper thing. And I'm telling you as a contractor  
4 it's not. It's absolutely not the right path to go.  
5 And I can rattle off and bore you guys with tears with  
6 names of companies, of all throughout the state. We  
7 threw this together real quickly with Efficiency First  
8 at the last but REE is out of Riverside, California;  
9 Progressive Insulation out of Chatsworth, San Gabriel  
10 Insulation out of San Gabriel, Zodiac Heating and Air,  
11 Nyborg Constructions, CSI, Kotch Development, Green  
12 Refitting, Balance Point.

13 All of the major, of the trainers, have also  
14 trained with the CBPCA. All of them, against this. I  
15 know that CalCERTS has been trying to go around to  
16 talk to people. It's confusing the heck out of  
17 everybody. And can't we do a little less confusion  
18 right now. Right don't we just stick with what we  
19 have and see what works. We can't keep doing it and I  
20 make the joke all the time, you can't swing a dead cat  
21 without hitting a BPI accredited—a BPI certified  
22 person and it doesn't mean anything. We've trained so  
23 many people and the jobs aren't there yet.

24 I personally have hired 5 people in the past  
25 2 months. My company is starting to grow. Do you

1 think I have the time to put them in yet another  
2 certification? I don't do it. I can't afford it. I  
3 absolutely cannot afford it and you're going to be  
4 doing major, major, major damage to the industry.  
5 I'll talk for another minute until I get the ding to  
6 get off.

7 Home Performance Matters, Andrew Durbin,  
8 Rick Chitwood—I'm sure you guys are familiar with Rick  
9 Chitwood. The very, very intelligent man. HERS II  
10 does nothing for homeowners. It turns on the building  
11 efficiency and safety. Rich Chitwood. We all look to  
12 him on advice on stuff.

13 SoCal Remodeling out of Chino, Greenhouse  
14 out of San Luis Obispo, Eco Energy Loan out of  
15 Campbell, Advance Home Energy, Ori Skloot —I think  
16 he's President right now of CBPCA or on the Board of  
17 Directors, ASI I already said that, Harding  
18 Construction, Home Performance Matters out of  
19 Riverside as well as Inspector Tools out of Ventura,  
20 House to Home out of Simi Valley, Verve, Solar City  
21 again it. Pretty big company. Eureka, Energy  
22 Solutions, LA Green Building, Alpine Green Property  
23 Services, Bright Ideas, Energy Docs, SmartBuilders,  
24 Yukon. I'm still getting text messages as I go because  
25 this kind of went out last minute. You kinda get the

1 idea.

2           Every major contractor. I get the utilities  
3 are for it. We're all for streamlining. I get.  
4 Just, please, streamline us with something that we  
5 know works. I'm telling you now HERS II doesn't work.  
6 I'm a contractor. I'm the man on the streets. As  
7 other people. It just doesn't work for now so let's  
8 explore it a little. I love the idea of it but it's  
9 going to do damage to all of the BPI affiliates, every  
10 single BPI person has done their training. Wow,  
11 they've got to go back and do yet another and yet  
12 another. It's going to do some serious, serious,  
13 serious damage. So, that's it.

14           CHAIRMAN WEISENMILLER: Thanks. If you want  
15 to submit the list for the record, that'd be great.

16           MR. THOMSEN: Okay. I will. Thanks.

17           COMMISSIONER BOYD: Could I ask you a  
18 question please? You made a good case for how  
19 difficult it is for you or your peers to take time off  
20 to come talk to us today or to take time off for  
21 training. Would you take the time out over a short  
22 period of time to do what, you claim, needs to be done  
23 to make a better program? Could you afford the time  
24 to work on this program since you find it difficult to  
25 even come here today?

1 MR. THOMSEN: What do you mean on this  
2 program? The BPC program?

3 COMMISSIONER BOYD: Correct.

4 MR. THOMSEN: I don't think that it should  
5 be a combination of HERS II. HERS II hasn't proven  
6 itself. So why work on something--again, I think there  
7 should absolutely be a merger of a lot of  
8 certifications that are out there. A lot of classes  
9 are so redundant, over and over and over. That's a  
10 complaint from a trainer that I got from the students.  
11 "Oh, we're talking about the same thing but build it  
12 green as a green building professional and getting the  
13 BPI." There's a lot of redundancy and we're all for  
14 efficiency first. Without a doubt, we're all for it  
15 but is careful of what we're mixing it with. Does  
16 that make sense?

17 COMMISSIONER BOYD: Kind of.

18 COMMISSIONER PETERMAN: Can you say that one  
19 more time?

20 MR. THOMSEN: We're all for streamlining.  
21 We were part of this process back then, a year ago I  
22 think when Tiger first got out here and Brett Knox  
23 came up and we talked about trying to create a  
24 streamline. Like why do we have to do HERS II  
25 training and do also--I'm a BPI accredited - certified

1 person. I don't need the HERS II training. Maybe a  
2 day class or whatever. But HERS II doesn't work and  
3 we know it so why should we create on that. Let's put  
4 our effort into something that can be proven that's an  
5 actual workable, viable product. And, to me, HERS II  
6 just doesn't work. I don't think the public is ready  
7 for it. I can damn well tell you that none of the  
8 students or the contractors are ready to do it. But,  
9 yeah sure but in the zero free time I have, would love  
10 to be involved with it as I am in most of the things  
11 that are very important to it, to structure it well.  
12 And there's talk of should there be a software that's  
13 made for building performance contractors?  
14 Absolutely. Should we be using a HERS software  
15 program so that we can do a rating on new  
16 construction? Hell no. We absolutely shouldn't but  
17 nobody is coming out here to do it. I know that  
18 Recurve is in the process of doing some sort of stuff  
19 with it but you need a HERS I. That's why they kind  
20 of sectioned themselves out of it because they have no  
21 desire to get into HERS II.

22 And I can tell you right now, there's not  
23 going to be a lot of new construction going on in the  
24 State of California for the next 10 years. Fact.  
25 Fact. What, 2 percent? 3 percent of what's going in

1 is going to be new building? Why don't we deal with  
2 the 75 percent of the homes that were built before  
3 1978, before there was energy code. And let's deal  
4 with something that works and not HERS II which  
5 absolutely doesn't. But would I help? Sure, I would  
6 love to be involved in it.

7 COMMISSIONER BOYD: Thank you.

8 COMMISSIONER DOUGLAS: Let me just thank you  
9 for your hard work on Energy Upgrade California. You  
10 and your colleagues in the field are absolutely the  
11 driving force for making Energy California work so we  
12 really appreciate it.

13 I hear you loud and clear that you don't  
14 like HERS II.

15 MR. THOMSEN: You get that?

16 COMMISSIONER DOUGLAS: Got that. Thank you.

17 [LAUGHTER]

18 COMMISSIONER DOUGLAS: I do want to say  
19 though that nothing that's before us today would  
20 require you to use HERS II in any way, shape or form.  
21 That's a decision that could be made in the future.  
22 We've made the decision not to require it for Energy  
23 Upgrade so I just wanted to be really clear that  
24 nothing that we're doing or could conceivably do today  
25 would require you to take 5 days of additional

1 training.

2 MR. THOMSEN: Yes, but who knows what could  
3 happen in 6 months from now. Before this is done, and  
4 I feel for you on stuff that was done on when you got  
5 into HERS, that was what we thought the path was but  
6 we got into it and we dug into it all little deeper  
7 and we realized that the flaws that are in it. That's  
8 the problem with it. We discovered. We learned  
9 everything is different within the industry from a  
10 year ago to six months ago. It's an every evolving  
11 thing and shouldn't before we go to yet another  
12 certification—we're drowning in certifications from  
13 the weight of the things that I carry on my shirt.  
14 But we're drowning in it. And yet another thing to  
15 confuse the public even more. That's the stuff I do.  
16 I get you with the stuff about the salary but it's a  
17 fact that what you guys do back up there, it makes  
18 major decisions on we the people that are all  
19 struggling.

20 And I can guarantee you that about half of  
21 the contractors are probably going to be out of the  
22 Energy Upgrade California program in a year because  
23 it's a struggle. I've got over \$200,000 invested and  
24 I threw it all on the line 6-8 months ago. The  
25 program was started awfully. It got frozen in Edison

1 territory and then I had to fire some people and then  
2 I've hired some more. I'm getting some traction.  
3 It's just another certification that we don't need to  
4 muddy up the waters.

5           We've got some things out there. BPI has  
6 been well respected people in getting it. I've had  
7 people say, "Hey. I'm looking for a BPI certif--"  
8 They know what it means. Yet another thing. I'm just  
9 telling you from the people on the street; it's going  
10 to confuse the public. I just don't see it at this  
11 time. Nobody is saying, "Hey. Let's give it 6  
12 months. Let's do some sussing out. You've got some  
13 smart cats up there, including Panama." And Edison  
14 that can kind of figure out--that can kind of suss it  
15 out some more. I will gladly be a part of that  
16 committee. I would like to be involved with it too.  
17 This is one of those things that a few of us were  
18 upset that there were some meetings that not all of us  
19 were involved with that as this progressed along, we  
20 definitely asked for, "Hey. Can we have some  
21 streamlining?" but before this thing came through.  
22 Like hey, let's get it out there. To get it to all  
23 the major guys that are out there. Isn't that what  
24 this is all about?

25           COMMISSIONER PETERMAN: Thank you. I will

1 also just add that I appreciate your comments about  
2 some confusion and regardless of the outcome of this  
3 Item; I encourage staff to continue to work with  
4 stakeholders, particularly in your industry as we  
5 figure out how to reduce some of that confusion and  
6 increase that public education on the rating systems  
7 that are out there.

8 CHAIRMAN WEISENMILLER: Thank you. Tommy  
9 Schwolsky from REAS, Trained to Sustain.

10 MS. SCHWOLSKY: Hello, Commissioner and  
11 Chairmen. Thank you so much for allowing me to be  
12 here to voice my concern as well as many of my  
13 colleague's concerns. I'm one of those folks that can  
14 help you make your beer cold and make sure you get  
15 that old refrigerator out of your garage as well but  
16 I'm here on behalf of REAS, Residential Energy  
17 Assessment Services. We are one of the oldest home  
18 performance firms in Southern California. We're an  
19 EUC participating contractor for both Edison SoCal Gas  
20 as well as San Diego Gas & Electric. In 2009, we  
21 actually became BPI trainers and a training affiliate.  
22 And, out of the, I believe Tiger mentioned 1,400  
23 certified folks in California, we've trained over 500.  
24 Ninety percent of those were BPI building analyst only  
25 and that was through the community college districts

1 in Los Angeles so they do not have envelope, which is  
2 require for this accreditation. We did that because—  
3 we became trainers because we wanted to build the  
4 infrastructure but there was only a handful of us and  
5 we knew if this program was going to work, we need a  
6 lot of folks. The other reason is to generate money  
7 to pay salaries because the upgrade business was  
8 lacking and it's still lacking.

9 I don't claim to understand all of the work  
10 that you do and what it takes to meet your regulations  
11 and your goals. And I know it can't be easy. And  
12 it's clear that the progress that California has made  
13 in energy efficiency since the 70's is due to this  
14 agency's foresight and efforts.

15 As a small business, minority woman owned,  
16 we are very aware that public policy has tremendous  
17 power and policies have the potential to be real game  
18 changers, create sustainable markets and that your  
19 decisions have the potential to drive markets but also  
20 to cripple markets.

21 I understand that you cannot create jobs but  
22 you can create an environment to make it easier for  
23 companies like ours to hire people. And, likewise, it  
24 might be difficult for you to understand how we as  
25 contractors and training organizations run our

1 business. I appreciate that your work is difficult  
2 and I hope that you understand that my statements are  
3 not meant as an attack onceover.

4           But what we've learned the last 5 years,  
5 engaging home owners in energy efficiency in whole  
6 house is that success lies in understanding the  
7 capacity of the people and the time. To push an  
8 agenda like California ratings and new types of  
9 training certifications that the public does not  
10 understand, have current interest in and the overall  
11 contractor community does not support, will increase  
12 confusion and fearfulness about the future of our  
13 industry.

14           I mean the DOE is always considering a new  
15 national certification for home energy retrofit  
16 workers which may be based on ANCE Certification for  
17 training curriculums and are we sure that this BPC  
18 path would receive ANCE accreditation? We don't know.  
19 Will they be able to met it based on the curriculum  
20 because as far as I know there's not one person here  
21 that I know who has seen any documents in terms of  
22 what this curriculum looks like and what the cost is  
23 at all.

24           Even with the ARRA funds, it still takes,  
25 like Dan mentioned, a huge amount of private

1 investment to play in the current utility programs  
2 based on local, state and possibly federal  
3 requirements. The decision to approve this training  
4 holds a serious message for the industry that the  
5 focus on statewide rating system, although undefined,  
6 is more important than equitable opportunity for all  
7 businesses or the immediate need to create sustainable  
8 construction jobs. I mean just the July energy  
9 department report stated that California state energy  
10 program paid out 54.7 million and created only 319  
11 jobs. That could be seen as an indication that  
12 current programs such as Energy Upgrade California  
13 need a lot more attention to facilitate success and  
14 adding additional hoops or the possibility of  
15 additional hoops that may or may not be mandated is a  
16 huge mistake.

17 Contractors will not be able to bare the  
18 time, resources and energy needed to comply. And  
19 eventually will sell against utility programs that  
20 require duplicate training, certifications,  
21 documentations that is redundant and over burdensome  
22 and constantly being revised. It will become more  
23 profitable for contractors to upgrade homes for  
24 efficiency outside of utility programs as well as more  
25 cost effective for homeowners.

1           I'm sure that it not the intention of the  
2 Energy Commission to create training monopolies or  
3 cause possible hardship for current training providers  
4 or have only one energy modeling software to choose  
5 from. The fact that it is nearly impossible for a  
6 business or nonprofit to become a HERS provider  
7 creates a monopoly. At this time, like I mentioned,  
8 no one I know has even seen the documents of what this  
9 training looks like and I'm worried that the BPC  
10 training could result in some of the 43 training  
11 affiliates being harmed. I really do believe that if  
12 Energy Upgrade California, if we can't get out the  
13 kinks, if there's more requirements or possible  
14 requirements for possible certifications that  
15 contractors will start to voice their sufferings to  
16 maybe some of their state representatives, to the  
17 media and this could harm the overall image of Energy  
18 Upgrade California in general.

19           I mean HERS II is an idea that should not be  
20 combined with Energy Upgrade California. This is not  
21 a simple approval of a voluntary accreditation. This  
22 is a strong message and will have a ripple effect.  
23 Private capital will disappear and this industry could  
24 collapse as contracting firms realize that they can't  
25 make a profit based on the administrative load of

1 selling home performance and meet program requirements  
2 of HERS II. I urge you not to pass the BPC training  
3 and consider even recommending in the next program  
4 cycle to the CPUC that HERS II be eliminated from  
5 Energy Upgrade Programs altogether now and in the  
6 future. Thank you for your time again for allowing me  
7 to speak.

8 CHAIRMAN WEISENMILLER: Thank you.  
9 Questions? We now have another person from CalcERTS.  
10 Barbara Hernesman.

11 MS. HERNESMAN: Thank you, Commissioners.  
12 I'm the Contractor Development-Director of Contract  
13 Development for CalcERTS. I've been around the home  
14 performance industry for awhile now. And I want to  
15 say that there's a lot of confusion that took place  
16 this morning that just somebody who's been in the  
17 consulting business of building science and home  
18 performance for awhile that I'd like to clarify.

19 One, providers who are HERS providers such  
20 as CalcERTS, CBPCA, and CHEERS have been well aware  
21 since 2008 that this pathway has been coming. All  
22 have had the regulations. All have had read the  
23 regulations. In fact, in 2008 I was introduced by  
24 Randall Ridell from CBPCA to read all of the  
25 regulations of the HERS that we'd then be building

1 toward for the Building Performance Contract. So I  
2 wanted to dispel that there hasn't been appropriate  
3 energy out there from the Energy Commission to let the  
4 providers know that this is existing and that we  
5 should be getting ready for it.

6           The other thing that I'd just like to dispel  
7 is that the contractors that have been in the home  
8 performance industry also have known all along that  
9 there is a path that the Energy Commission is leading  
10 us into. And that is, to the end all, the BPC. Now  
11 the Building Performance Contractor, what that means  
12 is that we are streamlining the process instead of  
13 having to go out and hire an independent rater to come  
14 in and do the ratings for us. We now can have that  
15 person on staff.

16           Now, what does that mean? Well that might  
17 mean that the building performance contractor decides  
18 to either get the certification from the BPC  
19 themselves or go hire somebody who has the BPC  
20 certifications and training. That means that we just  
21 added an employ possibility to our industry which is  
22 really crucial right now.

23           Is it complicated that how many times that  
24 we've had to take a step up for the building  
25 performance industry? That's just part of the

1 contract. As a contract to myself, I've had to take  
2 training. Go to continuing education. And that means  
3 that I've had to spend time going to get that energy,  
4 that education and meeting certifications to be a  
5 contractor in the state of California.

6 We invest in that. And we have been  
7 investing in that forever because we believe in the  
8 sustainability and we believe in the what the Energy  
9 Commission is doing and the ultimate goal.

10 Contractors—as a contractor we will always  
11 need to make these changes. I can tell you in 2008  
12 there was a lot of hooting and hollering out there  
13 that home energy contractors, that the home  
14 performance with Energy Star contractors—what do you  
15 mean we have to get a BPI certification? Oh, you  
16 should have heard that conversation. It was just  
17 another one of those things where we had to say  
18 embrace it and move on.

19 Okay. Well, now we have the EUC. Now the  
20 EUC program allows us to play in this game and you  
21 open your market for us to be able to work in at a  
22 time when there is no market. So you've done your job  
23 that way. A lot of them are back to work.

24 Now are over the hurdle? Absolutely not.  
25 We have an environment that's going to take time to

1 get there. The other thing is that, we, in the Energy  
2 Upgrade California contractors have had an enormous  
3 amount of hoops there and there's been a lot of  
4 hooting and hollering about that too. It just means  
5 that I can tell from being in the construction  
6 industry every time somebody tells us we have to do  
7 one more thing.

8           And we do it. And the bottom line is that  
9 the reason is why we do it is because we are really  
10 passionate about serving our customers. And so part  
11 of what Dan and a few of the other people have said is  
12 that the message isn't clear out there. It isn't  
13 clear and nobody is going to dispute that. It is  
14 confusing. It's not only confusing to the contractors  
15 and the workforce but it's also confusing to the  
16 customers out there. I can tell you that Panama has  
17 been, for the past 2 years, out there trying to dispel  
18 a lot of this. I've been involved with some of those  
19 workshops and he's done a great job.

20           Do we have more work to do? Absolutely.  
21 Will we have more work to do once BPC is approved?  
22 Yes. Will we have to work with contractors?  
23 Absolutely.

24           There's been an effort on the Committee here  
25 to make sure that you can do a fast track training.

1 You can challenge tests. This all eliminates more and  
2 more steps for the contractor if that's what they  
3 choose to do. So that will take away the days that  
4 they're asking to take away from work. Maybe they  
5 will send somebody to that training and they will hire  
6 that person to do that rating. That's all out there.

7 BPI also hit the same kind of roadblock  
8 about monopolizing the industry. BPI came in once  
9 with home performance for Energy Star and that was our  
10 building science here in California at the time. BPI  
11 is out there raising the bar. I believe, HERS II, BPC,  
12 is raising the bar. I also think that it's  
13 streamlining the process for contractors. Will we  
14 have confusion? I will say it again. Yes. Will we  
15 have to deal with that? Yes. Panama explicitly  
16 expressed that he will help with that. We have  
17 workforce investment boards now who will also help  
18 offset these costs. That's really important for  
19 contractors to know and also that those who are raters  
20 right now. There is help out there. Will you have to  
21 find it? Will you have to seek it out? Yes. Will  
22 you need to ask CalCERTS, once we are approved with  
23 our BPC program today? Yes. And we have a staff.  
24 CalCERTS have made the investment. They  
25 have put in the time. They have financially gone

1 through the stretch in a time where it's been a hard  
2 knock environment. I think today, all of the staff who  
3 have worked on it from CEC, I applaud you. I know how  
4 hard you worked. The people who have worked at  
5 CalCERTS to create these curriculums and go through  
6 the approval process, they have done that because they  
7 have the passion for it.

8 I want to say that all of the providers that  
9 are out there have the same opportunity. The BPI  
10 affiliates who are now training there's no competition  
11 from CalCERTS to say stop your training processes. In  
12 fact, we will honor all that you do. Those that come  
13 in to this program with their certifications will be  
14 acknowledged as, "Yes. Here you go." We're not  
15 saying stop training. We know that this industry has  
16 to continue to grow and they're a vital part of that.  
17 So we wanted to dispel part of that also. I thank you  
18 for your time and if you have any questions, I'd be  
19 glad to answer them.

20 CHAIRMAN WEISENMILLER: Thank you.  
21 Commissioners? Thank you. Valerie Winn?

22 MS. WINN: Good morning, Commissioners. I'm  
23 Valerie Winn with PG&E. I just wanted to express our  
24 support for approval of Item 8. We look at this  
25 proposal as an opportunity to streamline and reduce

1 the number of visits to customers and whenever you  
2 have fewer visits, hopefully it will lead to more  
3 quick or faster implementation of energy efficiency  
4 measures in the existing homes. So, again, thank you  
5 and we ask for your approval.

6 CHAIRMAN WEISENMILLER: Thank you.

7 Questions? Is there anyone else who wants to speak on  
8 this item? Commissioners?

9 COMMISSIONER BOYD: Just Chairman, I'd like  
10 to ask Panama to respond to some of what we've heard  
11 today, if he'd like to.

12 MR. BARTHOLOMY: Absolutely, Commissioner  
13 Boyd. And I'll just go in order of some of the many  
14 concerns and comments that you heard from today's  
15 presentation.

16 There was a concern raised by some in the  
17 building performance community that this would—that  
18 the approval of this application represents a new  
19 certification that they would be required to undertake  
20 whether it's to continue in their current business in  
21 California or to take part in a retrofit program in  
22 California. Just to provide clarity, if the  
23 Commission approves this it doesn't add any new  
24 mandatory requirement on any person, on any company or  
25 for any program in California.

1           There was some concern over the webinar that  
2 staff held to reach out to the home performance  
3 community to discuss the application. In the 20 years  
4 of applications for providers to continue their  
5 development of their programs, this is the first time  
6 that there's been a public discussion about any of the  
7 applications. The Energy Commission received a letter  
8 from Mr. Asper two weeks ago. Rather than just send  
9 back a simple reply letter, we offered the opportunity  
10 to have a free ranging discussion with the California  
11 Building Performance Contractors Association and  
12 Efficiency First. It is the first time that this  
13 process has ever had anything like that since really  
14 the public discussion takes part in the regulatory  
15 process and the applications are just simple reviews,  
16 very complex reviews, of whether or not the  
17 applications meet the regulatory structure that the  
18 Energy Commission has approved.

19           There was a question about whether or not  
20 that there's been any public discussion about the HERS  
21 II program since December 2008 when the regs were  
22 adopted. On February 2009, the American Recovery  
23 Reinvestment Act was passed and, as a foundational  
24 piece, of the Energy Commission's implementation of  
25 the Recovery Act as well as the implementation of the

1 public utilities commission and the investor owned  
2 utilities 2010 and 2012 home retrofit program, HERS II  
3 has been a part of that conversation from the very  
4 beginning. Let me assure you that there's been the  
5 kind of robust discussion around HERS II that you've  
6 seen today happen across California with regulatory  
7 agencies, utilities, home performance contractors,  
8 raters and realtors discussing the benefits, the  
9 challenges, the complexities of rating systems, of  
10 training programs and certification programs within  
11 this. So there's been an incredibly robust  
12 conversation about HERS II and its place in the  
13 marketplace.

14           There were concerns raised today about  
15 whether or not the approval of this application  
16 represented a monopoly for any one company or  
17 institution to provide training. At this point, the  
18 Energy Commission has 3 HERS providers that have been  
19 certified over the years. That's California Building  
20 Performance Contractors Association or CBPCA, CHEERS  
21 and CalcERTS. At this point, CalcERTS has been the  
22 only one to be certified for HERS II independent rater  
23 certifications and now they're applying for the  
24 Building Performance Contractors path. Any of our 3  
25 providers can apply to become, they can give to us the

1 same application that they have before you today and  
2 any additional organization, if they want to make the  
3 institutional and financial investment, can become a  
4 HERS provider in California. It is an open market for  
5 providerships here in California if you want to make  
6 the time and financial investment in doing that.  
7 Whether or not this is a monopoly for BPI affiliates,  
8 as was stated by staff in response to Commissioner  
9 Douglas' question as well as from CalCERTS, this  
10 application before you envisions a certification path  
11 where either separate BPI affiliates can provide the  
12 BPI training and then they can come to CalCERTS for  
13 the HERS training through the reciprocity process or  
14 the individual rater can take the training on BPI from  
15 CalCERTS. It is an open model that is allowed and is  
16 a key part of this certification as we wanted to make  
17 sure that we're continuing to build the BPI affiliate  
18 structure that, as Ms. Adolf, mentioned we've been so  
19 successful in building here in California. We think  
20 that this is a continuation reflective of that.

21           There were questions about a lack of  
22 transparency and an ability to see the materials that  
23 were submitted that represent the application. As was  
24 stated in my presentation, the amount of intellectual  
25 property invested in these applications is

1 significant. Our regulations have confidentiality  
2 provisions in them that protect that intellectual  
3 property for the applicants to the Energy Commission.  
4 We do not expose that intellectual property to the  
5 marketplace for other potential competitors to be able  
6 to use that potential investment for their own gains  
7 without making that investment. The open public  
8 transparent process is our regulatory rulemaking  
9 process then staff simply says does the application  
10 meet those regulations and then recommends approval or  
11 not to the Commission.

12           There was a series of questions in the role  
13 of HERS II and Energy Upgrade California and future  
14 funding cycles for the investor owned utilities.  
15 About 1 month ago the Commission sent a memo from the  
16 HERS—or the Energy Commission and the rest of the  
17 Energy Upgrade California Steering Committee made up  
18 of local governments and ARRA contractors clarifying  
19 that HERS II will not be a requirement of Energy  
20 Upgrade California for the life of the PUC's 2012-2012  
21 funding cycle.

22           There were questions about market confusion  
23 on what the Energy Commission will recommend to the  
24 Public Utilities Commission 2014-2016 funding cycle as  
25 it relates to HERS II. And that is really a decision

1 that will be made in the open process that the PUC  
2 will engage in for the development of the 14-16  
3 development cycle and that will be up to the  
4 Commission to determine what role will we play in that  
5 in determining that funding cycle in determining the  
6 recommendations that we make to the Public Utilities  
7 Commission for their programs.

8           There is a series of questions about  
9 confusion within the marketplace. And that, at this  
10 point, consumers do not yet know about what HERS II is  
11 and what it means. I think with any new program  
12 you're going to find a situation like that and it's  
13 going to be incumbent upon CalCERTS to work and the  
14 Energy Commission's to continue to work about really  
15 displaying the and proving the value that home energy  
16 ratings provide in California for consumers and for  
17 the real estate community.

18           I will say that we have had extensive work  
19 with the home performance community and that we're  
20 committed to continued extensive work. AB758 calls on  
21 the Energy Commission to bring about a significant new  
22 approach to buildings and reducing the energy  
23 consumption in buildings. And our relationship with  
24 the building performance community is going to be  
25 absolutely critical if we're going to do that. We've

1 already instituted contract for rerecording groups  
2 through Energy Upgrade California and we're going to  
3 have to see far more of the interaction between the  
4 regulatory agencies, program administrators and home  
5 performance contractors in the future if 758 is going  
6 to be able to meet its goals.

7 I think I've covered many of the questions  
8 that I've heard Commissioner and Commissioners but I'd  
9 be happy to respond to any other ones that you heard  
10 that I missed.

11 COMMISSIONER BOYD: Well for me, thank you.  
12 That was very thorough.

13 COMMISSIONER DOUGLAS: Thank you, Panama.  
14 That was very thorough. I appreciate the members of  
15 the public who came to speak to us today, the passion  
16 for this topic was really evident from people speaking  
17 both for and against the Item. I want to say that I  
18 am, and have been, troubled by the fact that so many  
19 contractors appear to have a distaste for this program  
20 and appear to view it as difficult to implement.  
21 That's something that we're going to have to work on  
22 think about as we learn what we can from the  
23 experience with Energy Upgrade California. And we'll  
24 have a lot to learn from that experience. As we move  
25 forward in the AB758 rulemaking, we'll listen I think

1 with a very open mind as we want to hear the  
2 perspective and the experience of the contractor  
3 community in this field. I am appreciative of the  
4 people who spoke and also the people who have  
5 participated in Energy Upgrade California and in  
6 helping us make that program a success.

7           What we have before us today is the question  
8 of certifying CalCERTS for a building performance  
9 contractor path. The discussion more broadly about  
10 HERS shouldn't skewer the fact that this is an  
11 important first--this is the first time that we are  
12 considering certifying anybody in building performance  
13 contractor model. I think it's an important  
14 efficiency. I have been impressed and, I think I said  
15 before, with the rigor of the review of application  
16 materials in the HERS program. So I would recommend--  
17 I'll hold off on a motion as I see there are other  
18 comments but I would recommend approval of this Item.  
19 Let me ask now if there are other comments.

20           COMMISSIONER BOYD: Yes. I do have other  
21 comments. Thank you. This is a tough one. This is  
22 nothing more, as you said, a certification but it has  
23 brought out an awful lot of concern and I look heavily  
24 to Commissioner Douglas who oversees this activity for  
25 guidance. As a longtime Commissioner, as the supposed

1 economist, as one who is quite concerned about the  
2 State of California's economy and I don't see it  
3 coming back and one who can identify with the  
4 gentleman who worried about people's salaries and  
5 employment, I mean, to score one of the Energy  
6 Commission than this agency has more work to do than  
7 I've ever seen in its existence and it has fewer  
8 people than it ever had as well. So it is hurting as  
9 well in terms of the responsibility to turn out its  
10 work. I am very worried that the Energy Upgrade  
11 California succeed because a huge investment has been  
12 made in it. It is somewhat of a gamble. It's not  
13 popular in a lot of quarters yet it is the right thing  
14 to do if we're able to be progressive as a state. I'm  
15 concerned with those people who said that the message  
16 isn't clear and, quite frankly; I was early on  
17 inclined to vote to defer this for a fixed time. I'm  
18 going to reverse myself and it's foolish for me to  
19 confess in public that I'm doing that but I want to be  
20 honest with the public and I'm going to join  
21 Commissioner Douglas in support but I'm going to  
22 extract some commitments out of Panama here.

23           Because the message isn't clear, because  
24 people wanted to hold for a fixed time, because HERS  
25 II has infected the debate and the concern over it.

1 This is nothing but a certification which should be a  
2 very positive thing but it has brought forward an  
3 awful lot of concerns of well meaning people who are  
4 struggling in this very poor economy that the state is  
5 going through, I would like to add to your burden  
6 Panama of being understaffed and overworked as it is  
7 and seek a commitment, and even maybe from  
8 Commissioner Douglas, that the dialogue not stop with  
9 today's action. That this not be the first and only  
10 webinar on this subject and that we now engage in a  
11 fairly significant dialogue with these folks aimed at  
12 addressing their concerns. Aimed at doing everything  
13 in our power to assure that there is survival for all  
14 of these people, all predicated on our continued hope  
15 and assumptions that the building economy will come  
16 back. I'm not sure if I feel as negatively as one  
17 gentlemen who testified does about the speed that that  
18 will happen but I certainly do see very clearly that  
19 it isn't going to happen nearly as rapidly as many  
20 people hoped.

21 I'm willing to support this as another one  
22 of those things that Ms. Hernesman talked about in the  
23 step-in the pathway of doing good things that  
24 California usually does that end up being very strong  
25 and positive but it's going to take an awful lot of

1 handholding and work with this industry to take care  
2 of some of the other concerns that they have. It's  
3 obvious that there's a lot of confusion. It's obvious  
4 that there's a lot of education on the industry that  
5 in turn that has to be educated and has to take place.  
6 And I would like to see this agency commit to doing  
7 that as tough as that's going to be with the  
8 significantly reduced staff that we have as an agency,  
9 which is kind of a tragedy of its own but I won't get  
10 off on that tangent because as I said we have more  
11 work to do and fewer people than ever before. And  
12 energy is a key to fueling and driving the California  
13 economy. So if I can extract that from you all I  
14 would be glad to give my positive vote.

15           COMMISSIONER DOUGLAS: Commissioner, I will  
16 take that as your volunteering to help me as I think  
17 about this issue if you would be so willing. We've  
18 been waiting on a swearing in for some time for me to  
19 have somebody to bounce, obviously not staff who we  
20 talk to everyday, but bounce ideas off. This has been  
21 a hard one for me because I have been concerned with  
22 how deeply some in the industry like the HERS II  
23 program, I think we heard it loud and clear today.  
24 And I think, as you say, maintain the dialogue, have  
25 the dialogue, make Energy Upgrade California work and

1 work through AB758 to have an effective program. So  
2 I'm very committed to that. I think we'll see Panama  
3 agreeing as well.

4 MR. BARTHOLOMY: For the record,  
5 Commissioner I do accept your request for commitment.  
6 And let me just tell you what we have planned. As  
7 Commissioner Douglas said, AB758—we are just kicking  
8 off the AB758 program and the first stage of that will  
9 be a comprehensive needs assessment in both the  
10 residential and the nonresidential sector looking at  
11 all aspects. We're going to need to build a robust  
12 retrofit market and a key part of that first phase is  
13 going to be an in-depth analysis of rating systems  
14 and, in particular, some of the early implementation  
15 of HERS II, a comparison of HERS II to other common  
16 used rating systems such as DOE's energy score and the  
17 Oregon energy score. And then coming out of the  
18 recommendations for programmatic as well as regulatory  
19 changes that are needed to potentially improve both  
20 the HERS II program.

21 So we absolutely plan on meeting your  
22 request for a comprehensive analysis and in that will  
23 be a significant commitment from me and my staff to  
24 work with the home performance community to make sure  
25 that they feel like their voice is being heard and

1 they're having an impact on the program moving onward  
2 and it works for their industry I see mostly as  
3 possible

4 COMMISSIONER BOYD: Thank you. I appreciate  
5 that.

6 COMMISSIONER PETERMAN: First, I'd just like  
7 to thank Commissioner Douglas for all of her work on  
8 this. Obviously, it's a difficult issue. And Panama  
9 and his team. Commissioner Boyd, thank you also for  
10 your eloquent and very comprehensive comments. I  
11 don't have much to add on to those.

12 I will say, Commissioner Boyd, that I  
13 appreciate your honesty with all about you wrestled  
14 with this and in your decision because I think it's  
15 important for people to realize that often times, even  
16 though we get to consensus we deliberate and think  
17 about these things carefully and have been thinking  
18 about this in the coming weeks and days to this  
19 Business Meeting, independently reviewing the  
20 materials and this is the first opportunity we have  
21 all had to be together with the public to talk about  
22 these issues.

23 Your comments have really given me food for  
24 thought and I support and am happy with the commitment  
25 to further look at some of these issues as part of the

1 AB758 process.

2 I'd also like to particularly thank the  
3 member of the public who pointed out that there are  
4 some types of funding available to help contractors  
5 and providers as they're working through the HERS  
6 rating system and good to continue to identify those  
7 types of funds through the workforce investment boards  
8 and similar organizations.

9 Again, sir, it was good to hear that you  
10 have hired 5 people and considering the depressing  
11 news we have had around jobs recently we don't take  
12 that lightly.

13 Overall, I support the intent of what we're  
14 trying to do here in terms of streamlining this  
15 process because there will be some reduced cost,  
16 hopefully to consumer in the end and more uptake in  
17 energy efficiency. Of course we want to balance this  
18 with additional costs this provides to those consumers  
19 who are also businesses and I think that this is what  
20 we struggle with now.

21 Public, thank you for that additional  
22 information and I found this forum has been useful for  
23 me and will be useful for all of us going forward as  
24 we continue to work on these measures.

25 CHAIRMAN WEISENMILLER: Thank you. I'd like

1 to make a few comments also. First of all, certainly  
2 appreciate everyone coming and their contribution and  
3 their opinions in helping us weigh these issues.

4 Before I returned to public service, I owned  
5 an established company for over 2 decades and so I  
6 know the trials and tribulations of meeting a payroll  
7 and dealing with healthcare costs in this country,  
8 especially in this decade—well the last couple of  
9 decades.

10 I understand part of the messages that we  
11 were getting, I think all of us go into this with the  
12 notion that energy efficiency is at the top of our  
13 filing order and when we look at energy efficiency,  
14 certainly the existing buildings built before codes  
15 are an incredibly prime target. I think that's why  
16 all of us have invested so many time and money in the  
17 Energy Upgrade California program to really see if  
18 there is a way to make progress there.

19 We've found out it is difficult. Certainly,  
20 I think our takeaway from today is that it's a very  
21 ambitious program and that we really need to make it  
22 work but that it's hard. It's hard to do that. And  
23 certainly for people who are in the front lines, out  
24 walking through the houses, checking, it's really  
25 tough out there now. It's certainly tough in state

1 service as we deal with furloughs, hiring freezes but  
2 it's certainly tough out there too.

3           It's a very loud and clear message on HERS  
4 II, that people have concerns about that. And I think  
5 that we all got the message that it's time to look at  
6 that. And also the message that we really need to  
7 figure out how to make Energy Upgrade California  
8 working more effectively and efficiently. There is a  
9 theory that, to the extent than we can simplify  
10 things, that that will increase the consumer uptake.

11           At the same time, I certainly empathize with  
12 the applicant, who based on our regulations spent time  
13 and money on this. And those of us again, with a  
14 business background, know that time is money so the  
15 notion that somehow their part for six months would  
16 come at a real cost to them. And so the question  
17 comes of giving consumer another alternate, as I  
18 understand this is not the only alternative but  
19 another pathway, and so again advantage to them—from  
20 my prior career, one of the things that's clear to get  
21 investment in California is that it's critical for  
22 regulatory certainty. That we can't deal with the  
23 rules changing. As least you can't bring investment  
24 capital into California in power projects or any of  
25 these ventures unless you have a degree of regulatory

1 certainty.

2           Having said that, I think we're all prepared  
3 to roll up our sleeves and adjust those regulations  
4 over time to try to make them work more efficiently.  
5 We're certainly prepared to listen to people and  
6 certainly appreciate everyone taking time from their  
7 busy schedules and the passion people have on this  
8 issue. And I assume the passion that they reflect in  
9 their work in terms of really getting energy  
10 efficiency buildings. So again, thanks for your  
11 contributions today.

12           COMMISSIONER DOUGLAS: With that, I move  
13 Item 8.

14           COMMISSIONER BOYD: I'll second the motion.

15           CHAIRMAN WEISENMILLER: All those in favor?  
16 (Ayes) This Item passes unanimously.

17           COMMISSIONER BOYD: My thanks to everybody  
18 who took the trouble to be here today.

19           CHAIRMAN WEISENMILLER: Precisely.  
20 Commissioners, are you ready to go onto Item 9? 2011-  
21 2012 Investment Plan for the Alternative and Renewable  
22 Fuel and Vehicle Technology Program. Pat?

23           MR. PEREZ: All right. Good afternoon,  
24 Commissioners. I'm Pat Perez, the Deputy Director for  
25 the Fuels and Transportation Division. Today, I am

1 presenting for your approval the Transportation  
2 Committee's 2011-2012 Investment Plan for the  
3 Alternative and Renewable Fuel and Vehicle Technology  
4 Program.

5 This presentation will provide a little  
6 background on the program itself, the investment plan  
7 that is before you today and, most importantly, the  
8 proposed funding allocations as illustrated in the  
9 investment plan.

10 With respect to the program itself, AB 118  
11 was our enabling legislation with the overall  
12 objective to develop and deploy innovative  
13 technologies, to transform California's transportation  
14 energy sector and help achieve our greenhouse gas  
15 reduction goals as articulated in the climate change  
16 policies that the state has.

17 For a little brief, history, with respect to  
18 the program, today we provide a little more than \$190  
19 million for a variety of project as reflected in  
20 interagency agreements, loans and grant agreements.  
21 It's probably not surprising to you that we received  
22 over 300 proposals, good proposals, requesting over  
23 \$1.2 billion in public funding for this program so the  
24 demand far exceeds our ability to fund many of the  
25 worthy bio products that have come before staff.

1           Also, would like you to know that we've held  
2 5 major workshops soliciting public input as well as  
3 input from our advisory group. Many of those members  
4 are here today and you'll hear from them later.

5           We received a tremendous amount of  
6 encouragement to pursue changes to the program. Some  
7 of those changes include allowing match funding to be  
8 spent earlier on before the agreements are finalized,  
9 simplification of the investment plan process as well  
10 as our Executive Director is leading the effort for  
11 identifying other internal process improvements that  
12 will be before you down the road.

13           Also would like to acknowledge the  
14 tremendous support from Assemblyman Wieckowski and the  
15 entire Assembly and Senate for this support this week  
16 on the bill that will also provide additional relief  
17 as we move forward with the future investment plans.

18           As I noted, there's a number of efficiencies  
19 and improvements that we're looking at right now. I  
20 pretty much described those in a nutshell. You'll be  
21 hearing more about those as we move forward with our  
22 overall recommendations down the road with other  
23 process improvements here in the Commission which will  
24 not only benefits the 8118 program and the Investment  
25 Plan but other Commission Plans as well.

1           With respect to the Investment Plan, it  
2 identifies the priorities and opportunities that we  
3 have with alternative fuel vehicles and the  
4 infrastructure. We are required to develop and adopt  
5 the plan annually; future investment plans will be  
6 timed with the release of the Governor's proposed  
7 budget in January and then revised. We won't actually  
8 begin work on the 12-13 plan until later this week.  
9 So we're on a pretty short timetable there.

10           As I noted earlier, we've held 5 public  
11 workshops throughout California. Here in Sacramento,  
12 Long Beach and San Francisco. This particular  
13 investment plan, we probably generated more written  
14 comments and testimony than the other two investment  
15 plans combined. So there was a tremendous amount of  
16 interest in what we are doing. We certainly benefited  
17 from the input from a variety of industries as well as  
18 public organizations and agencies in the development  
19 of this plan and particularly from our 20 member  
20 advisory committee which was critical in developing  
21 this plan. I'd also like to remind you that we  
22 released and posted this draft investment plan nearly  
23 4 months ago.

24           Today's report which was released and posted  
25 on the Energy Commission's website and the changes

1 between the plan that we released 4 months ago and the  
2 plan in front of you today, most of those changes have  
3 been minimal.

4           In terms of the overall funding priorities,  
5 we basically look at the development stream looking at  
6 the short term, near term opportunities, the medium  
7 more about 5 years and some of the long-term  
8 opportunities as we evaluate the fuels and  
9 technologies that will enable us to get to a cleaner  
10 transportation energy future. Some of the mark in  
11 technological barriers are identified and that's what  
12 we tried to channel some of our funding to address  
13 some of those challenges so that we can get those new  
14 technologies into the marketplace sooner so that we  
15 can all realize the many public benefits that these  
16 technologies offer for us.

17           With respect to the actual technology fuels,  
18 let me quickly run through some of the exciting things  
19 that we're working on. We have a regional readiness  
20 planning program and we're allocating about \$1 million  
21 there about to support plug in electric vehicles.  
22 This was released recently. We'll have a continuous  
23 filing opportunity through July 5, 2012 seeking  
24 applicants from throughout California to assist us  
25 with this expansion of PEVs and establish best

1 practices for building codes that are critical for  
2 getting the infrastructure in place.

3           And try to assist regional and local  
4 governments with the streamlining of permitting as  
5 well as installation of chargers. And, also, look at  
6 the inspection procedures at the local level. What we  
7 can offer support and help for to accelerate the  
8 timing and approval of PEVs.

9           With respect to hydrogen, this is a topic of  
10 tremendous interest. We're working very closely with  
11 our partners at the Air Resources Board as well as the  
12 California Fuel Cell Partnership as well as the  
13 original equipment manufacturers to best situate the  
14 public as well as other infrastructure to accommodate  
15 the growing fleet of hydrogen vehicles throughout the  
16 state. And within this plan, we've allocated \$8.5  
17 million to accomplish that task.

18           With respect to natural gas, again we are  
19 focused on the installation and new infrastructure to  
20 not only support medium and heavy duty natural gas  
21 vehicles but recently we also added back into the plan  
22 funding to support light duty natural gas vehicles as  
23 we learn the original equipment manufacturers are  
24 going to be providing more vehicles there. So we've  
25 allocated \$8 million for fueling infrastructure

1 throughout the state.

2           With respect to propane, of course very  
3 critical out in the rural areas with the natural gas  
4 mains do not exist. We want to support efforts there  
5 to support an expanded fleet of light duty incentives  
6 there as well as the fueling infrastructure to  
7 accommodate the expanded rollout of more propane  
8 fueled vehicles throughout California.

9           With respect to gasoline substitutes, again,  
10 we're looking at expanding and increasing the  
11 availability of liquid biofuels from low carbon feed  
12 stocks to displace gasoline throughout California.  
13 We've allocated about \$8 million to achieve that goal.

14           Also the rollout expansion of E85 is  
15 critical at this stage and Propel and others are  
16 assisting us in that effort. As a result, we'll be  
17 recommending another \$5 million there.

18           On diesel substitutes, again, we're seeking  
19 low carbon feed stocks here for displacing traditional  
20 diesel that is used in this state. We're offering \$8  
21 million there.

22           And with respect to biomethane, what we  
23 would like to accomplish with this \$8 million is  
24 really to focus on feed stocks that include organic,  
25 non-recyclable municipal solid waste as well as

1 wastewater treatment plants animal manure from diary  
2 waste and food waste which is really the focus of that  
3 effort.

4           Something else that's very exciting to us  
5 and thanks to the hard work of staff, we recently  
6 released a solicitation of up to \$17 million for  
7 medium and heavy duty vehicles. A solicitation that  
8 builds on creating and fostering partnerships  
9 throughout California that will hopefully allow us to  
10 increase the number of medium and heavy duty vehicles  
11 alternative fuel power vehicles in California's  
12 dirtiest airbases so that's what the focus of that is.  
13 The proposals are due October 7. We expect to get  
14 pretty good response there.

15           As this slide shows we've put aside \$12  
16 million for the deployment of incentives for natural  
17 gas vehicles, another \$3 for propane and then also  
18 include develop and demonstrate advanced technology in  
19 medium and heavy duty vehicles for \$8 million. It's a  
20 significant down payment for moving forward.

21           With respect to innovative technologies,  
22 advanced fuels and federal cost sharing. This is a  
23 major category that we set aside funding to capture  
24 opportunities that might come down the road for yet to  
25 be determined or for solicitations that may be

1 released by the federal government and others that we  
2 could provide matching funds for to expand investments  
3 in California. It's not as large as a previous  
4 investment plan but we've put aside about \$3 million  
5 in seed funding to capture some of those opportunities  
6 down the road.

7 Another critical area, and one of tremendous  
8 interest right now, in our very difficult economy is  
9 how do we expand our manufacturing base so that we can  
10 ensure California remains at the forefront of these  
11 new advanced transportation energy technologies so  
12 we're putting aside \$10 million for manufacturing  
13 facilities and equipment.

14 And then we also recognize, as we have in  
15 the previous investment plans, the need to have  
16 skilled labor to assist us in moving forward with the  
17 introduction of new advanced transportation  
18 technologies in California so we've provided—or at  
19 least we're recommending at least \$6 million for  
20 workforce training and development, another \$250,000  
21 for workforce development and outreach as well as  
22 looking at dedicated clean transportation workforce  
23 needs study to better evaluate where we've been with  
24 our current investments, what's working, what's not  
25 and where should we focus and channel our funding in

1 the future.

2 We also have a category called market and  
3 program development to strengthen our analytical bases  
4 for looking and evaluating at the various technologies  
5 and fuels. We have about \$500,000 set aside for  
6 sustainability studies and another \$2 million in  
7 technical assistance and analysis. If I could  
8 underscore the comments that I've heard from the  
9 Commissioners earlier, the recognition of the lack of  
10 staffing we have to do this work. We're going to be  
11 relying more and more heavily on technical support  
12 assistance. This category was reduced slightly from  
13 the previous year's allocation to really focus on the  
14 technologies themselves as well as the infrastructure  
15 to get into the marketplace.

16 The final table is just simply a summary of  
17 all the funding allocations which total \$100 million  
18 here and how they're categorized from plug-in electric  
19 vehicles right down to market and program development.  
20 This has been an ambitious effort and I would like to  
21 really thank Vice Chair Boyd, Commissioner Peterman  
22 who led this effort and provided the guidance and  
23 overview for the development of this plan. I would  
24 also like to acknowledge at this time the assistance  
25 and input provided by our 20 member advisory team,

1 many of whom are here today because we could not have  
2 put together this plan without their assistance and  
3 support. And especially, I'd like to thank my  
4 Emerging Fuels and Transportation Office led by Jim  
5 McKinney and Charles Smith the main author of this  
6 plan and Peter Ward and Alicia Macias and Jennifer  
7 Allen as the key supervisors who worked tirelessly to  
8 put this plan together and all of the technical staff  
9 that some of which are probably up there at their  
10 desks working right now. It was a tremendous effort.

11           At that point, I will turn it over to the  
12 Transportation Committee. I know that we have a  
13 number of speaker from the advisory committee that are  
14 here today to speak and I'll also stay put to respond  
15 to any questions that you may have.

16           COMMISSIONER BOYD: Thank you, Pat. Well,  
17 you're turning it back to the Commission not the  
18 Transportation Committee but the Chairman having  
19 stepped away for a few minutes asked me to carry on  
20 with the meeting. So you do have to nab the  
21 Transportation Committee.

22           Thank you for that thorough presentation. I  
23 think a lot of the people in this room know what a  
24 long slog this has been to get to this day. Some  
25 anticipated delays, some unanticipated delays but we

1 finally are in the position to move forward on this  
2 year and you get to take a couple of deep breaths  
3 before you start on the next investment plan that has  
4 to be done even sooner than this year's investment  
5 plan.

6 I think at this time, I'll turn to people  
7 who have signed up to speak. Just taking the cards in  
8 the order that they were presented me but I see the  
9 first is from the Air Resources Board, Joe Calavita.  
10 Only fair that we hear from a sister agency who did  
11 labor with us on some of this.

12 MR. CALAVITA: Thank you, very much. I'll  
13 be brief. I just wanted to give ARB support for the  
14 investment plan before you today. ARB staff and  
15 Energy Commission staff have worked very closely  
16 together to make sure that our pots of respective AB  
17 188 funds are coordinated and don't overlap and that  
18 the public knows where to go for each particular type  
19 of technology that it wants. I'm very appreciate of  
20 the close working relationship that we have with the  
21 Energy Commission and we're happy to support the  
22 investment plan here today. And I'm available for any  
23 questions if you have any. Thank you.

24 CHAIRMAN WEISENMILLER: Thank you.  
25 Commissioners, any questions?

1                   COMMISSIONER BOYD: Just thank you for all  
2 the work that you folks have done for us. Thank you.

3                   CHAIRMAN WEISENMILLER: Thank you. Ms.  
4 Tutt?

5                   MS. TUTT: Good afternoon. My name is  
6 Eileen Tutt. I'm the Executive Director of the  
7 California Electric Transportation Coalition and also  
8 a member of your advisory committee.

9                   Today, you have to indulge me a little,  
10 because it was quite a task to get to this point and I  
11 want to particularly thank Vice Chair Boyd because he  
12 had to do this awhile by himself and it was very nice  
13 to have Commissioner Peterman join him but I do,  
14 really appreciate, all of his work and particularly  
15 Pat Perez and your staff. It was a pleasure to work  
16 with them. I really felt like when you say there were  
17 minimal changes for the rest of us that suggested the  
18 changes and the responsiveness of the staff, it was  
19 incredibly important and meaningful. It felt as if we  
20 were heard so I very much appreciate that.

21                   I also want to condone the staff on the  
22 overall improvements in efficiency and the process,  
23 improvements on the process. I think it was very  
24 noticeable this time and resulted in a much more  
25 productive and efficient dialogue as well.

1           So I'm going to talk mostly about the  
2 electric vehicle component, not surprisingly. Because  
3 I want to particularly support the recognition in the  
4 report for the need to work on multi-unit dwelling  
5 issues. Those are the very difficult and in my world  
6 we spend a lot of time how to get these vehicles in  
7 the hands of folks who live in multi-unit dwelling  
8 situations. I think the efforts of the Energy  
9 Commission and the dollars spent there will be very  
10 productive in helping us move that along.

11           I also want to support the attention paid to  
12 workplace charging and the focus on workplace charging  
13 because I think, in addition to home charging,  
14 workplace charging is going to meet most of the needs  
15 of most electric car drivers. There are certain  
16 programs that can be implemented in the workplace that  
17 aren't not necessarily available in public charging  
18 and we can talk about that, I'd love to, at another  
19 time. There's particularly value to workplace and  
20 home charging.

21           I can't stop without saying I really  
22 appreciate the attention to medium and heavy duty  
23 vehicles in this report. Not just for the electric  
24 and advanced technology but also for natural gas and  
25 alternative fuels and propane. I just got back from

1 Fresno and the in the rural areas that is really  
2 important so I appreciate the attention in this  
3 document to that.

4 I want to urge you to work with your  
5 regional partners and the regional efforts because  
6 there were a couple of bills that I worked with your  
7 staff on that supported regional efforts and the  
8 degree to which the Energy Commission works with them  
9 and supports them will be very important to a success  
10 of electric transportation.

11 I have one sort of ask, and I know you're  
12 already planning on doing it because I've talked to  
13 your staff and I think they're committed, in the  
14 electric vehicle market, we're in early market. This  
15 isn't a pilot anymore. California is very, very, very  
16 clearly leading the way in the plug-in electric  
17 market. As you provide funding to support that market  
18 and to really draw those vehicles to California, we're  
19 going to learn a lot. So in addition to tracking what  
20 you learn, I think it'd be very good to document what  
21 we do and what your money does, our money does, in  
22 terms of the MUD as I said, the multiple unit  
23 dwellings, at workplace and the home recharging. All  
24 of these efforts. The degree to which that can be  
25 documented and lessons learned can be documented, the

1 value proposition is shared beyond the projects that  
2 you fund to other project throughout the state and  
3 throughout our nation so with that, again, I really  
4 want to laud the staff, I want to thank the  
5 Commission, I want to urge your support—I want to urge  
6 your support for adoption of this proposal and very  
7 much appreciate the opportunity to be on the advisory  
8 committee. So, thank you.

9           COMMISSIONER BOYD: Mr. Chairman, if I  
10 might. Eileen, before you leave I want to thank you  
11 for your kind words. Secondly, Eileen is a prime  
12 mover behind the creation of the electric vehicle  
13 collaborative which takes her organization and all  
14 other stakeholders and brings them to the table to  
15 talk about the needs for plug-in electric vehicles of  
16 all kinds. That produced a plan late last year that  
17 was very beneficial and that experience led everybody  
18 to decide that they want to continue on a voluntary  
19 basis sticking together for awhile to keep electric  
20 vehicles moving along so I will compliment Eileen for  
21 her driving force to talk us into creating that.

22           The other thing that Eileen mentioned was  
23 workplace charging and I just want a quick word here.  
24 This is a fairly significant change in policy on our  
25 part because for several years now in IEPR forecasts

1 and others, we've heavily emphasized at home charging  
2 mainly to take advantage of the idea that we would  
3 keep people from charging on peak at home charging  
4 would be predominantly all peak and we predicated all  
5 of our estimates of this security and the reliability  
6 of our system on that fact and our ability to provide  
7 enough electricity for electric vehicles. But there  
8 have been a large number of studies that have, number  
9 1, verified the fact that a predominant amount of  
10 charging will take place at home on peak but that it  
11 does take the draw, the lure, of workplace charging to  
12 add to the customer concerns for range and  
13 attractiveness of electric vehicles but that studies  
14 have shown that workplace charging will occur early in  
15 the day and be completed before we reach peak times  
16 and therefore allay our concerns of overly stressing  
17 the peak charging time. So, as indicated, the plan  
18 does call for a little more emphasis on workplace  
19 charging and I thought I would make those comments at  
20 those time because Eileen reminded me of that topic.  
21 So thank you.

22 MS. TUTT: Well thank you. I do want to  
23 point out that workplace charging providers other  
24 opportunities that I know you will be looking at in  
25 the next iteration of this plan and the next iteration

1 of our work on electric vehicles and that is there are  
2 opportunities at workplace charging for things like  
3 demand response that may not be as easily done in  
4 public charging. I'll end there but I do appreciate  
5 the change in direction and leadership of the  
6 Committee.

7 COMMISSIONER PETERMAN: I'll just add one  
8 other comment, Eileen. First of all, thank you for  
9 your participation on our advisory team and your work  
10 in this space. As you may be aware, on Friday we're  
11 going to be having an IEPR hearing in looking at the  
12 demand for transportation and transportation fuels and  
13 electric vehicles is a particular area where there's a  
14 range of investment around forecasts so I hope that  
15 you'll continue to anticipate in our forums,  
16 particularly in the Friday workshop and look forward  
17 to your comments on that.

18 MS. TUTT: I'll definitely be there.

19 COMMISSIONER PETERMAN: Fantastic.

20 CHAIRMAN WEISENMILLER: Thank you. Bonnie  
21 Holmes-Gen.

22 MR. CARMICHAEL: I'm definitely not Bonnie  
23 Holmes-Gen. She has to leave early so I was going to  
24 make some comments for her when I spoke. I'm Tim  
25 Carmichael. So I can do it now or I can wait for my

1 turn.

2 CHAIRMAN WEISENMILLER: Why don't you do it  
3 now?

4 MR. CARMICHAEL: Okay. Very well. Thank  
5 you. Tim Carmichael with the California Natural Gas  
6 Vehicle Coalition. I'm also the member of the  
7 advisory committee and because Bonnie had to leave for  
8 another meeting, she asked me to make a few brief  
9 comments that we have in common.

10 First of all we were both here to support  
11 the plan approval today. We're both very appreciative  
12 of the work that Pat Perez and his team put into this  
13 plan. It's been many months in the making, as has  
14 already been noted. We also very much appreciate the  
15 leadership and oversight from Commissioner's Boyd and  
16 Peterman. It was very helpful for a couple of key  
17 points in the development of this plan.

18 We believe strongly that this is a very good  
19 plan which will help California continue our  
20 leadership across this country in the development and  
21 employment of clean transportation technologies. We  
22 sometimes forget that there's a lot of complaints on,  
23 you know, how come our budget is so screwed up in this  
24 state and how we don't have enough money to do this or  
25 that but this pot of \$100 million a year is the

1 biggest pot in the country. And one of the biggest  
2 pots in the world going into this sort of investment.  
3 So that's why you have so many companies and  
4 interested parties engaging from other parts of the  
5 country and watching this process because it's seen as  
6 one of the most powerful and most potent programs in  
7 the country. And we appreciate that very much.

8           As was also noted, we also wanted to note  
9 the—or commend the progress and the process. It is  
10 getting more efficient. Pat referenced how many  
11 written comments there were. As a reminder the staff  
12 asked for more comments in writing and the Committee  
13 agreed that that was a very good thing to do because  
14 it's easy to make a comment in passing in a Committee  
15 meeting and then all of the onus is on the staff to  
16 try to capture that and make sure that they got the  
17 context right. Encouraging more written comments was  
18 absolutely the right thing to do and I think it's made  
19 the process better and I have seen progress with each  
20 of these iterations, each iteration of the plan and I  
21 expect to see more progress with the next plan in the  
22 way it is developed. As Pat already noted, AB 1314,  
23 hopefully the Governor will sign that and it will help  
24 this agency make that process a little bit better.

25           Now putting on my Natural Gas Vehicle

1 Coalition hat for a couple of additional comments. I  
2 want to thank the CEC for the continued support of  
3 natural gas vehicles and the infrastructure necessary  
4 to support the development of that clean technology.  
5 We especially appreciate the inclusion of funding for  
6 light duty vehicles. That is an important piece of  
7 the puzzle and I have Ford and Honda on my board but  
8 there are other companies who have indicated to the  
9 CEC that they will also be bringing light duty  
10 vehicles to the market and you may even see something  
11 in the news tomorrow about this.

12           Finally, there was one change that we  
13 requested that wasn't incorporated in this latest  
14 draft that I want to bring to your attention because  
15 it continues to be an important issue for us and it  
16 relates to the biomethane infrastructure piece.  
17 First, let me be very clear. This agency has done  
18 more to support biomethane and development than anyone  
19 else that I can think of in the country.

20           It has great potential. Our membership is  
21 very supportive of the approach the Commission staff  
22 and committee are taking with a priority on pre-  
23 landfill streams for biomethane development. Our  
24 concern was as drafted the plan precludes the  
25 possibility of any of that funding going to a landfill

1 project. We believe that there's a misconception in  
2 California that because there's been some investment  
3 in the past, that landfill technology and that  
4 landfill to fuel technology-system is fully developed.  
5 It's important to remember that there's only a couple  
6 of these projects in the entire state. There's a  
7 couple more proposed but we're still talking about  
8 less than a handful of these projects statewide. We  
9 continue to believe that prioritizing pre-landfill  
10 biomethane development is a good idea and very  
11 supportable but we don't think the plan should  
12 preclude funding or contributing to funding a good  
13 landfill project if one is proposed during the course  
14 of this program. We pitched the staff on that and  
15 obviously you've got the draft and the Committee's  
16 draft before you but it continues to be an issue which  
17 we believe would be a better plan if that tweak was  
18 made so I leave you with that request. Again, we're  
19 here as Bonnie Holmes-Gen from the American Lung  
20 Association to support approval of this plan and  
21 appreciate all of the work that went into it. Thank  
22 you.

23 CHAIRMAN WEISENMILLER: Thank you.

24 COMMISSIONER PETERMAN: Tim, I also wanted  
25 to mention, in case you weren't aware, that the

1 renewable staff is holding a workshop on September 20  
2 on delivery requirements on pipeline biomethane as it  
3 pertains to the RPS and just something that because of  
4 the interest in the fuel source from the  
5 transportation sector would welcome your participation  
6 and comments as they might have larger implications.

7 MR. CARMICHAEL: I absolutely plan to be  
8 there and you should expect quite a few companies from  
9 that growing industry—blossoming industry to be there  
10 as well. We're very appreciative that the Commission  
11 scheduled that workshop and I think there will be  
12 really good participation.

13 COMMISSIONER PETERMAN: Great. Glad to hear  
14 the word is out.

15 CHAIRMAN WEISENMILLER: Paul Staples?

16 COMMISSIONER BOYD: He's on the phone.

17 MR. STAPLES: Hello. Can you hear me?

18 CHAIRMAN WEISENMILLER: Yes.

19 MR. STAPLES: Well, thank you very much for  
20 taking the time to hear my comments. First of all,  
21 just on one particular item, the previous Item on Item  
22 8. I'd like to make a very brief comment. And that  
23 is basically I can relate to the concerns of some of  
24 the people that have come up with another  
25 certification process because it does add to the

1 burden. One of the speakers mentioned that the  
2 certification process, if you could consolidate these  
3 certifications into one certifications you save a lot  
4 of time, money and headache for everyone and it would  
5 streamline the whole process so I have to say that I  
6 support that thought and that idea.

7           Having said that, I'd like to move onto Item  
8 9. My name is Paul Staples, I'm Chairman of HyGen  
9 Industries. What we develop is a renewable hydrogen  
10 energy project and programs. We've been at it for  
11 about 20 years now and have invented some really  
12 ground breaking products in the state of California  
13 including the Clean Air Now project and our team is  
14 the same team that developed that as well as the Santa  
15 Monica program which is ongoing and led to a 5 city  
16 program. So we do have some experience and background  
17 in this field and I just want to say that after  
18 looking at the business plan and the investment plan  
19 and the fact that there's something here that I think  
20 is very odd.

21           I'm the only one online attending this  
22 meeting from what I can see. And that sounds very  
23 curious because I didn't find out about this meeting  
24 until yesterday evening. There was no notice sent out  
25 on listserv to me, and I'm on listserv so I get all

1 those notices. I got a notice of the investment plan  
2 back on August 24 and it just indicated that it would  
3 be considered at the next Business Meeting.

4           It was not indicated, in all its links, did  
5 not show any agenda or any time or anything. I even  
6 called up at the office and asked about it last night  
7 and that's when I found out at the public advisor's  
8 office was tomorrow when I was submitting my comments  
9 which of course does not give appropriate time for me  
10 to distribute the comments and to talk to other people  
11 about it and get other people to attend here online  
12 which nobody is but me. I submit that I find that  
13 objectionable, okay. I would request that this  
14 Committee table item 9 until an appropriate notice can  
15 be sent out to everyone that has a stake in this—  
16 particularly in the hydrogen field to attend this  
17 meeting and thereby make their comments, okay.  
18 Because nobody else is online and nobody else I've  
19 heard has had anything significant to say in reference  
20 to the hydrogen part. I find that odd. I find that  
21 odd and possibly inappropriate. That is what I would  
22 like to ask that that be done because there haven't  
23 been any comment or any feedback that those in the  
24 industry can make and have not had a chance to make at  
25 this time. Granted, there are surely—there surely are

1 comments that were filed for the docket and all that  
2 but nobody is here at this meeting. And that is, I  
3 find highly odd and strange. So therefore I don't  
4 believe anybody—all of the people that I've spoken to  
5 have not been notified of this meeting and therefore I  
6 don't think it's appropriate that any decision on this  
7 be made until an appropriate meeting has been  
8 scheduled and appropriate notice has gone out to  
9 people so that they have the opportunity to attend.

10 Now on the plan itself, the hydrogen part in  
11 particular. Mostly, I've spent so much time on the  
12 RFP in the previous investment plans and all I was  
13 looking for was to see what the funding allocation  
14 was. When I looked over and I read it, I have to say  
15 that there are some very inaccurate and misleading  
16 statements that have been made in that business plan  
17 on hydrogen. From everything from the actual acronym  
18 that you use for fuel cell vehicles which is supposed  
19 to be FCEV which is minor to some of the statements  
20 about hydrogen infrastructure onsite generation.

21 I've never seen an investment plan or any  
22 kind of business plan that's so outwardly and  
23 obviously makes—this is only what I can think of—is  
24 onsite generation of hydrogen when they're going to be  
25 funding it. A business is supposed to be an advocacy

1 of a plan and not something that basically makes the  
2 choice that says this process is not viable and this  
3 other process is viable. It looks like it was written  
4 by the industrial gas industry and not by people who  
5 are researchers.

6           Second of all, statements about various  
7 different operation and maintenance costs, about  
8 onsite generation with electrolysis is absolutely  
9 incorrect. It doesn't look like anybody went to the  
10 hydrogen DOE program to review the facts that their  
11 statement is inaccurate based on the research that the  
12 DOE has been doing for the last 10 years. It just  
13 states things that are absolutely inaccurate and  
14 misleading. For instance, vehicle production of  
15 fueling is still at a pre-commercial stage where the  
16 industry cannot take advantage of economies due to  
17 scaled benefits with commercial production values.  
18 It's misleading but it implies that you have that in  
19 every new alternative energy system that comes up and  
20 it can be alleviated mostly by funding large  
21 quantities of systems to bring to bear the economy to  
22 scale. And that is not possible with many other  
23 options but it is with this particular option and  
24 that's something that really needs to be reconsidered.

25           We start manufacturing components, I can

1 guarantee you that they're going to be cheaper. I'm  
2 planning on submitting a proposal that will show that,  
3 that will demonstrate that. It says to the industry  
4 don't bother investing in this because we do not  
5 believe in it. That is not appropriate to be in an  
6 investment plan that you're planning on investing  
7 money in. It says to the industry that we won't be  
8 supporting this much more, much longer. So what does  
9 that say to the investment community says, "Well, why  
10 should we invest in this? Why should we invest in  
11 this technology if the State of California is planning  
12 on zeroing it out?" And that's the tone of the  
13 business plan right there. And clearly, much of the  
14 assumptions that are being made are inaccurate. And  
15 then you go on to say in another sentence "however the  
16 indicators cost is increasing on both the vehicle and  
17 the fueling infrastructure side." Which is it? Is it  
18 too inefficient and too costly and unviable or is it  
19 viable or is the pricing of the cost coming down and  
20 that's really what is really happening.

21           If you've gone to the DOE merit review  
22 program you would have seen that efficiencies are  
23 already getting as high as 88 percent on the  
24 electrolysis system and that operation and maintenance  
25 for any major operation and maintenance is 60,000

1 hours away. So they have a 60,000 operating window  
2 for any issues so therefore any statement that they  
3 don't is erroneous because you may be looking at only  
4 one particular entity or one particular technology  
5 that one particular company may be presenting that may  
6 not be but that doesn't take into consideration all  
7 the other companies or all the other participants in  
8 the field would conclude. And the merit review would  
9 have told you that and would have shown you that which  
10 has been going on for 10 years now.

11           From that perspective, I think what we need  
12 to do, what needs to be done, is you need to basically  
13 rewrite that program so that it does give reason for  
14 the private investment community to see that the state  
15 is supporting this and that there will be continuing  
16 support for this down the road because if you don't  
17 they're basically going to say why would they bother  
18 investing in this and that's the dilemma I have to  
19 deal with in getting private funding to support what  
20 I'm trying to do. They look at this. This stuff  
21 means stuff to them. They follow the lead here when  
22 you're doing these sorts of efforts and these sorts of  
23 projects because by basically the tone of what you're  
24 saying. You read the tone of that thing and it looks  
25 like this is going to be the last year so why should I

1    bother investing time and effort in it when there's  
2    not going to be continuing support of this down the  
3    road and that's the problem.  When you say the  
4    original car manufacturers that they are now below the  
5    100,000 mile mark it's much better than that.  My  
6    review have shown that they've got cost projections  
7    down below as low as \$53/kW equal to almost a nice  
8    vehicle drive train in mass production.  You don't see  
9    that anywhere else in any other option there.  From  
10   battery electric vehicles, to plug-hybrids.  None of  
11   them come down to the expectation that the DOE has  
12   been to and researched.  The Energy Commission has  
13   also seen a cost of fueling stations decrease.  Well,  
14   which is it?  Is it too expensive and too unviable  
15   economically or is it becoming more viable?  You say  
16   one thing in one sentence and then say something else  
17   in another sentence.

18                   CHAIRMAN WEISENMILLER:  Mr. Staples, we have  
19   your written comments and we've gone through those so  
20   if you want to wrap up and summarize and wrap up but  
21   you should assume that we've read your written  
22   comments.

23                   MR. STAPLES:  Okay.  Well.  I didn't have a  
24   chance to submit them until last night.

25                   CHAIRMAN WEISENMILLER:  But we did get them

1 and we did look at them.

2 MR. STAPLES: And I appreciate that, like I  
3 said, there wasn't enough time for me to distribute  
4 this and to get this out to other people who might be  
5 at this meeting that might have something to say about  
6 it. From that perspective, I really feel that this  
7 particular Item should be tabled for at least enough  
8 time to have an appropriate meeting and an appropriate  
9 hearing on this particular part of the proposal so  
10 that when notice is made of a meeting like this, there  
11 will be more people to attend and more people to  
12 possible have input on it. So I ask that you  
13 reconsider whether today is the right date to do this  
14 because proper notice was not given. And it's clear.  
15 You go to the website, it's not there. You have to  
16 absolutely know where it's going to be in order to  
17 know that and there was no indication, no link to it  
18 in any of the notices that have been sent out over the  
19 last several weeks so from that standpoint I really  
20 think that it's inappropriate to be making a decision  
21 on this Item when proper notice was not sent out.

22 CHAIRMAN WEISENMILLER: Okay. Thank you.  
23 I would note that for the record that there are 27  
24 people on the line at this stage still and there are a  
25 couple dozen people in the room, some of whom are

1 Commission staff and your comments are outside on the  
2 table for people to pick up.

3 MR. STAPLES: I just don't see anyone online  
4 here with me. I'm the only one that seems to be  
5 online on-

6 CHAIRMAN WEISENMILLER: You can't see it but  
7 we can see it in our WebEx and when we do that, we see  
8 26 attendees displayed. So anyway, there is a very  
9 large group for what's been a pretty lengthy session.  
10 I'm sure people interested primarily in this topic.  
11 Commissioner?

12 COMMISSIONER BOYD: Mr. Chairman. Paul,  
13 this is Commissioner Boyd and you and I have developed  
14 a relationship. I've talked to you quite a bit over  
15 the months. It appears that there was a mistake in  
16 not using the listserv to distribute the latest  
17 information although this product has been available  
18 for a long, long time. This project has been  
19 scheduled and rescheduled for hearing by this  
20 Commission multiple times so most people have followed  
21 it.

22 Over the months that I have been associated  
23 with this program, we've heard more from hydrogen  
24 technology and fuel proponents, in my opinion, than  
25 any other fuel or technology proponent. So it's not

1 fair to say that we haven't heard from those folks.  
2 This has been one of the more controversial areas of  
3 these plans from the beginning. I think we know the  
4 subject, and the staff knows the subject quite well.  
5 I personally salute your passion for hydrogen. You  
6 keep us on our toes on this subject. I assure you  
7 there is no intention to signal in any way that this  
8 is the end of any investment in hydrogen or to commit  
9 that we would invest in the future. This is a one year  
10 plan based on the input that have been received up to  
11 this point in time. I think that your criticism are  
12 very harsh on the staff. As you've heard the advisory  
13 committee has been deeply involved. The California  
14 Fuel Cell Partnership and the Air Resources Board are  
15 extremely active proponents of hydrogen and we have  
16 worked and listened to them at length so our posture  
17 now is to support demonstration rollouts now as  
18 technology has developed to the point of being  
19 affordable by the general public and yes, costs, are  
20 being driven down in all aspects. As you know, and  
21 many people know, that the original dream was hydrogen  
22 through hydrolysis and if people will bring us  
23 proposals to do that someday I'm sure that staff would  
24 evaluate this as a technology to provide the fuel. At  
25 this point in time, virtually we have no fuel

1 providers. The opportunity being offered to the oil  
2 industry who might want to become an energy industry  
3 which they did not and the industry gas and fuel  
4 people have stepped forward at least to fill the void  
5 for the time being at least in regard to providing  
6 hydrogen for the rollouts. As technology is proven  
7 and as other technologies for hydrogen are proven over  
8 the years of this program, I'm sure the staff would  
9 entertain any proposals to develop onsite hydrolysis  
10 type facilities. We'd encourage your continued  
11 participation and observation and input in the future  
12 but we do have to move on to other witnesses.

13 COMMISSIONER PETERMAN: Mr. Staples, before  
14 you comment let me just add another comment. This is  
15 Commissioner Peterman. We have not had the pleasure  
16 of meeting. I appreciate your comments and  
17 specifically—I wanted to clarify one thing. This is  
18 not a business plan. This is an investment plan and  
19 it's an investment of ratepayer money and citizen of  
20 California's and that's a task we take very seriously  
21 and, as such, being relatively new, this being my  
22 first plan, I see as one of the assets of the plan the  
23 fact that it lays out the opportunities and challenges  
24 that face a number of fuels and technologies. I think  
25 that's smart to do because as has already been

1 mentioned, things aren't black and white with any of  
2 these technologies in the spaces and it's important  
3 for us as we learn and we grow as a Commission, as a  
4 state and as an industry that we acknowledge some of  
5 these challenges so that we can move forward and  
6 determine how to overcome them. I think staff has  
7 done a good job of laying out these in the investment  
8 plan. I hope that you will continue to participate in  
9 our many public opportunities and forums to comment as  
10 noted, there were 5 stakeholder meetings on the issue  
11 and about 4 months since the draft investment plan was  
12 released for comment. It was also mentioned by Pat  
13 Perez' staff that they're beginning to work on the 12-  
14 13 plan and that will afford you with a number of  
15 other opportunities to provide comment. If there are  
16 particular factual errors that you find, that's the  
17 opportunity and space to do that although your  
18 comments submitted last night will surely be addressed  
19 and errors will be addressed in future documents. So  
20 I just wanted to say that before you commented.

21 MR. STAPLES: Well, and I thank you for that  
22 response. And I don't mean to allude to the fact that  
23 there's anything conspiratorial or anything going on  
24 or anything like that. Appearance is everything and  
25 to those who may not know the commitment, the honor

1 and the integrity too of the people who are involved  
2 may come to that conclusion when they see something  
3 like this basically being stated and contradictory  
4 statements that are contradictory to the known facts.  
5 That's all that I'm saying. If I can get assurance  
6 form this board that I'm the man onsite  
7 (indiscernible) is engaged to as part of the plan and  
8 accepted and indicated in the RFPs and funded and  
9 submitted through the parameters of the RFP, then  
10 that's the main thing that I'm concerned about. I've  
11 been putting 2 years into getting these stations  
12 onboard and I didn't pay them \$5,000 or so to come on  
13 board. They're doing this because they believe in it.  
14 They think it's good and they think it's right and  
15 they think it's good. It's a good paradigm and a good  
16 business model for them to follow. That's all I want  
17 to be sure of, that we're not looking at the  
18 possibility of phasing out on demand, onsite electro-  
19 hydrogen from renewable energy. If I'm confident in  
20 that, then I feel I can go forward and continue my  
21 work without having to worry about wasting the last 2  
22 years of my life.

23 COMMISSIONER PETERMAN: Well you can feel  
24 confident that we will welcome all input into the next  
25 investment plan. There will be opportunities to—I

1 can't repeat the exact phrasing that you just said but  
2 I look forward to hearing your suggestions about how  
3 that can be included in future plans. I think Pat is  
4 going to respond as well.

5 MR. PEREZ: Thank you once again, Mr. Staples  
6 for participating in this forum. We do welcome your  
7 continued participation and previous comments. One  
8 thing that I do want to bring to your attention is  
9 that you mentioned that you're going to be submitting  
10 proposals down the road is that the onsite hydrogen  
11 will be an eligible opportunity in our upcoming  
12 hydrogen solicitation so that should make you happy.

13 MR. STAPLES: Well, that does make me happy.  
14 I'm just concerned with what was stated at the last  
15 Committee meeting, advisory committee meeting, that  
16 there will be a rollover of the funds into this next  
17 RFP so whoever—I was talking to Tom Cackette and he was  
18 looking at yeah, it would be basically \$18-19 point  
19 something million that would be going into that next  
20 RFP for this. That is a very good thing and I'm  
21 hoping that's still part of your plan.

22 CHAIRMAN WEISENMILLER: Michael, you have a  
23 comment on the notice question.

24 MR. LEVY: Yes, I do. If I may clarify for  
25 the record. First of all--

1           CHAIRMAN WEISENMILLER:    Would you identify  
2 yourself for the record too?

3           MR. LEVY:    Yes.   Michael Levy, Chief  
4 Counsel.   There were some notice comments made by the  
5 last commenter, Mr. Staples about notice.   And first  
6 of all I'd like to note for the record that Mr. Staples  
7 submitted comments on the staff draft on March 24, on  
8 the Committee draft on May 23 and also on the final  
9 draft on September 6 which you have before you.   There  
10 are 2 legal requirements and one is to publish the  
11 investment plan 14 days before the Business Meeting  
12 and it was.   It went out on the standard alternative  
13 fuels listserv on which Mr. Staples is subscribed.  
14 And the Bagley-Keene open meeting notice is a 10 day  
15 notice and the agenda also went out on that listserv  
16 as well.   One of the points of confusion maybe that  
17 Mr. Staples may have failed to sign up for both  
18 listservs but the way that our various listservs work,  
19 unfortunately we have some technological hitches,  
20 people manage them themselves.   They choose what to  
21 subscribe to or what not to subscribe to.   We don't do  
22 that for them and that could be why he wasn't aware of  
23 the 10 day notice ahead of time, however it was  
24 properly noticed on our agenda listserv and it was  
25 properly published as well.

1           MR. STAPLES: Well, all I can say is that I  
2 did not receive a notice and I'm on listservs so  
3 unless there's a separate listserv that I need to  
4 apply to for Business Meetings that should have been  
5 something that should have been indicated to people  
6 when they sent it out and they certainly should have  
7 sent it out in the last meeting, the last notice, of  
8 when the investment plan was finished and ready for  
9 public review. I did not get that. There was no link  
10 to it. There was no nothing that basically said when  
11 the meeting was and when I called up and asked about  
12 it a few days later, last week, I was led to believe  
13 that they were going to look into that and I was led  
14 to believe that there wasn't a date set for the  
15 meeting yet because there was nothing on the server  
16 that indicated that unless, of course, you knew  
17 exactly where to look. There was no link to that  
18 which there should have been. That's all that I'm  
19 saying. It sounds like someone had a glitch. It  
20 sounds like there was a glitch. Someone dropped the  
21 ball. It's okay. It happens. People are humans.  
22 We make mistakes. All I'm asking for is that people  
23 be given notice so that people can make a comment.  
24           You say that there's some 20 some people  
25 that are here because they received the notice. Fine.

1 I didn't. And if I've got to sign up for something, I  
2 should be told that. I understood that if I was  
3 signed up on a listserv on this particular issue that  
4 I would receive all notices that go out on this issue.  
5 And if there is another listserv that I've got to sign  
6 up for, then please, direct me to the right location  
7 and I'll be sure that this doesn't happen again. But  
8 nobody ever told me. So I thank you for your time.

9 CHAIRMAN WEISENMILLER: Jennifer?

10 MS. JENNINGS: Yes, this is Jennifer  
11 Jennings, Public Advisor. I think Mr. Staples'  
12 experience has pointed out a problem that we intend to  
13 fix. He was sent an email on August 24 as part of the  
14 listserv with a link to the notice page for the  
15 alternative fuels plan. That notice—that page  
16 previously gave advance notice of—notice of meetings  
17 and it said in the email that he received that this  
18 would be considered at an upcoming Business Meeting  
19 without reference to what day that Business Meeting  
20 was scheduled and the notice was never on the page to  
21 which his email was linked. So I understand why he  
22 did not receive notice and, in the future, when  
23 anything is scheduled for a Business Meeting we'll try  
24 to make sure that there is an advanced notice also on  
25 the particular page. So. I understand why he did not

1 receive notice and probably a number of other people  
2 did not receive notice. I understand that the  
3 advisory committee was given separate notice by the  
4 staff.

5 CHAIRMAN WEISENMILLER: Thank you. Let's  
6 get it fixed.

7 MR. STAPLES: Well, I appreciate it if that  
8 could be fixed so in the future this mix-up doesn't  
9 happen. Thank you very much for your time. I  
10 appreciate you hearing my concern and I want to thank  
11 everybody for the work they did because they had to  
12 work hard in order to make it happen. I know that.  
13 And I appreciate that. It's just that when I went  
14 over it I saw some real inconsistencies and I've been  
15 in the business for awhile so I happen to know when I  
16 speak. I'd appreciate it if that could be broached  
17 and looked at and considered because the tone of the  
18 documents that the government puts out has a real  
19 impact on private investment. Thank you.

20 CHAIRMAN WEISENMILLER: Okay. Thank you.  
21 Any other comments? I believe not so-

22 COMMISSIONER BOYD: Okay. If there are no  
23 other public commentators, let me add my thanks to the  
24 staff again for their hard work. Again, thanks to the  
25 members of the advisory committee. I would say that

1 we've come a long way from that very first meeting a  
2 couple of years ago and the advisory committee has  
3 really come through with us. It's difficult to get  
4 comfortable with an advisory committee but our  
5 advisory committee has been instrumental in  
6 identifying and working on the process improvements  
7 that even they saw needed to be made and were  
8 instrumental in the legislation that was referenced.  
9 I hope that legislation becomes a model for future  
10 advisory committee operations. The overburdened that  
11 sometimes occurs that has to be stripped away later on  
12 to get down to the real products but in any event, our  
13 118 advisory committee has really been very helpful to  
14 us and we look forward to their input in a few days on  
15 the yet next investment plan.

16 I just want to mention workforce  
17 development. When Commission Douglas and I were the  
18 Transportation Committee and when the economy really  
19 was going south, we frontloaded the AB 118 first  
20 investment plan with a lot of workforce development  
21 plan, much more than anyone would have thought you'd  
22 put in an initial program and I think it has paid off.  
23 We still have investment there. We've been pretty  
24 stingy with additional investments, wanting to see  
25 returns on the initial investment. We saw evidence of

1 good work and modified the investment plan to include  
2 workforce development in a very focused way.

3           The last comment that I would make is that  
4 this plan is predicated on a \$100 million of revenue  
5 and there is concern in light of the economy might  
6 recovering as fast as one would hope that there's  
7 concern that we'll actually have \$100 million to  
8 spend. I just put the Commissioners on notice that as  
9 we've had to do in a previous investment plan, apply  
10 as we called it a haircut, a reduction across the  
11 board. We're hoping that this won't be true this  
12 year. These are revenue derived from various sources  
13 including the smog check program, the motor vehicle  
14 registration fees and as the economy falls off some of  
15 those revenue streams fall off. Hopefully, we'll be  
16 able to totally carry out aspirations of this plan but  
17 we'll see. Of course, the same concern is before the  
18 advisory committee and the commission in regard to  
19 future investment plans. The quicker we can turn the  
20 economy around, the better this program will be in  
21 terms of the money it has to invest. Quite frankly,  
22 when the bill was passed, we envisioned at least \$120  
23 million a year for the CEC portion of this. We've  
24 never been able to realize the potential. As Mr.  
25 Carmichael said, there aren't any other models like

1 this program and we've been very fortunate to retain  
2 these dollars and make these investments because  
3 they're contribute to our energy goals, our energy  
4 security, energy diversity goals. They contribute  
5 significantly to the climate change goals and they  
6 contribute to this concept of a modified green economy  
7 and business and jobs in California and, from what  
8 I've seen, there's been some really positive  
9 developments in that arena. So. I'll be prepared  
10 when other Commissioners have made their comments to  
11 make a motion to approve this plan.

12 COMMISSIONER PETERMAN: I just echo  
13 Commissioner Boyd's thanks to the herculean effort  
14 done by staff and particularly Jim and Peter and  
15 Charles and Kristen. You've been terrific during this  
16 process and very calm throughout in terms of your  
17 response and it's been a pleasure to watch and learn  
18 from you all as part of this process. Thanks in  
19 particular to Pat. You were kind enough to thank your  
20 staff but I know that Commissioner Boyd and I  
21 appreciate your involvement and oversight of this. As  
22 always, it was a pleasure working with Commissioner  
23 Boyd on this project and I look forward to working  
24 with him on the 12-13 investment plan.

25 COMMISSIONER DOUGLAS: Just want to make a

1 brief comment. I requested a briefing on this topic  
2 from staff and I got a briefing and I really  
3 appreciated their sitting down and walking through the  
4 investment plan and walking through many of the issues  
5 that I remember as an alumni of the Transportation  
6 Committee and the first effort at producing an  
7 investment plan. I'm really pleased to see that this  
8 has come together so well. I'm pleased to hear that  
9 some of the process hitches that we ran into have been  
10 much improved so I'd like to add my thanks to staff  
11 and also thank the Transportation Committee for their  
12 good work.

13 CHAIRMAN WEISENMILLER: I'd also like to  
14 thank the staff and Transportation Committee for this.  
15 It's been a long day but I'm sure it's time to move  
16 onto this item and move onto the next investment plan.

17 COMMISSIONER BOYD: With that, I'll move to  
18 approve the investment plan before us, the 2011-2012  
19 Investment Plan for the Alternative and Renewable Fuel  
20 and Vehicle Technology Program.

21 COMMISSIONER PETERMAN: I'll second that.

22 CHAIRMAN WEISENMILLER: All in favor?

23 (Ayes) This passes unanimously. Thank you,  
24 again.

25 Item 10. Minutes.

1 COMMISSIONER BOYD: Move approval

2 COMMISSIONER DOUGLAS: Second.

3 CHAIRMAN WEISENMILLER: All in favor?

4 (Ayes) This Item passes unanimously.

5 Item 11. Commission Committee Presentations  
6 and Discussions.

7 COMMISSIONER BOYD: Mr. Chairman, I'll try  
8 to be brief which I know for me can be difficult.  
9 Last week, I was unfortunately the only Energy  
10 Commission person to attend the so-called Asilomar  
11 Conference that's held every 2 years by the-sponsored  
12 by UC Davis and the Federal Transportation Research  
13 Board. This year's conference was entitled,  
14 "Rethinking Energy and Climate Strategies for  
15 Transportation." The rethinking being that that's  
16 been a topic on a very regular basis and obviously a  
17 dynamic field. It was quite interesting. A cross  
18 section of people throughout the world, addressing  
19 these subjects. There were interesting happenings  
20 there.

21 The conference was dedicated, and there was  
22 a brief memorial, to 2 prominent players in this area  
23 in the past. One, Professor Lee Schipper. Professor  
24 Schipper was a Professor at UC Berkeley and Stanford  
25 with whom many of us had worked a lot with over the

1 years and I'm sure the Chairman knew him better than  
2 most of us. And Lee was a real breath of fresh air.  
3 The funny thing is, he was a Cal man. I'm a Cal man.  
4 And yet, for the last couple of years he'd been  
5 spending more time at Stanford and I've spent more  
6 time on the Stanford Campus than I had my whole life  
7 because of Lee Schipper. He will be sorely missed by  
8 those of us who knew him well and was well  
9 acknowledged at the Asilomar Conference. There was a  
10 whole at the conference because Lee was an  
11 accomplished musician. And he had a little musical  
12 group that voluntarily played every year during our  
13 outdoor barbeques, one of the nights, Lee Schipper and  
14 the Mitigaters was the name of the group and we lacked  
15 that other than a video that was played in the meeting  
16 all as we left to go to dinner.

17           The other gentleman probably not known to  
18 most is a gentleman named Jack Johnson who worked for  
19 Exxon and I interacted with him a lot through Fuel  
20 Cell Partnership, through Asilomar and being from  
21 Exxon I didn't think too much of the individual in the  
22 name when I first met him years ago but I was  
23 attracted to him right away when he had some  
24 incredibly progressive things to say at one of the  
25 early Asilomar Conferences and it was an a typical to

1 me view of someone from Exxon. And he too was very  
2 close to a lot of the folks there. He died,  
3 unfortunately, in an automobile accident prematurely  
4 and moderately young in life, young to me anyway,  
5 having just retired recently.

6           So a couple of comments. A lot of  
7 discussion about all the alternative fuels and all the  
8 alternative vehicle technologies. The thing that I  
9 was very, very pleased with was significant discussion  
10 about smart growth in VMT reduction and while there's  
11 a lot of confusion in mind my about alternative fuels  
12 in particular, and I wasn't real pleased with the lack  
13 of a positive message on biofeuls and the progress on  
14 biofeuls, I was fairly pleased with vehicle technology  
15 growth throughout the world but the smart growth and  
16 VMT panel was very good—well those of us that have  
17 been involved with this subject at Davis had a  
18 separate luncheon meeting one day with a lot of local  
19 elected officials as well as other council and  
20 government type people. To my—well, one of the  
21 concerns I wrote several weeks ago is to what extend  
22 do locals know about land use and work, what do the  
23 NGOs know and what does the general citizen group  
24 know. I wrote this note to myself about 3 weeks ago  
25 and what came out of this meeting was they don't know.

1 It was a huge shock to most of the academics that they  
2 have not reached this community. So one of the huge  
3 benefits to those of us agencies that are trying to  
4 work in this area was a realization that something has  
5 gone wrong, there's not good communication and I hope  
6 from that experience there'll be a great effort on the  
7 part of the academics involved and particularly the  
8 Center at UC Davis--the Urban Land use Transportation  
9 Center to deal with local elected officials. We had  
10 two mayors there who had no knowledge of this work or  
11 the importance of this work to some of the other NGOs.  
12 Hopefully, they'll be some progress there.

13           And the last comment that I'll make is with  
14 people involved with biotechnology and what I walked  
15 away with is that they're beginning to really score in  
16 biochemical's but not biofeuls. They do not see the  
17 business case for biofeuls that many of us see. So I  
18 think that we have a hill to climb there with regard  
19 to that area so we may not see the progress there that  
20 I had hoped. So, enough said.

21           CHAIRMAN WEISENMILLER: I was also going to  
22 mention that Lee was actually the first employee at  
23 the Energy Resources Group back in the mid-70s, early-  
24 70s. And he had a passion for communicating science.  
25 There's a lot of people who do a lot of very good

1 science but unfortunately don't really focus on the  
2 communication. Obviously in the scientific community,  
3 oftentimes those communicators are scored. Carl Sagan  
4 was never elected to the National Academy of Science  
5 because people considered him a lightweight because of  
6 his passion on communication. Certainly that Lee had  
7 a real passion and his first role at Energy Resources  
8 was to try and help communicate the science behind the  
9 energy issues. Again, we're all going to miss him.  
10 He was closer to my age so certainly passed too soon.

11 In terms of others things, I was just going  
12 to mention very quickly, actually all of us except for  
13 Jim had the opportunity to sit through a debate on  
14 forecasting hearing as part of the IEPR. The thing  
15 that really emerged in my mind is the complexity of  
16 what we're trying to deal with in this time. The stew  
17 is so complicated between the California economy, the  
18 energy efficiency programs, the EV programs and  
19 distributed gen. That trying to come up with someone  
20 that we're comfortable and come up with the range of  
21 scenarios that reflect that mixtures of uncertainty  
22 make it one of the more challenging aspects of this  
23 IEPR I think. And probably will be a challenge for  
24 the next couple of IEPRs to try to sort of those  
25 issues.

1           Finally, I was going to mention that Rob and  
2 I testified before the joint legislative auto  
3 committee. They wanted to review the progress of the  
4 ARRA funding at this point. So continue that strong  
5 emphasis in the legislature and the Governor's office  
6 to make sure that we deliver on the ARRA projects.  
7 With that, Karen?

8           COMMISSIONER BOYD: Mr. Chairman, since  
9 Commissioner Peterman she already mentioned the  
10 hearing we're going to have, an IEPR hearing, we're  
11 going to have on transportation fuel demand for  
12 casting and we're agonizing just before this meeting  
13 and have with the staff for some time and I'm sure  
14 that Friday's meeting will be equally perplexing as  
15 efficiency and the state of the economy and the state  
16 of technology all weave together in that arena.  
17 There's nothing different from the various fuels or  
18 energy sources, be it natural gas in general or  
19 electricity or transportation fuels, they're all  
20 interconnected to very common forcing functions. I  
21 think we are equally going to struggle with that. You  
22 all will equally struggle into next year with that.

23           CHAIRMAN WEISENMILLER: Chief Counsel?

24           MR. LEVY: Commissioners, I'd like to request  
25 a closed session on an Item that constitutes a

1 significant exposure to litigation against the  
2 Commission but the hour is late and I have not had a  
3 chance to double back with some of my staff with one  
4 of the Commissioner's comments. I'd like request that  
5 you adjourn this meeting until tomorrow morning, if  
6 that works with your schedule, and pick up the closed  
7 session at the reconvene meeting tomorrow. I don't  
8 know what your schedules are.

9 COMMISSIONER PETERMAN: I'm speaking at a  
10 conference in Berkeley tomorrow all day. I'll call in  
11 for it.

12 MR. LEVY: Or perhaps Friday.

13 CHAIRMAN WEISENMILLER: Friday would be—I  
14 think this is our window. We're probably out of the  
15 window but what I was thinking is that we might have—  
16 there are 2 things that we have to discuss, 2 things  
17 that we have to do and one part of that we may be able  
18 to handle but again, let's try for a very short  
19 executive session at the same time try to basically  
20 have people find a time for a more detailed one. But  
21 at least at this point, when we go into executive  
22 session, at least have a 5 minute conversation about  
23 next steps.

24 MR. LEVY: All right. The Commission can  
25 make such an order from Executive Session as well. So.

1                   CHAIRMAN WEISENMILLER:   Okay.   And Executive  
2 Director's Report.

3                   MR. OGELSBY:   Nothing to add.

4                   CHAIRMAN WEISENMILLER:   Public advisor's  
5 report.

6                   MS. JENNINGS:   No report.   Thank you.

7                   CHAIRMAN WEISENMILLER:   Public comment.   I  
8 believe we have one—

9                   COMMISSIONER BOYD:   Legislature.

10                  CHAIRMAN WEISENMILLER:   Is the Legislature  
11 Director sitting there?   Any comment?   No?   I didn't  
12 think so.   I believe we have one member of the public  
13 on the line to comment.   Oh, in person.   Satyajit  
14 Patwardhan.

15                  MR. PATWARDHAN:   Hello.   Yes, my name is  
16 Satyajit Patwardhan.   I have a question that's  
17 regarding EISG proposals which are part of the PIER  
18 program.   The reason that I am here is because the  
19 discussion and approval of these programs seems to  
20 stall for awhile.   My main purpose of bringing this  
21 topic up here is two reasons.

22                  First, there are not many avenues for me to  
23 ask about this program about this particularly venue.  
24 So that's why I am here.

25                  Second, and more importantly, that behind

1 each of these proposals, although small there exists a  
2 person and a small entity who are going through the  
3 (indiscernible) and each day that goes by, during  
4 which these proposals get ignored, is painful for each  
5 of these people that are behind each of these  
6 proposals.

7           So with that I do want to ask if you guys  
8 would comment on where this PIER program stands at  
9 this time.

10           CHAIRMAN WEISENMILLER: I think that what  
11 we'll do is ask the Executive Director to give you a  
12 status report. We'd certainly encourage you to talk  
13 to the Project Mangers.

14           MR. PATWARDHAN: Well, I have already talked  
15 to many people that I could find and, in summary,  
16 everybody has told me that you will know when the  
17 process is finished. That's all. They have not told  
18 me any timeline about this and the only thing that I  
19 know at this point is that I will know as a natural  
20 course of action when it comes to fruition. Although  
21 that is reasonably well, it has meaningful impact on  
22 people such as me. So that's why I am here.

23           CHAIRMAN WEISENMILLER: Well thanks for  
24 coming and thanks for your patience. Rob?

25           MR. OGELSBY: Well, two-fold response to

1 that. First, clearly the process is taking much, much  
2 longer than it should have and this particular project  
3 goes by quiet some months. As a result, we have  
4 embarked and are nearly concluding a process to revamp  
5 the process and to expedite it. Having said that, and  
6 having cut many, many weeks off the process that we  
7 followed historically—having said that, the program is  
8 under consideration in the legislation as we speak.  
9 The future design of the program will be known after  
10 Friday once the legislation adjourns and so we wanted  
11 to also take that into account. Apologies to those  
12 who are inconvenienced by the delay from our  
13 decisions. We should have a clear path in just a  
14 matter of a week as to where we'll go after that point  
15 and even more encouraging, I would say, that we're  
16 going to have a much improved program that applies to  
17 this program as well as several other programs that  
18 require contracting and financial agreements because  
19 we're doing a revamp of that.

20 CHAIRMAN WEISENMILLER: Thank you.

21 Certainly one of the things that I've tried as Chair  
22 is to make sure that we find ways for process  
23 improvements in the contracting which I think all of  
24 us feel that, while it's very important to maintain  
25 the integrity of the contracting and to deal with

1 issues such as conflicts and make sure the contract  
2 terms are pretty clear to everyone, that if we could  
3 do that faster, that I think it's in everyone's  
4 interest.

5 COMMISSIONER PETERMAN: Sir, I just wanted  
6 to say that I appreciate you saying for the length of  
7 the Business Meeting to offer your comments. Would  
8 you mind sharing with us what type of business you're  
9 in?

10 MR. PATWARDHAN: Okay. That actually is a  
11 good question. I was about to ask something else  
12 regarding that. We build next generation charging  
13 stations for electric vehicles and one of the things  
14 that I was hoping to bring out is in the proposals  
15 that you approved earlier in number 9, there is a  
16 place for electric vehicle charging infrastructure.  
17 One of the things that I personally was not involved  
18 in with this process and I should be involved clearly  
19 going forward.

20 The first thing I'd like to ask where should  
21 I put my name in to get involved? And secondly, in  
22 that process, since I was not involved the question  
23 naturally comes out is there any room for future  
24 technologies? Because most of the proposals that I've  
25 seen thus far are coming out of the State of

1 California is to fund a deployment plan for existing  
2 technologies. That's it. You basically end up giving  
3 money to put on a city of electric vehicle charging  
4 stations. To that extent, that doesn't really do  
5 anything for me. We are working on a completely  
6 different type of technology and there should be  
7 interviews in terms of applying for funding for such  
8 cases. One of the other reasons that I was a little  
9 bit in problem is that since the prior funding that we  
10 had applied for has not come to a concluding point, to  
11 some extent we should not be applying. That's the  
12 guideline that I read in the previous proposal. Is  
13 that we should not be applying repeatedly for the same  
14 technology all over again until we know what has  
15 happened with the previous technology. And that is  
16 also a problem. So I'm put into a little bit of a  
17 peculiar position.

18 COMMISSIONER PETERMAN: I think you have  
19 applied to the appropriate program for you technology  
20 and hopefully it was advance to the point where it can  
21 be in the AB 118 solicitation. I do encourage you,  
22 however, to follow that process because it'd be great  
23 to have your input as an innovator in this space and  
24 the public advisor, Jennifer Jennings, can point you  
25 in the direction of how to get on those listservs and

1 you'll find out information about what meetings we'll  
2 have coming up. Again, I appreciate your predicament  
3 and you're taking the time to engage with us today.

4 MR. PATWARDHAN: Thank you.

5 CHAIRMAN WEISENMILLER: Again, thank you.

6 Any other comment. Then this meeting is adjourned to  
7 go into executive session.

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9 (Whereupon, at 1:37 p.m., the Business Meeting was  
10 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 22nd day of September, 2011.



PETER PETTY  
CER\*\*D-493  
Notary Public