

Commissioners Present

Robert B. Weisenmiller, Chair
Sekita Grant, His Advisor
Karen Douglas
Carla Peterman

Staff Present:

Rob Oglesby, Executive Director
Jennifer Jennings, Public Advisor
Lisa De Carlo, Staff Counsel
Dennis Beck, Staff Counsel*
Melissa Jones
Peter Ward
Gabe Herrera
Panama Bartholomy

Agenda Item

| | |
|-----------------|-----------|
| Kevin Barker | 2 |
| Tovah Ealey | 3 |
| Darcie Chapman | 4 |
| Marcia Smith | 5 |
| Gary Fay | 6 |
| Melissa Jones | 7 |
| Amir Ehyai | 8 |
| LeQuyen Naguyen | 9 |
| Heather Raitt | 10 |
| Michael Leaon | 11 and 12 |

Also Present

Interested Parties (* Via WebEx)

Frank Yang, Stion Corp.
Randy Howard, LADWP
Noah Long, NRDC
Norman A. Pedersen, Hanna & Morton
George Morrow, Azusa Light and Water
Stephen J. Keene, Imperial Irrigation District
Anthony Andreoni, California Municipal Utilities
Association
Susie Berlin, McCarthy & Berlin/MSR Public Power Agency
Travis Ritchie, Sierra Club
Dan Chia, Solar City and also on behalf of SunRun
George Nesbitt, Environmental Design 2 Build
Tom Enslow, IBAW and NICA, California State Labor
Management Cooperation Committee
Daniel Hamilton, SMUD

Also Present (Continued) (* Via WebEx)

Interested Parties

Spencer Stock, Lester Electrical
Charlie Stephens, Northwest Energy Efficiency Alliance
Henry Wong, Intel, appearing on behalf of IT
Industry Council
Jay Taylor, Schneider Electric
Kevin Washington, AHAM
Pierre DelForge, NRDC
Ron Gorman, Sempra
Randall Higa, Southern California Edison Company
Kelly Jensen, Sloat, Higgins, Jensen, representing the
Consumer Electronics Association
Kathleen Van Osten, Grayling USA, on behalf of
Tech America
Michael R. Robson, Edelstein, Gilbert, Robson & Smith,
on behalf of Qualcomm
Valerie J. Winn, PG&E
Suzanne Foster-Porter, Ecova
Ted Harris, California Strategies, LLC, on behalf of
Wireless Association
Erica Morehouse, Environmental Defense Fund
*Marianne DiMascio, Appliance Standards Awareness Project
*Rick Erdheim, Senior Counsel for Phillips Electronics
*Susan Peterson, Blacktron
*Larry Albert, Stanley, Black & Decker, representing the
Power Tool Institute
*Chuck Mullet, Power Sources Manufacturers Association
*Andrew Pape Salmon, Energy Efficiency Branch, British
Columbia, Canada, Ministry of Energy and Mines
*Stanley Rodriguez, Makita USA

I N D E X

Page

Proceedings

9

Items

1. CONSENT CALENDAR.
 - a. COUNTY OF LOS ANGELES INTERNAL SERVICES DEPARTMENT. Possible approval of Amendment 2 to Contract 400-09-024 with the County of Los Angeles Internal Services Department to shift funds to reporting and program management tasks required to effectively complete the project. (ARRA funding.)
 - b. UNIVERSITY OF CALIFORNIA, RIVERSIDE. Possible approval of Amendment 2 to Contract 500-07-012 with the Regents of the University of California on behalf of the Riverside Campus to extend the contract by 12 months to March 29, 2013. (PIER natural gas funding.)
 - c. CALIFORNIA COMMUNITY COLLEGES CHANCELLOR'S OFFICE. Possible approval of Amendment 1 to Contract 600-08-009 with the California Community Colleges Chancellor's Office to revise the scope of work and budget and extend the term from June 30, 2012 to January 3, 2014. (ARFVTF funding.)
 - d. CR&R INC. Possible approval of California Environmental Quality Act documents and findings for Agreement ARV-10-052 for a grant to CR&R, Inc.
 - e. CITY OF LIVINGSTON. Possible approval of Amendment 1 to Agreement CBG-09-093 with the City of Livingston to extend the term of the grant from January 30, 2012 to June 14, 2012. (ARRA funding.)
 - f. CITY OF SAN CARLOS. Possible approval of Amendment 1 to Agreement CBG-09-095 with the City of San Carlos for a no-cost time extension from February 3, 2012 to June 14, 2012 (ARRA funding.)

4

Items

1. CONSENT CALENDAR.
 - g. CITY OF BRAWLEY. Possible approval of Amendment 1 to Agreement CBG-09-061 with the City of Brawley to extend the term of the grant from March 2, 2012 to June 14, 2012. (ARRA funding.)
 - h. CITY OF GRAND TERRACE. Possible approval of Amendment 1 to Agreement CBG-09-072 with the City of Grand Terrace to revise the scope of work, reallocate the budget, and extend the term of the grant from January 12, 2012 to June 14, 2012 (ARRA funding.)
 - i. CITY OF CANYON LAKE. Possible approval of Amendment 1 to Grant Agreement CBG-09-069 with the City of Canyon Lake to revise the scope of work, reallocate the budget, and extend the term of the grant from January 31, 2012 to June 14, 2012 (ARRA funding.)
 - j. CITY OF MARINA. Possible approval of Amendment 1 to Agreement CBG-09-117 with the City of Marina for a no cost time extension from February 20, 2012 to June 14, 2012 to complete the city's streetlight replacement project. (ARRA funding.)
 - k. WESTPORT POWER. Possible approval of Amendment 1 to extend the contract term by nine months and reallocate the budget to extend testing of a high pressure direct compression engine designed to optimize performance and minimize emissions. (PIER natural gas funding.)
 - l. PAX SCIENTIFIC. Possible approval of Amendment 1 to Agreement PIR-10-020 to change partners and key personnel, reallocate the budget, and extend the term of the grant from September 1, 2013 to September 1, 2014. (PIER electricity funding.)

Items

- | | | |
|----|---|-----------|
| 2. | ENERGY COMMISSION COMMITTEE APPOINTMENTS. Possible approval of appointments to the Energy Commission's Standing Committees and Siting Case Committees. | Postponed |
| 3. | BENNINGFIELD GROUP INC. Possible approval of Contract 400-11-001 for \$179,000 with Benningfield Group Inc. for one year to conduct marketing surveys of 26 Title 20-regulated appliance types sold in California via the Internet, via catalogs, and in wholesale/retail outlets to determine compliance with Energy Commission energy efficiency standards. (SEP and ERPA funding.) | 17 |
| 4. | CALIFORNIA EMPLOYMENT DEVELOPMENT DEPARTMENT. Possible approval of Amendment 1 to Contract 600-08-008 with the California Employment Development Department to add \$2.75 million and extend the term from December 31, 2012 to December 31, 2014. (ARFVTF funding.) | 18 |
| 5. | STION CORPORATION. Possible Energy Commission consent for Stion Corporation to obtain up to \$115 million in financing from private sources to fund business expansion in California and Mississippi. Loan documents between the Energy Commission and Stion Corporation contain language that requires Stion to obtain written permission from the Energy Commission prior to incurring additional debt. | 20 |
| 6. | APPLIANCE EFFICIENCY ENFORCEMENT RULEMAKING. Possible approval of an Order Instituting Rulemaking to establish regulations to implement the enforcement provisions in SB 454 (Pavley, Chapter 591, Statutes of 2011), allowing the Energy Commission to assess civil penalties and fines for violations of California appliance efficiency standards. | 29 |
| 7. | ORDER INSTITUTING RULEMAKING (12-OIR-1). Possible adoption of an Order Instituting Rulemaking to consider changes to the Emission Performance Standard (EPS) regulations, Title 20, California Code of Regulations, section 2900 et seq. | 35 |

| | Page |
|--|------|
| Items | |
| 8. ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT GUIDELINES. Possible adoption of changes to the Energy Efficiency and Conservation Block Grant (EECBG) Program Guidelines to award the remaining EECBG funding through other grant programs, including subsequent phases of the EECBG. | 73 |
| 9. NEW SOLAR HOMES PARTNERSHIP (NSHP) GUIDEBOOK. Possible adoption of proposed revisions to the <i>New Solar Homes Partnership Guidebook</i> , Fourth Edition. | 77 |
| 10. DEVELOPING RENEWABLE ENERGY ON STATE PROPERTY. Possible approval of the Lead Commissioner Report, <i>Developing Renewable Generation on State Property - Installing Renewable Energy on State Buildings and Other State-Owned Property</i> . | 93 |
| 11. NEGATIVE DECLARATION FOR REGULATIONS, INCLUDING ENERGY EFFICIENCY STANDARDS, FOR BATTERY CHARGER SYSTEMS AND SELF-CONTAINED LIGHTING CONTROLS. Possible adoption of the proposed Negative Declaration, including a Finding of No Significant Impact under the California Environmental Quality Act (CEQA), for the Proposed Regulations, including energy efficiency standards for battery charger systems and self-contained lighting controls. | 227 |
| 12. REGULATIONS, INCLUDING EFFICIENCY STANDARDS, FOR BATTERY CHARGER SYSTEMS AND SELF-CONTAINED LIGHTING CONTROLS. Possible adoption of proposed amendments to the Appliance Efficiency Regulations in Title 20 of the California Code of Regulations relating to energy efficiency standards and other requirements for battery charger systems and self-contained lighting controls. | 227 |
| 13. MINUTES: Possible approval of the December 14, 2011, Business Meeting Minutes. | 229 |
| 14. LEAD COMMISSIONER OR PRESIDING MEMBER REPORTS. | 229 |

Items

| | | |
|-----|--|-----|
| 15. | CHIEF COUNSEL'S REPORT: | 229 |
| a. | In the Matter of U.S. Department of Energy (High Level Waste Repository), (Atomic Safety Licensing Board, CAB-04, 63-001-HLW); | |
| b. | Public Utilities Commission of California (Federal Energy Regulatory Commission, Docket No. EL10-64-000); and Southern California Edison Company, et al. (Federal Energy Regulatory Commission, Docket No. EL10-66-000); | |
| c. | BNSF Railway Company v. US Department of Interior, California Energy Commission (U.S. District Court Central District of California-Riverside, CV 10-10057 SVW (PJWx)); | |
| d. | Richard Latteri v. Energy Resources, Conservation and Development Commission, et al. (Sacramento County Superior Court, 34-2011-99985); | |
| e. | Communities for a Better Environment, Robert Sarvey v. California Public Utilities Commission, Energy Resources Conservation and Development Commission, Real Parties in Interest, Pacific Gas and Electric Company, Contra Costa Generating Station, LLC (California Supreme Court, S194079). | |
| 16. | Executive Director's Report. | 229 |
| 17. | Public Adviser's Report. | 229 |
| 18. | Public Comment | 229 |
| | Adjourn | 233 |
| | Certificate of Reporter | 234 |

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

2 JANUARY 12, 2012

10:06 a.m.

3 CHAIR WEISENMILLER: Welcome to our first
4 business meeting of the year. Let's start with the
5 Pledge of Allegiance.

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

8 CHAIR WEISENMILLER: Good morning. Let's talk
9 about what the likely schedule will be and try to put
10 some context for today's meeting. First, I'd like to
11 welcome everyone and first and foremost I would like to
12 congratulate Commissioner Peterman for conducting
13 herself with great poise [applause] this past year and
14 tackling some very important aspects, issues for
15 California's energy sector. She's been a great addition
16 to the Commission, glad to serve with her as a colleague
17 of the Brown Administration, and certainly a great job
18 yesterday. And we appreciate the Senate Rules Committee
19 unanimously supporting her nomination for the Senate
20 floor vote. So, again, congratulations.

21 COMMISSIONER PETERMAN: Thank you, Chairman.
22 I'm looking forward to continuing to work with you, as
23 well.

24 CHAIR WEISENMILLER: Great. In terms of --
25 we're going to handle a few more personnel issues and

1 then start the business meeting, or actually as part of
2 the business meeting we're going to deal with some
3 personnel questions first. Item 2 will be held and
4 looking at the schedule today, my -- we're obviously
5 going to take as much time as necessary for each of the
6 items, but adding up the time, I think we're going to
7 get to Items 11 and 12 pretty close to noon. And I was
8 planning to take like a 15-minute break between
9 everything else and Items 11 and 12, so my guess is that
10 that's going to come up after lunch and that we will
11 take a short -- relatively short lunch break. So we'll
12 see how long everything else goes and when we break for
13 lunch, but I'm going to guess it's more like 1:15 or
14 1:30, so anyway, in terms of people being able to
15 schedule their times.

16 The other thing I was going to mention is we
17 have the Public Advisor in the back, Jennifer Jennings,
18 so for those of you who aren't familiar with our
19 process, Jennifer is here to help you participate and
20 she has blue cards. And so if you're planning on
21 speaking, fill out a blue card and we'll put you in the
22 order. So, again, that can hopefully help people plan
23 their day a little bit.

24 The other thing we've always found is that,
25 while normally things take longer, sometimes we're

1 surprised and things go very fast, so if anyone does
2 leave under the assumption that it's after lunch, please
3 check the Public Advisor, call her, call her office, and
4 make sure that somehow a miracle doesn't happen and we
5 don't take it up at 11:00. But, again, that would be a
6 surprise. Jennifer?

7 MS. JENNINGS: I would be willing to take cell
8 phone numbers and make calls about exactly when we're
9 going to take those items up also.

10 CHAIR WEISENMILLER: That's great. Thank you.
11 And again, certainly for those of you on the line,
12 again, if you could contact Jennifer, certainly she can
13 help you try to keep track of our pacing today.

14 Now, in addition today, I'd like to take this
15 time to welcome and introduce the newest members of my
16 staff. Sekita, Lillian and Henna, please stand up for a
17 second. Thank you.

18 Sekita Grant has recently been hired as my
19 Advisor. She is a native of the Bay Area and a licensed
20 attorney in California. She received her law degree
21 from USC and recently completed her LLM degree in
22 Environmental and Land Use Law at the University of
23 Florida.

24 Lillian Mirviss is finishing up her studies at
25 Brown University where she is studying Geology. After

1 working with Commissioner Douglas this past summer, she
2 came back to the Commission to intern with my office for
3 this month. So I owe thanks to Commissioner Douglas for
4 introducing me to Lillian last year, last summer.

5 And Henna Trewn is an Extern from Cal
6 Berkeley, my and Carla's Alma Mater. She is a second-
7 year studying Political Economy, and she is here for the
8 week. So, again, please join me in welcoming them.

9 [Applause]

10 Now in terms of transitions, I would also like
11 to commemorate someone who is leaving, so we have --
12 today we would like to honor Pete Ward and recognize
13 Peter Ward for his outstanding contributions at the
14 Energy Commission. Peter retired on December 30th after
15 serving 35 years. The Energy Commission is the only
16 state institution that Peter has worked for after
17 graduating from Chico State University and Pete has held
18 a variety of analytical and supervisory positions
19 during his distinguished career. He has been involved
20 in the Commission's early development of the Renewable
21 Energy Technology Programs to providing critical
22 guidance and support for the development of Innovative
23 Alternative Renewable Fuel and Vehicle Technology
24 Programs. Today, we recognize Peter through a
25 resolution for his many years of service and we are

1 grateful for the tremendous contribution he has made in
2 the Alternative Transportation Energy arena, as well as
3 the productive and long-lasting partnership he has
4 fostered with industry, local government, and other key
5 stakeholders. So let me read the full resolution:

6 "WHEREAS, Peter began his career at the
7 California Energy Commission in 1977 as a Staff Services
8 Analyst working to develop and evaluate solar, biomass,
9 and other alternative technologies; and

10 WHEREAS, Peter's passion for alternative
11 transportation fuels began in 1980 with his efforts to
12 develop the California Fuel Methanol Reserve and
13 establish more than 70 retail methanol stations that
14 served in excess of 15,000 Fuel Flexible Vehicles; and

15 WHEREAS, over the next 25 years, Peter's
16 tireless efforts, his knowledge of alternative and
17 renewable fuels and vehicles, his understanding of the
18 fuels markets, his focus on the environment and the
19 economy, and appreciation for the consumer, and his
20 reputation for collegiality and collaborative, created
21 productive and long term partnerships, and brought
22 acclaim to the Energy Commission, most notably as the
23 Statewide Clean Cities Coordinator, as Chair of the
24 State's Driving Green Task Force, as the Manager of the
25 Energy Commission's Clean Fuels Market Assessment

1 Reports, and Clean Fuels Infrastructure Plan and
2 Development Report; and

3 WHEREAS, beginning in 2005, Peter served with
4 distinction as the Policy Advisor to Vice Chair James D.
5 Boyd, where he was influential in developing petroleum
6 reduction and alternative fuels policies, participated
7 in the preparation of key policy documents and analysis,
8 and represented the Energy Commission at the Alternative
9 Fuel Vehicle Institute, California Fuel Cell
10 Partnership, and Board of Governor's Conference, Western
11 Governors Association, and numerous other private and
12 public organizations; and

13 WHEREAS, in 2008 Peter accepted the assignment
14 as the Program Manager for the Energy Commission's
15 landmark Alternative Renewable Fuel and Vehicle
16 Technologies Program, where his professional integrity,
17 strong relationships, unwavering commitment to reducing
18 the state's petroleum dependence, and innovative market-
19 based approaches have shaped the Commission's current
20 investment strategies, and will serve to inspire the
21 future direction of this vital program;

22 THEREFORE BE IT RESOLVED, that the Energy
23 Commission recognizes and is grateful to Peter Fraser
24 Ward for his diligence and professional contributions to
25 serving the citizens of California with integrity,

1 intelligence, and graciousness, and wishes him all the
2 best in his future endeavors."

3 Peter, come on up. [Applause]

4 MR. WARD: Thank you all. Well, thank you so
5 much for your kind words. We go way back, you know, you
6 used to be my supervisor in the Special Projects Office
7 at a different location, as a matter of fact.

8 CHAIR WEISENMILLER: Exactly.

9 MR. WARD: It's interesting because the arc of
10 my career has been full of absolutely wonderful
11 challenges and opportunities for me that I could never
12 have anticipated in my life. And I also met my wife
13 here at the Energy Commission, and together we have my
14 -- that's Lisa, Lisa Barbaro at the time, and Lisa is my
15 wife for 23 years, and we have a daughter, Sarah Natalie
16 Ward, who is 18 and is following in my footsteps and
17 going to Chico State University. So I couldn't be
18 prouder to be a part of the Energy Commission. As I
19 say, it's been part of my life, it is a family to me,
20 and I was given a visitor badge this morning with you
21 all, so it's only been two weeks, but now I'm just a
22 visitor! But I hope to be a frequent visitor here. It
23 is kind of cyclical, too, because I started in the Brown
24 Administration, and I'm leaving in the Brown
25 Administration. We still have a bit of work to do for

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1 reducing petroleum in our state and in our nation, and
2 I'm not done. So I want to continue on from here, but
3 I've been given wonderful opportunities, I've learned so
4 much from all of you in the many years I've been here,
5 and I've had the opportunity to work with each of you
6 Commissioners. I've really enjoyed and been honored by
7 the experience. So I can't say much about the wonderful
8 experience I've had at the Energy Commission, I hate to
9 leave, but I'm really just changing my uniform and
10 keeping on, keeping on, and to quote a song, "I want to
11 thank you all, thank you for letting me by myself
12 again." Bless you all. [Applause]

13 COMMISSIONER PETERMAN: Peter, I just want to
14 say thank you, in particular, for all the work you've
15 done to support the Transportation Division. I've
16 already gotten calls from stakeholders asking where you
17 are and trying to catch sightings of you, so we
18 appreciate that.

19 CHAIR WEISENMILLER: [Pause] [Applause]
20 Again, thanks Pete.

21 Okay, so let's take up the Consent Calendar.

22 COMMISSIONER DOUGLAS: Move the Consent
23 Calendar.

24 COMMISSIONER PETERMAN: Second.

25 CHAIR WEISENMILLER: All those in favor?

1 (Ayes.) This item passes unanimously. As I
2 indicated before, Item 2 is being held.

3 So let's go on to Item 3. Benningfield Group
4 Inc. Possible approval of Contract 400-11-001 for
5 \$179,000. And this is SEP and ERPA funding. Tovah.

6 MS. EALEY: Good morning. Good morning, Mr.
7 Chairman, Commissioners. I'm Tovah Ealey from the
8 Appliance Efficiency Program. And this contract is sort
9 of a continuation of our tradition of holding Appliance
10 Market Survey contracts. The survey contract serves as
11 our eyes and ears in the field to see what is being
12 sold, or offered for sale, in the way of Title 20
13 regulated appliances.

14 This will be a one-year contract performed by
15 Benningfield Group. And they will be surveying
16 primarily in brick and mortar retail outlets, that's
17 where their emphasis will be. They will also be looking
18 at what is being sold over the Internet and in
19 catalogues. We had a good result from the last survey
20 and we're looking forward to working with them again. I
21 would be happy to field any questions you have.

22 CHAIR WEISENMILLER: Thank you.
23 Commissioners, any questions or comments?

24 COMMISSIONER DOUGLAS: I have no questions. I
25 certainly recommend this for your support. I will move

1 Item 3.

2 COMMISSIONER PETERMAN: I'm very supportive of
3 this, as well. Good data will help us better understand
4 the effect of our Standards, and so I'll second that.

5 CHAIR WEISENMILLER: All those in favor?

6 (Ayes.) This item also passes unanimously.

7 Thank you.

8 Item 4. California Employment Development
9 Department. Possible approval of Amendment 1 to
10 Contract 600-08-008 with the California Employment
11 Development Department to add \$2.75 million and extend
12 the term. This is ARFVTP [sic] funding. Darcie.

13 MS. CHAPMAN: Good morning. This is a --
14 we're seeking approval of an amendment to an existing
15 interagency agreement with the Employment Development
16 Department. The funds that we'll be adding through this
17 amendment were approved in the '11-'12 Investment Plan.

18 The functions of the activities that will be
19 funded through the amendment are structural. They'll
20 inform our future investments in workforce development
21 throughout the state, through Regional Industry Clusters
22 of Opportunity Grants.

23 We did in the first round of funding through
24 this Interagency Agreement, we funded four test or pilot
25 projects for Regional Industry Cluster planning and had

1 some success with that, with three of the four going
2 forward to implementation.

3 The other function of this amendment is some
4 research that is solely dedicated to clean
5 transportation. Up to this point, we've been shirt-
6 tailing frequently on other activities that were already
7 happening, other research and green collar jobs and the
8 like, with the Employment Development Department. This
9 particular RICO and research are going to work hand in
10 hand, we're hoping that any regions that don't come in
11 for a Regional Industry Cluster Agreement will at least
12 get some data from the research conducted by the
13 California Workforce Investment Board.

14 The other final component to the amendment is
15 a pilot test project in Career Pathways Development for
16 new entrance to the Clean Transportation sector in
17 response to some feedback we've received from regional
18 transit and other partners and their difficulty in
19 attracting new talent to the career field. That's going
20 to happen in a partnership of EDD, our Grantees from the
21 first round, some of the regional innovation hubs, and
22 one other green grant that was put out by DOE last year,
23 and right now I can't remember the name of it. But
24 anyway, we're bringing together a group of those
25 entities to bid on taking on this first pilot project in

1 career pathways. I'd be happy to answer any questions
2 you have.

3 CHAIR WEISENMILLER: Commissioners, any
4 questions or comments?

5 COMMISSIONER PETERMAN: I'll just offer a
6 comment. Happy to see this workforce training and
7 regional center element of the transportation 118 funds.
8 The program has been quite successful in providing
9 workforce training. I believe 5,300 people have been
10 trained through the AB 118 funds, and I'm supportive of
11 this item.

12 COMMISSIONER DOUGLAS: I likewise agree, that
13 I'm pleased to see the 118 program continue to make
14 investments in the area of workforce training. So I am
15 also pleased to see the item.

16 COMMISSIONER PETERMAN: So I will move the
17 item.

18 COMMISSIONER DOUGLAS: Second.

19 CHAIR WEISENMILLER: Okay, all those in favor?

20 (Ayes.) This item also passes unanimously.

21 Thank you.

22 MS. CHAPMAN: Thank you.

23 CHAIR WEISENMILLER: Item 5 is Stion
24 Corporation. Possible Energy Commission consent for
25 Stion Corporation to obtain up to \$115 million in

1 financing from private sources to fund business
2 expansion in California and Mississippi. Marcia.

3 MS. SMITH: Good morning, Chairman and
4 Commissioners. My name is Marcia Smith and with me
5 today is Jacob Orenberg. We work in the Fuels and
6 Transportation Division on the Clean Energy Business
7 Financing Program.

8 Agenda Item 5 pertains to one of the CEBFP
9 loan conditions for the Stion Corporation, the solar
10 panel manufacturer located in San Jose, California.

11 All of the CEBFP loans contain language
12 requiring the borrowers to obtain written permission
13 from the Energy Commission prior to obtaining additional
14 debt. In addition to the San Jose facility, Stion
15 Corporation also owns a subsidiary located in
16 Mississippi.

17 As required in the loan agreement, Stion has
18 requested approval from the Energy Commission to obtain
19 up to \$115 million in financing from private sources to
20 fund business expansion in San Jose and the subsidiary
21 in Mississippi. This request is a net amount of \$5
22 million more than what was allowed when the Commission
23 signed the Stion loan documents in July 2011. The funds
24 come from different financing sources and replace most
25 of the previously approved debt. The next debt will not

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1 weaken the Energy Commission's collateral position on
2 the CEBFP loan.

3 It should be noted that Stion is committed to
4 continue its solar panel manufacturing in San Jose and
5 to complete installation of and operate the CEBFP funded
6 equipment in the Silicon Valley location.

7 The terms of their loan require the CEBFP
8 equipment stays in California, or Stion will be in
9 default. CEBFP referred this request to the State
10 Assistance Fund for Enterprise, Business and Industrial
11 Development, SAFE-BIDCO, the financial development
12 corporation that underwrote and is servicing this Stion
13 loan for review and for recommendation. SAFE-BIDCO's
14 due diligence included analyses of Stion's income
15 statement and profit and loss balance sheet though third
16 quarter 2011, and projected financials through 2015.

17 In an Action Memorandum to the Energy
18 Commission dated December 7, 2011, signed by Sheila
19 Cargill, Vice President and Senior Loan Officer, SAFE-
20 BIDCO recommends that the Energy Commission allow Stion
21 Corporation to substitute the proposed funding and debt
22 scenario in place of the current debt. CEBFP staff
23 reviewed the analysis performed by SAFE-BIDCO and
24 concurs with the recommendation.

25 Staff requests the Commission approve Item 5,

1 to consent to Stion Corporation substituting up to \$115
2 million in private financing for previously approved
3 debt, to fund the expansion of the San Jose and
4 subsidiary facilities. Frank Yang from Stion
5 Corporation is also here today to make a presentation
6 and respond to your questions. Thank you.

7 MR. YANG: Hi. I appreciate the opportunity
8 to speak at this meeting today. My name is Frank Yang
9 and I'm the Vice President of Business Development and
10 Marketing for the company. I'm also here with Bert
11 Brown, sitting over there, who is the Project Manager
12 for our work with the CEC.

13 So Marcia and Jacob have been extremely
14 proactive and supportive throughout the loan process, so
15 I thought it was a good idea to come here and give some
16 background on Stion and provide some insight on our
17 ongoing growth and investment here in California as part
18 of our efforts to become a preeminent global player in
19 the industry.

20 Stion was founded in 2006 in Menlo Park,
21 California. When I joined the company in September of
22 2006, we had five employees working out of an incubator
23 facility in Menlo Park. We spent the first two years of
24 the company primarily focusing on research and
25 development and then moved to San Jose in 2008. In

1 2008, we moved into a new facility that encompassed our
2 corporate headquarters and pilot line, in the Edenvale
3 Redevelopment area of South San Jose. At the time, the
4 company had grown to about 30 employees. In the past
5 three years, we've entered commercial production and we
6 continue to expand and build our capabilities here in
7 California, as well as in our manufacturing plant in
8 Mississippi. Today, the company has over 250 employees,
9 a little bit under of which half are based here in
10 California. So in the last five years, we've added over
11 100 direct jobs here in California and we've raised over
12 \$200 million in private financing to expand our R&D
13 manufacturing and commercialization efforts.

14 A couple of the highlights of what we do, as
15 Marcia mentioned, we are a thin film solar panel
16 manufacturer. We have today demonstrated a panel that's
17 been verified by the National Renewable Energy Lab as
18 the highest efficiency production scale thin film panel
19 in the industry, well over 14 percent. We filed over
20 200 patents here, of which about 50 have been either
21 allowed or issued, and we have shipped product from our
22 pilot line in San Jose to over 20 commercial customers
23 in the U.S. and Europe.

24 So a little bit more insight about the CEC
25 funded project and the impact on the company and its

1 technology. As many of you know, we received a \$5
2 million loan from the program that Marcia referred to.
3 About 90 percent of the equipment has already been
4 installed, some of which is in the midst of final
5 qualification. We've drawn down a little bit under \$3
6 million of the loan proceeds and expect to draw down the
7 full \$5 million in March.

8 The goal of the project is to expand our
9 processing capabilities on our pilot line so that we can
10 have additional capacity to improve the cost and
11 performance of our products. You know, today we have
12 seen from this line, as a result of this project,
13 product performance increases of as much as 20 to 30
14 percent demonstrated over competing thin foam
15 technologies. And the project will be critical for our
16 competitiveness and growth as a company going forward.

17 We estimate that approximately 10 full-time
18 Stion Engineers have been working since May 2011 on
19 installing, testing, and qualifying the line. There are
20 about another 10 individuals who have been working on
21 back end support, including product development,
22 reliability testing, environmental and facilities work.
23 So we estimate that the overall impact to California
24 from the perspective of direct, indirect, and community
25 jobs is probably over 100 people dedicated to this

1 project, alone.

2 So I think, in summary, we're very excited
3 about the opportunity to continue growing here. I think
4 we very much appreciate the opportunity to work with
5 CEC. And the financing that Marcia has described is
6 critical for us to continue building our manufacturing
7 and R&D capabilities, and it's been done with a
8 structure that is very conducive to the growth of the
9 company. So I think that we're very excited about what
10 lies ahead of us. I think 2012 will be a very
11 competitive year in the solar industry. We feel, with
12 the support of the state and our other commercial
13 partners, that we're very well positioned to grow in
14 that environment.

15 CHAIR WEISENMILLER: Great. Thank you for
16 your presentation and for being here today.

17 Commissioners, do you have any questions or comments?

18 COMMISSIONER PETERMAN: I just have a follow-
19 up question. What is the largest commercial project
20 your panels are currently being utilized in?

21 MR. YANG: So today we've installed over 200
22 kilowatts total of panels, as I said, in different
23 projects in the U.S. and Europe, so there are over 20
24 commercial projects that are installed. The total size
25 of any individual project is not particularly large

1 because one of the things we're trying to do is build a
2 reference base of projects, you know, to work with
3 project finance institutions and customers around the
4 world. I think the largest project is in the
5 neighborhood of 40 kilowatts, but we've already won bids
6 this year for, you know, projects that are several
7 hundred kilowatts and even several megawatts in scale,
8 so I think the evolution of the company, from a
9 manufacturing standpoint, is really going to happen over
10 the next 12 months and we're going to shift from today
11 what is really more of, as I said, a pilot production
12 than development capability into full scale
13 manufacturing.

14 COMMISSIONER PETERMAN: Mr. Yang, thank you
15 very much for your presentation. I had a number of
16 questions I was going to ask, but you answered them,
17 specifically around what you plan to do around expansion
18 in California, how many employees you have here, and
19 generally about your business model. I think those of
20 us who have been following the news know there have been
21 some difficulties with thin film modules and certain
22 companies that produce them, and it's nice to hear more
23 about your growth strategy and the fact that you're
24 proceeding in reasonable steps. So thank you.

25 MR. YANG: Thank you for your time.

1 COMMISSIONER DOUGLAS: I also appreciate you
2 being here, Mr. Yang, and your colleague. As we know,
3 because issues like this have come before the Commission
4 since the initiation of this program, we have a
5 contractual agreement with companies that when they take
6 on additional debt, we need to take action to approve
7 that. The SAFE-BIDCO has reviewed this and determined
8 that this does not represent a risk to the State's
9 collateral; this is a good step for the company.
10 Whenever issues like this come up that involve SAFE-
11 BIDCO, I take the moment to point out that I am a Board
12 member of SAFE-BIDCO, I don't get engaged in this kind
13 of assessment, this is a statutory Board position, and a
14 Commissioner has to fill that role. So, in any case, I
15 think it's really important that we support to the
16 degree that it's possible, modestly through this fairly
17 modest program, the expansion of manufacturing
18 capability in California. We're really pleased to see
19 Scion and other companies, as well, make a commitment to
20 manufacturing in California. And we certainly wish you
21 great success in 2012.

22 MR. YANG: Thank you.

23 COMMISSIONER DOUGLAS: So I will move Item 5.

24 COMMISSIONER PETERMAN: I'll second.

25 CHAIR WEISENMILLER: All those in favor?

1 (Ayes.) This item passes unanimously. Thank
2 you. Thanks for being here.

3 MR. YANG: Thank you.

4 CHAIR WEISENMILLER: Item 6. Appliance
5 Efficiency Enforcement Rulemaking. Possible approval of
6 an Order Instituting Rulemaking to establish regulations
7 to implement the enforcement provisions in SB 454
8 (Pavley, Chapter 591, Statutes of 2011). Gary.

9 MR. FAY: Good morning, Commissioners. My
10 name is Gary Fay and I am representing the Appliance
11 Efficiency Division today. As you noted, Item 6 is to
12 -- if the Commission chooses -- adopt an Order
13 Instituting Rulemaking to begin the formal Rulemaking
14 process needed to implement the provisions of SB 454.
15 In the past, the Commission has lacked the authority to
16 issue fines when the Commission's Appliance Efficiency
17 Standards are violated. However, on October 8th, 2011,
18 Governor Brown signed SB 454 which provides the Energy
19 Commission with the authority to issue citations and
20 fines when provisions of the Appliance Efficiency
21 Regulations are violated.

22 SB 454 added Section 25402.11 to the Public
23 Resources Code, which authorizes the assessment of an
24 Administrative Civil Penalty not to exceed \$2,500 for
25 each violation. The process for assessing the penalties

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1 must comply with the Administrative Procedures
2 provisions of the APA.

3 The measure also sets forth certain conditions
4 that must be met before an Administrative Penalty may be
5 imposed. It lists the various factors that the
6 Commission must consider in formulating the total amount
7 of the Administrative Penalty, and it specifies what is
8 to be done with the funds collected from the imposition
9 of penalties. The new law also contains safeguards
10 which would prohibit the Commission from initiating
11 enforcement actions under certain circumstances and sets
12 forth specified noticing requirements. Judicial review of
13 a Commission Order imposing an Administrative Penalty is
14 available.

15 The intent of the Bill is to ensure a level
16 playing field so that those violating existing Appliance
17 Efficiency Standards do not realize a competitive
18 advantage over those who comply with the Standards. The
19 new law also furthers existing policy by ensuring energy
20 efficiency and protecting consumers from the substantial
21 long term costs associated with inefficient appliances.

22 The Rulemaking proceeding that would be
23 initiated by this OIR may result in new language to be
24 added to Title 20 of the Commission's regulations; new
25 or modified regulatory language may further define and

1 make specific the provisions of Public Resources Code
2 25402.11, SB 454, and may establish the precise
3 mechanisms for imposing administrative penalties. The
4 rulemaking proceeding may also lay out the process and
5 timelines under which an entity may administratively
6 appeal the imposition of a penalty, and other language
7 deemed necessary to ensure a fair, clear, and
8 comprehensive administrative enforcement structure
9 consistent with the law.

10 The rulemaking proceeding would begin today
11 with your adoption of the OIR. Staff will then begin
12 extensive outreach efforts, sending out to all
13 stakeholders a list of issues and questions which are
14 intended to be a guide for workshop discussions during a
15 conceptual workshop to be held in February. Based on
16 input from stakeholders received at the conceptual
17 workshop, staff will develop Draft Regulations and hold
18 a workshop in April to receive public input on the Draft
19 Regulations. A workshop on a final draft of the
20 Regulations would be anticipated in June and staff plans
21 to bring final regulations before the Commission for its
22 consideration and possible adoption in the fourth
23 quarter of this year. I would be happy to answer any
24 questions you have and Tovah Ealey is here to answer
25 more detailed questions about the program.

1 CHAIR WEISENMILLER: Thank you, Gary.

2 Commissioners, any questions or comments?

3 COMMISSIONER DOUGLAS: Chairman Weisenmiller,
4 I had a number of questions, some of which Gary has
5 answered. But I'll ask, in any case, you said that you
6 anticipated the rulemaking wrapping up in the fourth
7 quarter, so you're thinking about a year or a little
8 more?

9 MR. FAY: It would be a year here at the
10 Commission and then go to OAL for its approval process.

11 COMMISSIONER DOUGLAS: Okay. And you
12 mentioned, and I was glad to hear you mention, plans to
13 conduct extensive outreach to stakeholders, particularly
14 to manufacturers. I wanted to ask what steps you're
15 thinking about taking to make sure that a) manufacturers
16 are aware that this new authority exists, and b) that
17 they're able to participate in this proceeding should
18 they choose to.

19 MR. FAY: And Tovah is better able to answer
20 that than I am.

21 COMMISSIONER DOUGLAS: Great.

22 MS. EALEY: We intend to send the initial
23 notice out for this first workshop to our mailing lists
24 that we maintain, about 50 mailing lists of every type
25 of appliance that is regulated under Title 20. Those

1 mailing lists also include many or most of the trade
2 associations for each appliance type. We also intend to
3 get the word out to DOE, the Attorney General's Office,
4 other agencies that might assist us in enforcing SB 454,
5 and also to retailers, the Retailer Association here in
6 California, and some of the retailers that we've worked
7 with over the past survey results that came back.

8 COMMISSIONER DOUGLAS: Great, thank you. I'm
9 glad to hear your response, it's clear that staff has
10 thought through the outreach approach and obviously when
11 a new authority like this is provided to us, I think
12 it's especially important to make sure that we handle
13 the outreach very well, especially early on in the
14 process. I just had a few more comments. I'm very
15 pleased, obviously, to see that we're moving forward
16 with the rulemaking, to begin to implement the new
17 authority that the Commission has to enforce the Title
18 20 Standards that we promulgate here. It is a new
19 authority and so I think we need to move forward
20 deliberately and we need to make a special effort to
21 hear from stakeholders, make a special effort to
22 potentially learn from other agencies that have long
23 track records in the area of similar types of
24 enforcement, and make sure that we move forward
25 deliberately and put a process in place that makes sense

1 and that allows us to prioritize the types of
2 enforcement that we would conduct, that allows us to
3 assess and identify and give some clarity to
4 stakeholders around what we think might or might not be
5 a mitigating factor should violations come to light. So
6 I don't know, this might be early to ask how in the
7 process, and you know, you think we might get into some
8 of these issues. But I just wanted to make the point
9 that, you know, I'm very pleased to see this come
10 forward and I think we need to take it very seriously.
11 And I see that we've put some very good people on this,
12 so that's great.

13 COMMISSIONER PETERMAN: I agree with
14 Commissioner Douglas' comments and I just want to make
15 sure that some consumer protection groups are also
16 included as a part of the stakeholder outreach, in
17 addition to industry. But I agree that this is a useful
18 next step in making sure that our Regulations are
19 enforced and working in the real world. So, thank you.

20 COMMISSIONER DOUGLAS: I will move Item 6.

21 COMMISSIONER PETERMAN: I will second.

22 CHAIR WEISENMILLER: Okay. All those in
23 favor?

24 (Ayes.) Item 6 passes unanimously.

25 Let's go on to Item 7. Thanks, Gary and

1 staff.

2 Order Instituting Rulemaking (12-OIR-1).
3 Possible adoption of an Order Instituting Rulemaking to
4 consider changes to the Emission Performance Standard
5 (EPS) regulations, Title 20, California Code of
6 Regulations, section 2900 et seq. Melissa.

7 MS. JONES: Good morning. I'm Melissa Jones
8 and with me is Lisa De Carlo, our Staff Attorney for
9 this proceeding. At the December 14th Business Meeting,
10 the Commission granted a Petition that was filed by NRDC
11 and the Sierra Club requesting that the Commission open
12 a rulemaking to ensure that the practices of the
13 publicly-owned utilities are consistent with
14 California's Emissions Performance Standards.
15 Specifically, NRDC and the Sierra Club recommended that
16 the Commission open the rulemaking to modify the
17 Regulations to require POUs to submit compliance filings
18 for investments in all non-EPS compliance power plants
19 and to further define what constitutes a Covered
20 Procurement as used in the Regulations.

21 The Commission directed staff to come back
22 with an Order Instituting Rulemaking for the Emissions
23 Performance Standards Regulations, to address the
24 concerns raised by NRDC and Sierra Club, as well as
25 concerns raised by the publicly-owned utilities, that

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1 the Commission is required to reevaluate the Regulations
2 in their entirety now that an enforceable GHG cap has
3 been established and is arguably in operation.

4 Today staff is proposing for your
5 consideration and OAR, to consider whether to modify the
6 EPS Regulations as follows, first, by establishing a
7 filing requirement for all POUs' investments in non-EPS
8 compliance facilities, regardless of whether the
9 investment could be considered a Covered Procurement, 2)
10 by establishing criteria or further defining the terms
11 Covered Procurement, including specifying what's meant
12 by designed and intended to extend the life by five
13 years or more, and routine maintenance, 3) if it's
14 determined that an enforceable GHG limit is established
15 in an operation, whether changes to the Regulations are
16 necessary pursuant to those provisions, and that we
17 evaluate and continue modifying or replace the EPS. And
18 then any other changes to the Regulations that are
19 considered necessary as a result of the OIR. With that,
20 we recommend approval and both Lisa and I are here to
21 answer any questions you might have.

22 CHAIR WEISENMILLER: Thank you. I think we
23 have a number of speakers who want to address this. I
24 would note first that, when the Commission moved in
25 December, at that point I indicated that this would be

36

1 handled by a delegated committee, and since then, on
2 further reflection, I've decided to have the assigned
3 Lead Commissioner in Electricity, which is myself,
4 handle this committee and lead it, so we will handle it
5 that way, although I certainly anticipate I may have one
6 or both my colleagues attend many of the hearings with
7 me.

8 COMMISSIONER DOUGLAS: If I could, briefly,
9 before you call public comment, I think that that is a
10 good way to handle this, and you might have said the
11 word "Committee" a second time when you didn't need to,
12 but you would be handling this as the Lead Commissioner
13 for Electricity and, though we would not be handling it
14 as a Committee, I know I for one and I suspect
15 Commissioner Peterman, as well, are very interested in
16 this proceeding and recognize its importance to the
17 Commission, and so I would hope to be able to keep you
18 company in much of this proceeding, although I also know
19 how schedules get tangled up and there being only three
20 of us right now, we'll have to see how far, how close
21 aspiration comes to reality. But I'm very interested in
22 this proceeding.

23 I did want to ask one clarifying question
24 before we move to public comment. We've, I know,
25 focused in the materials on the publicly-owned

1 utilities, and that's what NRDC asked us to do, but
2 would the scope of this, particularly in the area of
3 making recommendations about what changes might be
4 needed, apply to the Department of Water Resources, as
5 well?

6 MS. DE CARLO: Lisa De Carlo, Energy
7 Commission Staff Counsel. We don't have direct
8 authority over DWR is my understanding, however, there
9 is a subsequent statutory provision that was adopted
10 about a year after SB 1368 that directed DWR to follow
11 the requirements established by the Energy Commission
12 for establishing the EPS and enforcing it, so I do
13 believe that the decisions we make here, DWR is directed
14 to comply with those pursuant to their statutory
15 requirements.

16 COMMISSIONER DOUGLAS: All right, thank you.
17 That's very helpful. I think we should make sure we do
18 our outreach to DWR and make sure that they are aware of
19 the proceeding and participating to the degree that they
20 would like to do so. Thank you.

21 CHAIR WEISENMILLER: Okay. Randy Howard, I
22 believe you want to speak.

23 MR. HOWARD: Good morning, Mr. Chairman and
24 Commissioners. My name is Randy Howard. I'm the Chief
25 Compliance Officer and the Director of Power System

1 Planning and Development for Los Angeles Department of
2 Water and Power. While it sounds like you've already
3 kind of made a decision here, LADWP is requesting that
4 the CEC not adopt the proposed Order Instituting
5 Rulemaking related to the Emission Performance Standard.
6 LADWP worked very closely with the Legislature during
7 the drafting and the consideration of SB 1368 and with
8 the CEC staff and other stakeholders during the
9 proceeding for the existing regulation.

10 It is LADWP's belief that the EPS Regulation,
11 as adopted in 2007, provides sufficient clarity with
12 regard to non-EPS compliant facilities. Claims were
13 made by the Petitioners that LADWP and other POU's do not
14 understand the requirements and are somehow not
15 transparent in their actions. LADWP strongly disagrees
16 with their Petition and argues that the LADWP has been
17 and remains compliant with SB 1368 requirements.

18 LADWP has an ownership share of Navaho
19 Generating Station and a take or pay power sales
20 contract with Intermountain Power Project. Currently,
21 39 percent of our energy is provided by these two
22 plants. LADWP's IRP, or Integrated Resource Plan in
23 2010, and recently approved 2011, reflect a clear
24 recognition of the intent of SB 1368 with the
25 recommendation for early divestiture by 2015 of our

1 Navaho Generating Station four years ahead of the 2019
2 date triggered by the EPS. Discussions of early
3 divestiture have been very transparent and have included
4 many diverse stakeholder groups.

5 Over a year ago, LADWP notified the joint
6 owners of its plans to divest its share of Navaho
7 Generating Station. The tactical plans to implement the
8 divestiture are moving forward. LADWP has hired an
9 investment banking firm to assist in the divestiture,
10 we've issued an RFI for replacement resources, and we're
11 preparing to issue an RFP for those replacement
12 resources. LADWP has included the divestiture in its
13 budget in a rate proceeding. In addition, LADWP does
14 not plan on replacing one for one with natural gas
15 resources. We have been working hard on adding
16 additional energy efficiency demand response and
17 renewable procurement that will displace a portion of
18 the capacity of our Navaho Generating Station.

19 The Intermountain Power Project, our other
20 resource, is a contract and the owners are the Utah
21 participants. Even though the contracts are enforceable
22 through 2027, the California POU's have initiated
23 discussions and studies with the owners to look at
24 alternatives for transitioning this important facility
25 to an EPS compliant facility, and these activities are

1 ongoing.

2 LADWP is undertaking a utility-wide
3 transformation and investing billions of dollars to
4 replace over 90 percent of our resources. This is being
5 driven by a combination of regulatory mandates, the EPS
6 being one of those.

7 Proceeding on this proposed OIR will introduce
8 more regulatory uncertainty and risk. We have worked
9 very hard this last year on getting the RPS regulatory
10 proceedings moving forward with the SB 21X and with the
11 OTC procurement activities. This, we believe, in
12 reopening this OIR, is a step backwards and does not
13 assist us in moving forward with our tactical plans in
14 transitioning out of non-compliant facilities. LADWP
15 has instituted multiple cost-cutting measures to
16 minimize the impacts to our customer and the high cost
17 of this transformation. This includes eliminating over
18 600 positions over three years. Using the limited
19 resources that both the CEC has available and LADWP and
20 the POU's towards this OIR, we don't believe, is very
21 prudent.

22 LADWP is greatly concerned that the CEC has
23 chosen to move forward also based on the information
24 submitted in the Petition, without a cross-check of
25 those claims. The information in the Petition is either

1 incorrect or significantly misrepresents the facts.
2 Attachment 2 in the Petition includes tables to state
3 IPP is owned by California POU's; it is not, it is owned
4 by Utah participants. We only have a contract take or
5 pay.

6 The Petition also claims that, after the
7 passage of SB 1368, the POU's continued to make
8 substantial investments in several coal plants and lists
9 the IPP as being upgraded when, in fact, those
10 improvements were completed prior to such passage of
11 this law, they were completed in 2002 through 2004.
12 LADWP remains committed to reducing our greenhouse gas
13 and transitioning away from its coal-fired generation in
14 a responsible manner. We ask that the Commission not
15 step backwards with this proposed OIR, but partner with
16 the POU's to assist us in moving forward. Commissioners,
17 at this point, I would be happy to take any questions.

18 CHAIR WEISENMILLER: First, I wanted to thank
19 you for coming over here today and, certainly, we
20 appreciate the opportunity to work with LADWP over the
21 last couple of years. I think certainly -- I think
22 these issues that have been raised have been serious and
23 we appreciate your involvement in helping us dig into
24 these issues. But again, I think looking at -- I want
25 to see if the other Commissioners have questions or

1 comments and then we'll move on to -- we have a number
2 of other speakers. I think you've done a very good job
3 of representing your interest and so, certainly going
4 forward, I would ask people to stick more to the three
5 minutes, but again, appreciate as a public official you
6 coming up here in what is certainly a busy schedule.

7 COMMISSIONER DOUGLAS: I just wanted to add
8 that I also appreciate you coming here. I think I was
9 fairly new on the Commission when we were moving forward
10 the first time around with this rulemaking. And, of
11 course, from some of the work that I had done before
12 coming on the Commission in climate and AB 32, I've had
13 the opportunity to actually work quite closely with
14 LADWP at times in the greenhouse gas recommendations
15 that led into the Cap-and-Trade program, for example,
16 which is of course one of our triggers for looking at
17 the current Regulations to certainly having some pretty
18 detailed discussions from time to time on what the
19 schedule might be for divesting from coal resources.
20 And I'm certainly pleased to see some of the progress
21 that you've discussed today. So I appreciate you being
22 here and obviously the door is open and you're welcome
23 and invited to talk to us more.

24 COMMISSIONER PETERMAN: I also appreciated the
25 update on the divestitures and appreciate the working

1 relationship that the Commission does have with LADWP on
2 a number of the issues that you mentioned, the RPS,
3 once-through cooling, and look forward to continuing to
4 work on those issues. And I also would appreciate
5 having your comments submitted -- a written copy of your
6 comments, as well. Thank you.

7 MR. HOWARD: We have submitted written
8 comments, as well.

9 COMMISSIONER PETERMAN: Thank you.

10 CHAIR WEISENMILLER: Okay. Next speaker, Noah
11 Long, NRDC.

12 MR. LONG: Yeah, I'm on the phone. Can you
13 hear me?

14 CHAIR WEISENMILLER: Yes.

15 MR. LONG: Okay. I'll be brief and I
16 apologize that I'm on the phone and not in person. I
17 appreciate the Commission taking up this item and I've
18 looked forward to working with the Commission and the
19 POUs, including of course DWP, in the rulemaking should
20 you go forward with it, and I certainly hope that you
21 do. I was a little bit surprised to hear that the DWP
22 understands there to be inaccuracies in the Petition, we
23 shared the Petition with DWP and the other POUs prior to
24 submitting it and we certainly had no intent to bring
25 inaccurate or untrue information before the Commission.

44

1 And I think some of the potential disputes here, or
2 disagreement about the opportunities with these plants
3 is one of the key reasons for opening this rulemaking
4 and looking at the top forward in statewide and
5 transparent manner, as is only really possible at the
6 CEC in a rulemaking such as this. So I think there's
7 been some murky waters here, and I look forward to
8 working with the POU's and with the Commission, and NRDC
9 certainly looks forward to working with the POU's and the
10 Commission to clarifying those waters and making sure
11 that there's a path towards divestment in these plants
12 and making sure that we're fully enforcing, but also
13 having clear guidelines for what enforcement means for
14 the Emissions Performance Standard with regard to all
15 these plants. So I would just commend you for taking
16 this up and look forward to working with all of you
17 going forward, given the magnitude and importance of
18 this issue for our state. Thank you.

19 CHAIR WEISENMILLER: Thank you. Any questions
20 for Noah? Okay, Norm Pederson for SCPPA.

21 MR. PEDERSEN: Thank you, Commissioner, good
22 morning, I am Norman Pedersen from the Southern
23 California Public Power Authority. Five SCPPA members,
24 Azusa, Banning, Colton, Glendale, and IID, participate
25 in the San Juan Project Unit 3 through SCPPA. A sixth

45

1 SCPPA member, Anaheim, participates in San Juan Unit 4
2 directly in its own name. I'm here today on behalf of
3 those six SCPPA members.

4 We believe that the existing EPS Regulation
5 has worked well to achieve the legislative intent
6 underlying SB 1368. The terms used in the Regulation
7 like "Routine Maintenance" are well understood in the
8 electric utility industry and need no elaboration.
9 POUs, particularly the SCPPA participants in San Juan,
10 have faithfully implemented the regulation through an
11 open and transparent process. That faithful
12 implementation is perhaps best exemplified by SCPPA's
13 review and approval of the replacement of turbine rotors
14 at San Juan. SCPPA resolution 2009 23 approving that
15 replacement was attached to the NRDC-Sierra Club
16 Petition and was in the back-up materials for your
17 December meeting. The resolution was adopted at a
18 public and fully noticed SCPPA Board member [sic] after
19 opportunity for discussion and comment.

20 Given the successful implementation of SB 1368
21 under the existing EPS Regulation, we are concerned by
22 the NRDC-Sierra Club Petition and the decision to grant
23 the Petition with limited opportunity for responsive
24 comment. The Petition reflects a misunderstanding of
25 the relationship of SCPPA members, that SCPPA members

46

1 have to legacy coal projects generally, and the San Juan
2 Project, in particular. As Mr. Howard just discussed,
3 and has discussed in LADWP's written comments filed
4 yesterday, LADWP tries to correct statements in the
5 Petition about the nature of SCPPA members' involvement
6 in IPP.

7 In SCPPA's comments that we filed yesterday,
8 and I have given copies to each of you, we try to
9 correct statements in the Petition about SCPPA members'
10 ability to control expenditures at San Juan. We're most
11 concerned, however, about the overly broad rule change
12 that is sought in the Petition. The Petition would
13 require POU's to file complete documentation, whatever
14 that would be, for every POU investment in a non-EPS
15 compliant plan. Requiring complete documentation for
16 each and every investment, no matter how small or
17 routine, would be overly broad and unduly burdensome for
18 both stakeholders and the Commission.

19 We're pleased, however, to see recognition in
20 the Draft OIR of the need to pursue, pursuant to PUC
21 Code §8341(f), to conduct a reevaluation of the need for
22 the EPS Regulation now that the Cap-and-Trade caps are
23 in place and will be enforced by the ARB starting
24 January 1, 2013.

25 In our written comment, we propose that you

1 phase the rulemaking to do first things first. In Phase
2 1, we propose that you determine whether there continues
3 to be a need for the EPS Regulation, given the
4 effectiveness of the Cap-and-Trade Regulation. To us,
5 it doesn't make sense to spend time revising the
6 Regulation if it's going to be discontinued. If a
7 decision is made to continue the Regulation, then the
8 second phase would be to determine whether there is a
9 need to revise the Regulation. We think the answer to
10 that question is no, but if you think the answer is yes,
11 then phase 3 of the proceeding would be to determine
12 what the revisions should be; if there are revisions, we
13 believe they should be drawn narrowly to specifically
14 address clearly identified problems. We've attached to
15 our written comments a redline of the OIR suggesting
16 language that you could insert into the OIR to phase a
17 rulemaking as we've suggested, and we recommend that
18 language to you. And thank you very much for the
19 opportunity to address you today.

20 CHAIR WEISENMILLER: Thank you. Thanks for
21 being here. Commissioners, any questions or comments?

22 COMMISSIONER PETERMAN: I'll just comment that
23 I appreciate your letter, as well as the suggestion to
24 focus on that initial threshold question first, and I
25 would be supportive of staff thinking about that in

1 terms of the Order and the timeline, as well as the lead
2 Commissioner. However, as I commented yesterday in my
3 Rules meeting, because I was asked a few questions about
4 SB 1368, the Commission does expect to receive
5 applications for EPS compliance, for resources to
6 replace some of that out of state coal generation in the
7 next few years, and so I would also ask that we make
8 sure we consider all the issues in a timely manner so
9 that, if there are any necessary changes, that they can
10 be done before those compliance filings. But your
11 concern is duly noted and makes sense. Thank you.

12 MR. PEDERSEN: Thank you, Commissioner.

13 CHAIR WEISENMILLER: Okay, George Morrow from
14 Azusa.

15 MR. MORROW: Good morning. I'm George Morrow,
16 director of Azusa Light and Water. As an Electrical
17 Engineer, I have 33 years of electric utility experience
18 and 17 as General Manager of publicly-owned utilities.
19 A little bit of background about Azusa Light and Water,
20 it's a community-owned electric and water utility, and
21 they've been providing water and electric services to
22 the Azusa residents, 49,000 of them, for more than 100
23 years. If you don't know Azusa, it's located along the
24 San Gabriel Foothills in the Los Angeles Basin. We're a
25 member of the Southern California Public Power

1 Authority, SCPPA for short, and we've got a diverse
2 resource portfolio, including nuclear, coal,
3 hydroelectric and wind. We are also a participant in a
4 very efficient natural gas-fired power plant just south
5 of here in Lodi. And renewable resources make up more
6 than 20 percent of our current portfolio and we're
7 looking at additional renewable demand side type
8 resources as we move forward to comply with SBX1-2.

9 But I guess why I'm here is, in 1993, Azusa
10 acquired an interest in San Juan Unit 3, a coal-fired
11 baseload power plant in Northwest New Mexico, in
12 conjunction with a number of the other SCPPA members,
13 and I should let you know that San Juan provides a
14 majority of our energy needs and represents about a half
15 of our budget. I think it would be accurate to say that
16 San Juan is a very critical resource, not just to Azusa,
17 but to the other participants in California. And as
18 you've heard before here, the last couple of speakers,
19 I'm here to express my concern with the proposal to
20 modify the current rules related to SB 1368
21 implementation. The legislative intent of SB 1368 is
22 clear to those of us who are managing non EPS compliant
23 resources and we believe we've done that appropriately.
24 I would mention that operating a power plant,
25 a modern complex power plant, is extremely difficult,

1 representing a major commitment of time and resources,
2 literally hundreds of plant investments, maybe thousands
3 of plant investments, are made annually for a lot of
4 reasons like reliability, safety, efficiency, and
5 environmental compliance. I mean, there's a multitude
6 of things we have to do to keep these complex units
7 running. And all four of those objectives are
8 intertwined and critical.

9 Now, for my involvement in power plants over
10 that 33 years -- and I've been involved in many of them
11 including joint power plants -- I personally cannot
12 understand how an enhanced reporting and vetting process
13 of routine maintenance expenditures, including the
14 things that I mentioned, reliability, safety, efficiency
15 and environmental compliance, as the Petitioners have
16 suggested, could administratively work. I don't think
17 it can work. We are minority owners in San Juan, all of
18 the California entities are, and as Mr. Pedersen noted,
19 the operating agent for the station has broad authority
20 to do things necessary to keep the plant operating
21 reliably and safely and to comply with competent
22 regulatory and environmental mandates. And such prudent
23 investments are also in the best interest of all the
24 owners, including those that I represent.

25 Now, from the Petition in this matter, it is

1 apparent to me that EPA's Order to order selective
2 catalytic reduction devices for enhanced NO_x control at
3 San Juan is a primary target of the Petitioners.
4 Although we disagree with EPA's recommendations at this
5 point that such an expensive retrofit, perhaps close to
6 a billion dollars, is the best approach to accomplish
7 the environmental objectives, we think there are other
8 ways to do that that are less expensive and work just as
9 well. The power plant does have an obligation to comply
10 with final regulatory orders and the California
11 participants have a contractual obligation to share in
12 the cost and the benefits of that investment. As was
13 indicated by the previous speaker, with the adoption of
14 the greenhouse gas cap and trade rule in California, we
15 do not believe that the current rules related to non-EPS
16 compliant resources are even needed, or at least not
17 needed in their current form, and I support the Phase 1
18 review to look at that before we would go any further
19 than that. And you know, to be frank, just from my
20 standpoint, if the Commission believes that it is
21 legally possible and prudent for the California entities
22 involved in San Juan to not comply with EPA's recent
23 environmental Order, perhaps this matter should be the
24 target of CEC's attention, rather than the broader and
25 administratively unworkable idea of reviewing and

1 vetting all of those investments that we make for
2 environmental compliance, reliability, safety and
3 efficiency, not just for San Juan, but for the broader
4 non-EPS compliant plants. My final little provision
5 here, my final little comment is that, from Azusa's
6 standpoint -- and I am certain for everybody else
7 involved in this proceeding -- the premature loss of our
8 investments in that project would have a catastrophic
9 effect on our mandate to provide reliable and affordable
10 electric services to the homes and businesses in our
11 communities, and that's why I came up here today and got
12 out of my nice warm office. So, thank you.

13 CHAIR WEISENMILLER: We certainly appreciate
14 you coming up and appreciate the background on Azusa.
15 Stephen Keene, IID?

16 MR. KEENE: Good morning. My name is Steve
17 Keene and I'm the Assistant Manager for Policy and
18 Regulatory Affairs at IID. IID is the third largest
19 publicly-owned utility in California and we serve
20 approximately 145,000 retail customers. I'm here today
21 to express support for the Southern California Public
22 Power Authority's proposal to phase this proceeding as
23 set forth in the comments filed by SCPPA yesterday.

24 IID has long been a proponent of the
25 development of renewable resources in the Imperial

1 Valley, the development of the vast renewable resources
2 located in Imperial Valley will provide a much needed
3 economic boost to one of the most economically depressed
4 regions of the country. Imperial County unemployment
5 has consistently hovered near the 30 percent mark in
6 recent years. Nearly one in four residents in the
7 Imperial Valley live at or below the poverty level. The
8 development of renewable generation in the Imperial
9 Valley can provide much needed well paying jobs to a
10 region of California that desperately needs it. As
11 such, IID has been a strong supporter of the State's
12 renewable energy and greenhouse gas policies. IID is
13 currently on track to meet its RPS in greenhouse gas
14 targets. IID is mindful, however, that it must strive
15 to meet these requirements without increasing rates to
16 the point that it imposes severe hardships upon our
17 customers, many of whom struggle to pay their electric
18 bills. IID owns the largest percentage of San Juan
19 Generating Station among the SCPPA members.

20 The importance to IID of the energy provided
21 by San Juan cannot be understated. Currently, San Juan
22 provides approximately 20 percent of IID's energy
23 requirements. The relatively low cost energy from San
24 Juan allows us to increase the percentage of renewable
25 generation in our portfolio in a manner that does not

1 result in unaffordable rates or rate shock for our
2 customers.

3 As a member of SCPPA, IID works with the SCPPA
4 Board to ensure that expenditures on San Juan meet the
5 requirements of SB 1368. The SCPPA Board Meetings that
6 review and approve San Juan expenditures are fully
7 noticed and open to the public as are the IID Board
8 Meetings where San Juan expenditures are considered.
9 IID cannot emphasize enough the importance of its need
10 for San Juan generation as it transitions to a larger
11 portfolio of renewable energy. The reduction or loss of
12 this relatively low cost resource would threaten IID's
13 ability to meet its RPS and greenhouse gas targets in a
14 manner that results in affordable rates for our many low
15 income customers.

16 IID submits that the phased approach in this
17 rulemaking that has been proposed by SCPPA will allow
18 for a more measured consideration of ongoing EPS
19 regulations, as well as other policy considerations.
20 For these reasons, IID supports the comments of SCPPA
21 and respectfully requests that the Commission adopt a
22 phased approach in this rulemaking. Thank you.

23 CHAIR WEISENMILLER: Well, thank you. I
24 certainly wanted to thank you for coming up here today
25 and giving us your perspective. I was also going to

1 certainly thank you for, obviously, myself, the
2 Governor's Office, CAISO, and SDG&E have been working
3 very closely with IID to make sure we get the
4 transmission pathways, to get the renewables developed
5 in your area so we can deal with your unemployment
6 there. So, again, that's one where we've appreciated
7 the opportunity to really work together as we remove
8 those bottlenecks.

9 MR. KEENE: Okay, thank you.

10 CHAIR WEISENMILLER: Tony Anderson [sic],
11 CMUA.

12 MR. ANDREONI: Thank you, Commissioner --
13 Chair Weisenmiller, Commissioners Douglas and Peterman.
14 Thanks for the opportunity to comment today. I am Tony
15 Andreoni, Director of Regulatory Affairs at CMUA. And
16 as you know, the CMUA represents the interests of
17 virtually all of the State's publicly-owned electric
18 utilities and many municipal water agencies, as well.
19 Our members provide electricity to over one-fourth of
20 California's citizens. POU's are units of local
21 government with no profit motive. They have governing
22 boards that are either elected or appointed by elected
23 officials. Decisions of our governing boards are made
24 in public, as required by law, with opportunity for
25 public comment.

1 California POU's have an excellent track record
2 in providing reliable electricity at low rates. Our
3 members have also demonstrated leadership on
4 environmental issues, climate change, renewable energy,
5 and energy efficiency. CMUA supported AB 32, RPS 33
6 percent renewables by 2020, the Public Goods charge, and
7 all cost-effective energy efficiency. POU's are also
8 committed to local economic development and job
9 creation, as you've heard today from some of our
10 members.

11 As the CEC contemplates the scope of the
12 Rulemaking Order to the extent to which revisions, if
13 any, are needed to the current EPS rule, CMUA urges the
14 CEC to be mindful of the cost implications of dealing
15 with cumulative State policies and mandates. Two major
16 issues exist, 1) the overall cost of achieving State
17 goals, and 2) the lack of coordination of the overall
18 policy objectives to allow achievement of the primary
19 goals at the least cost. As an example, if the
20 overarching goal of the State Energy Policy is to reduce
21 GHG emissions, various tools to achieve that goal should
22 be compared and balanced. Those tools may need to
23 include the RPS demand initiatives, energy efficiency,
24 and other direct environmental regulation on the energy
25 sector.

1 Accordingly, today's policy approach with
2 overlapping rules within State agencies needs to be
3 adjusted and to a more integrated approach. This would
4 greatly help to reduce costs for consumers. For that
5 reason, CMUS asks the CEC to focus the initial scope of
6 this proceeding on the legislatively mandated review of
7 the EPS pursuant to PUC Code §8341(f). After there has
8 been an opportunity for the CEC, in coordination with
9 the ARB, to review the efficacy and the continued need
10 for the EPS to effect the desired emission reductions,
11 should the rulemaking proceed with a review of the
12 potential revisions.

13 The EPS rulemaking introduces additional
14 regulatory uncertainty at a time when utilities have
15 been working diligently to meet multiple mandates while
16 maintaining grid reliability. And this was discussed
17 with some of our members today. Should the review
18 determine that the EPS is needed, the CMUA asks that the
19 CEC consider the transparency of POU governing boards in
20 making decisions in a public manner, to achieve the
21 State mandates at a reasonable cost to our customers.
22 CMUA views this proceeding as an opportunity, though, to
23 further educate stakeholders on the existing open and
24 public processes that are employed by POU's. CMUA does
25 not believe that the revisions to the EPS mandating

1 further reporting requirements are necessary and such
2 requirements would only fail to serve the public, but
3 would also result in cumulative cost to both POU's and
4 CEC. Thank you.

5 CHAIR WEISENMILLER: Thank you. Any
6 questions? Susie Berlin.

7 MS. BERLIN: Good morning, Chair,
8 Commissioners Peterman and Douglas. My name is Susie
9 Berlin and I represent the MSR Public Power Agency. MSR
10 is a California Joint Powers Agency comprised of the
11 Modesto Irrigation District, City of Santa Clara, and
12 the City of Redding.

13 MSR invested in the coal-fired San Juan
14 Generation Station in 1983, so this is not a new
15 investment. MSR does not take this ownership interest
16 or the State's goal of reducing greenhouse gas emissions
17 lightly. Indeed, MSR and the other joint owners of the
18 San Juan Generation Station have taken actions that
19 improve the plant's efficiency, thereby reducing carbon
20 impacts, as well as significantly reducing emissions of
21 criteria pollutants. The San Juan Generation Station
22 already meets all the emissions limits required by the
23 EPA's recently announced Maximum Achievable Control
24 Technologies Rule.

25 MSR does not only have coal-fired generation.

1 MSR and its members have also aggressively pursued the
2 acquisition and development of renewable resources and
3 have procured more than 400 megawatts of renewable wind
4 power generation in support of full and early compliance
5 with the State's Renewable Portfolio Standard. In fact,
6 renewable energy resources comprised 40 percent of MSR's
7 electricity portfolio.

8 With regard to the scope of the proceeding,
9 since SB 1368 clearly contemplated a sunseting of the
10 Emissions Performance Standard, if the Commission goes
11 forward with this rulemaking, MSR supports an assessment
12 of the current EPS and believes that this rulemaking can
13 serve as a valuable function by initiating the very
14 review that was contemplated in the legislation.
15 Accordingly, review of the issues in this proceeding
16 should be prioritized so that the Commission first
17 assesses whether or not the EPS is a necessary and
18 effective tool for purposes of obtaining the State's
19 emissions reduction goals in light of the implementation
20 of the Cap-and-Trade Program.

21 Based on the issues raised in the Joint
22 Petition by NRDC and the Sierra Club, and augmented by
23 the comments raised by other stakeholders such as MSR
24 during the December meeting, the Commission has proposed
25 the scope of this rulemaking should consider whether to

1 modify the EPS Regulation to 1) establish the additional
2 filing requirements, 2) look into the need to further
3 define the criteria and definitions, and 3) address
4 whether changes in the Regulation are necessary pursuant
5 to Public Utilities Code §8341(f). If the Commission
6 proceeds with this rulemaking, MSR requests that the
7 Commission address the scope of this proceeding and
8 bifurcated tranches. This would allow us to maximize
9 the time and resources of both this Commission and the
10 public agencies and other stakeholders that will be part
11 of the proceeding.

12 As a starting matter, however, MSR also
13 believes and agrees with the parties that have spoken
14 earlier, that the current EPS is sufficiently drafted
15 and consistent with the stated intent of the Legislature
16 and the language of 1368. However, if we proceed, MSR
17 believes that the scope of the Rulemaking Order should
18 be formally revised so that review of the Regulation
19 under California Municipal Utility Association
20 §8341 is conducted first. Since 1368 clearly
21 contemplated a potential end to the EPS, it is prudent
22 to conduct that evaluation prior to evaluating the need
23 for any revisions. And, indeed, with the implementation
24 of the Cap-and-Trade Regulation on January 1, and
25 enforcement being triggered January 1, 2013, the EPS and

1 its role in effecting emissions reductions may be
2 unnecessary. Or, in the alternative, it may be
3 determined that the nascent nature of the Cap-and-Trade
4 Program is such that the EPS is still needed, but only
5 on an interim basis until the Cap-and-Trade Program has
6 had a year to mature. Either of these outcomes can and
7 should impact any deliberations on, or proposed
8 revisions to, the current Regulation, and any proposed
9 revisions to the EPS Regulation should be made in light
10 of the results of this inquiry.

11 As I previously noted, after the first phase
12 of this proceeding, should it be determined that there
13 are any changes needed, we believe that the Regulation
14 should look closely at what those changes should be. As
15 a threshold matter, MSR believes that the existing
16 Regulation is sufficiently drafted and that the
17 additional review that the Joint Petitioners have
18 requested is based on a lack of understanding of the
19 actual operational requirements of electric generation
20 facilities.

21 As I've noted, based on statements and
22 accusations raised in the NRDC-Sierra Club Petition, it
23 is clear that some entities are not familiar with the
24 actual operations conducted electric generation
25 facilities, nor with the open processes that are

1 employed by the POUs. Excuse me, I'm trying to take
2 away duplicative work because I have a lot in here that
3 supports the statements that were made by the earlier
4 speakers, particularly Mr. Pedersen and Mr. Howard.

5 So we just want to be sure such a phase of the
6 proceeding looks at the definitions and criteria in the
7 current EPS. We would caution against attempts to draft
8 definitions outside of the context of their actual
9 application; that is, to attempt to construct the
10 meaning of the existing definitions as to retroactively
11 constrain public agency actions and create overly narrow
12 definitions that have no relation to real operational
13 conditions. I believe Mr. Morrow spoke very eloquently
14 on the operational implications and the review that
15 would need to be conducted in that regard.

16 Finally, only after a review and analysis of
17 the terms and potential development of criteria would it
18 be prudent to review the current reporting requirements,
19 and we believe at that time affirm their efficacy. The
20 current reporting requirements were established after
21 much deliberation and input from a broad range of
22 stakeholders when the Regulation was first adopted. MSR
23 believes that they are more than adequate; however,
24 should they be reviewed, MSR is confident that it will
25 be demonstrated that the POUs understand the

1 requirements imposed by the EPS and that the current
2 practices are fully compliant. POU reporting and
3 approval processes are part of open and public meetings,
4 are noticed in advance of any action, and include
5 demonstrations of compliance with the relevant laws and
6 regulations. MSR does not believe that further POU
7 reporting at the Commission will provide any benefits to
8 the public or the Commission, nor result in the
9 provision of additional information that is not already
10 publicly available, simply requiring more reporting and
11 more information, without a foundational basis, wastes
12 the time and resources of both the Commission and the
13 POUs. It is neither in the best interest of the
14 Commission, nor the affected POUs for adoption of
15 Draconian requirements for all POU expenditures to be
16 submitted to the Commission for approval. We note
17 several hundred reviews may be required by such a
18 requirement, and such a process would only unduly
19 restrain the already restricted budgets of the
20 Commissions and the POU, and also could result in
21 significant harm to the safe and reliable provision of
22 electricity to MSR's customers if delays occur in the
23 ministerial or administrative process. With that said,
24 MSR believes that the actual focus of Petitioner's
25 request is to force the POUs to divest of all interest

1 in coal-fired generation. While this is a laudable
2 objective and one that MSR and, as you've heard, other
3 POUs have been actively researching for some time, it
4 cannot be done in the manner in which NRDC and the
5 Sierra Club are trying to force, attempting to revise
6 the EPS Regulation in a manner that is contrary to its
7 current application and, indeed, contrary to the intent
8 of the legislation in the first place is inappropriate.

9 Further, we think it is also important to note
10 that, while the installation of the improvements
11 mandated on these coal facilities may result in
12 incremental increases in a facility's potential
13 capacity, there are prevailing environmental benefits
14 that go beyond reducing GHG emissions that result in
15 significant net advantages to the environment.

16 Finally, and I'll just touch on this briefly,
17 we concur with the statements that were raised by both
18 SCPPA and LADWP regarding the mischaracterization of the
19 contracts and ownership interests at issue. We believe
20 that this mischaracterization and, indeed,
21 misunderstanding on the part of Petitioners, has led to
22 some further confusion regarding the expenditures at
23 issue.

24 In conclusion, should the Commission proceed
25 with this rulemaking, MSR believes that the rulemaking

1 can serve a valuable function if it is initiated in a
2 bifurcated manner and an assessment of the EPS
3 Regulation mandated in 1368 is conducted first.
4 Conducting the statutory requirement at the onset would
5 allow the proceeding to continue on an "if necessary,
6 then proceed" basis, as each issue is separately
7 addressed, by prioritizing a review of the issues as
8 I've outlined and as others have suggested, the
9 Commission will be able to ensure the valuable time and
10 resources are not expended on needless meetings,
11 workshop, and processes. For further clarification, I
12 also have a redline of the proposed Scoping Order on
13 page 2 that would highlight how these issues should be
14 addressed. Thank you very much for your time. Any
15 questions?

16 CHAIR WEISENMILLER: I don't think so.
17 Obviously, you covered a lot of material we've heard, so
18 thank you again for being here. Travis Ritchie, Sierra
19 Club.

20 MR. RITCHIE: Thank you, Commissioners.
21 Travis Ritchie with the Sierra Club. I was one of the
22 Joint Petitioners that requested the initiation of this
23 rulemaking.

24 First, we'd like to thank the Commission for
25 considering this rulemaking and for staff for supporting

1 the proposal to go forward with it. I think it's a very
2 important thing and I think it's a very timely thing.
3 The utility industry right now is facing a series of
4 regulations that are going to require substantial
5 expenditures in old coal plants; San Juan was one of the
6 ones that was been mentioned several times today, that's
7 one of the ones of concern for us. We think it's
8 appropriate for the CEC to take a careful look at how
9 these substantial expenditures fit into the SB 1368
10 regulatory requirements. We think that it's important
11 to consider whether these types of large expenditures
12 are things that fall within various definitions of SB
13 1368 because at this time, based on many things that
14 we've heard today, it's not clear. We certainly
15 disagree with some of the characterizations that have
16 been made today by the POU's, we may be informed
17 otherwise, and we think that a rulemaking is the
18 appropriate way to sort through what are admittedly very
19 complex issues going forward.

20 The comments today, I think, we don't
21 necessary agree with any of those comments, but we think
22 that they highlight the need to look at this rulemaking.
23 It's an important time for the POU's to consider whether
24 these types of investments that are going to be coming
25 very soon are required. We don't agree that delaying

67

1 looking at these requirements, looking at the rulemaking
2 is appropriate, whether that's by phasing it and
3 requiring a Phase 2 to go farther out.

4 You know, I think 2012 is going to be a very
5 important year for the utility industry; there are
6 several regulations that are coming into effect and
7 decisions are being made now by utilities across the
8 country that are going to determine business decisions
9 on how these plants are operated and how they're run.
10 Several utilities in proceedings that we have been
11 involved with across the country are taking 2012 as an
12 opportunity to do very careful analyses, unit by unit
13 analyses, to determine what these large expenditures
14 will require and whether that's the best way forward.
15 It makes sense to look at this stuff now.

16 When I attended a public SCPPA Business
17 Meeting at the end of last year, it was my impression
18 from that meeting that 2012 would be the year that the
19 San Juan Plant would start to incur some of the major
20 expenses for the selective catalytic reduction controls
21 that were mentioned earlier. Issues like that, I think,
22 are the reason that we need to start this rulemaking and
23 to move quickly with it. And with that, I'll close my
24 remarks. We thank you very much for considering this
25 rulemaking and hope you'll vote to proceed with it.

1 CHAIR WEISENMILLER: Thank you. Any
2 questions? Okay, staff, do you have any -- we've had a
3 variety of suggestions here and I wanted to see if the
4 staff had any comments or reactions to that,
5 particularly the phasing issue, we've just heard the
6 Sierra Club on that.

7 MS. DE CARLO: I would just note that the
8 Commission does not need to Codify in the OIR, the
9 chronology of how it addresses those issues that were
10 raised. And doing so could potentially tie the
11 Commission's hands if it decided, once embarking upon
12 the rulemaking, that it wanted to take a different
13 approach; then potentially it would have to revisit the
14 OIR at a subsequent Business Meeting. So, just from an
15 efficiency standpoint, I would suggest leaving the OIR
16 as is, identifying the scope, the intended scope, and
17 then deciding at a later point the chronology of how the
18 Commission wants to address the issues.

19 CHAIR WEISENMILLER: Thank you. Any other
20 comments and reaction to --

21 MS. JONES: I guess I would add that, in terms
22 of looking at the issue of the reevaluation of the
23 Regulations, I think that should be done early in the
24 proceeding. I think there are other matters that we
25 should look at early in the proceeding which may form

1 the factual foundation for whether we move forward with
2 any modifications. And that's addressing some of the
3 issues that have been disputed between the Petitioning
4 parties and some of the POUs about whether investments
5 are routine maintenance or not. And so that is what I
6 would suggest.

7 MS. DE CARLO: I would also note one point
8 that the POUs all assume that it's a foregone conclusion
9 that the trigger has been reached in SB 1368 that
10 requires a reevaluation. I don't know that that's the
11 case and I think that's still subject to discussion
12 whether or not the greenhouse gasses emissions limit is
13 actually in operation at this point. So I think that's
14 something the Commission may want to entertain further
15 discussion on as we get into this.

16 COMMISSIONER DOUGLAS: Commissioners, I think
17 a number of issues have been raised that are important
18 for the Commission to consider. I certainly heard that
19 there are factual issues in dispute, and obviously we
20 approach those with an open mind. But that being said,
21 I think that the initiation of a rulemaking, and the
22 hopefully expeditious consideration of some of the
23 issues that Melissa mentioned might go first, or might
24 be foundational, does make sense to me. So I will -- I
25 am prepared to make a motion, unless there are other

70

1 comments.

2 COMMISSIONER PETERMAN: No, I just agree with
3 my fellow Commissioners, and particularly would like to
4 look at whether the trigger has been reached as early as
5 possible. I think it goes without saying also that
6 there's no pre-judged outcome to this rulemaking. A lot
7 of issues have been brought up, but this is a very
8 important public policy matter and, as has been noted,
9 all the Commissioners are engaged and interested in
10 this, and so looking forward to the public process and
11 the comments we will receive.

12 CHAIR WEISENMILLER: Yeah, before the motion,
13 I did want to respond to Randy Howard's comment. It
14 seemed like the thing that was very clear last time was
15 that, where there were disputes, there was this issue of
16 Cap-and-Trade trigger and that is certainly a threshold
17 question and there are some proposals to phase it, or
18 whatever, but it's certainly time to look at that and,
19 you know, again, as the assigned Commissioner on the
20 case, it's been very good to listen to everyone talk
21 about the relative potential sequencing, or we will have
22 workshops, or whatever, I'm obviously at this point not
23 inclined to amend this as much as say I certainly have
24 heard people's statements and have listened, and I think
25 going forward we need the time to think about the best

71

1 way to structure this in a meaningful way to go through
2 the issues in an efficient fashion. And certainly,
3 there are better ways to address that sort of, again,
4 what's the phasing? What's the role of workshops?
5 There's a variety of things and to try and deal with all
6 of that today, I mean, in sort of a different world
7 maybe all the parties could have worked out something in
8 advance of today and presented more of a preferred
9 approach, but we will certainly do that. And, you know,
10 we will have a pretty thorough process. Certainly, I've
11 already discussed these issues with Mary Nichols of the
12 Air Board and, you know, I think ultimately in terms of
13 to reach out to Mike Peevey at the PUC, since the
14 threshold Cap-and-Trade questions certainly are broader
15 than just the POU's. And so, basically, I think it's
16 time we take this up and, again, I certainly appreciate
17 people coming relatively long distances and for giving
18 a lot of food for thought for us on the best way to
19 structure this going forward. But I think it's time to
20 start this investigation of this issue.

21 COMMISSIONER DOUGLAS: With that, I'll move
22 Item 7.

23 COMMISSIONER PETERMAN: I'll second.

24 CHAIR WEISENMILLER: All those in favor?

25 (Ayes.) This item has passed unanimously.

1 And, again, we certainly encourage everyone's
2 participation in this and, again, also encourage your
3 thoughts on the best way to structure this proceeding so
4 we can proceed efficiently and effectively.

5 Item 8. Energy Efficiency and Conservation
6 Block Grant Guidelines. Amir.

7 MR. EHYAI: Thank you, Chairman. Good
8 morning, Commissioners. My name is Amir Ehyai. I'm
9 with the Special Projects Office. I'm here this morning
10 seeking your adoption of Revision 4 to the Energy
11 Commission's Block Grant Guidelines. The Energy
12 Commission has developed the Energy Efficiency and
13 Conservation Block Grant Guidelines to govern the
14 implementation and administration of the Energy
15 Efficiency and Conservation Block Grant, or EECBG
16 Program.

17 The EECBG Program was created by the Energy
18 Independence and Security Act of 2007 and it is funded
19 by the American Recovery and Reinvestment Act of 2009.
20 In 2009, the Energy Commission received \$49.6 million
21 from the U.S. Department of Energy for the EECBG
22 Program. The Federal Grant requires the Energy
23 Commission to provide a minimum of 60 percent of the
24 EECBG Program funds to small cities and counties and to
25 fully expend the EECBG funds on or before September

1 13th, 2012.

2 To meet these requirements, the Energy
3 Commission previously awarded \$33.3 million of the EECBG
4 funds to over 200 eligible small cities and counties for
5 energy efficiency projects within their jurisdictions.
6 All of these projects are scheduled to complete on or
7 before June 14th, 2012. As these projects complete, or
8 near completion, some are expected to not fully expend
9 their entire grant funding allocation. To ensure
10 California will maximize the benefits of ARRA funding,
11 the Energy Commission is preparing a Phase 2 EECBG
12 funding solicitation for cost-effective energy
13 efficiency projects that can be quickly implemented
14 within California, using the balance anticipated from
15 these original funding agreements.

16 The proposed changes to the Guidelines clarify
17 the type of solicitations allowed to be utilized under
18 the EECBG Program. If the proposed Guideline revisions
19 are adopted today, staff is prepared to immediately
20 release the EECBG Phase 2 solicitation to meet the fast
21 approaching Federal expenditure deadline.

22 Revisions to the Block Grant Guidelines
23 require a 15-day public notice and comment period prior
24 to adoption. The notice for Revision 4 to the Block
25 Grant Guidelines was published on December 22nd, 2011.

1 The notice has been available to the public for a total
2 of 20 days. As of this morning, the Energy Commission
3 has not received any comments or questions on the
4 proposed Guideline revisions. As such, I respectfully
5 request your approval of the Block Grant Guidelines,
6 Revision 4, as proposed. I am happy to answer any
7 questions you may have. And I would also like to note
8 that Gabe Herrera of our Legal Office has a statement to
9 make on CEQA compliance.

10 CHAIR WEISENMILLER: Gabe.

11 MR. HERRERA: Yes, good morning,
12 Commissioners. Gabe Herrera with the Commission's Legal
13 Office. Even though these changes are pretty minor and
14 administrative in nature, the Legal Office nevertheless
15 takes a look at these revisions to see if they trigger
16 or they fall within the definition of a project under
17 CEQA. In this case, these Guideline revisions did not
18 fall within that definition for a couple reasons, one is
19 that the projects are excluded because the activities
20 fall under Title 14 California Code of Regulation
21 §15378(b)(2) and (b)(4) in that the activity relates to
22 general policy and procedure making, or the creation of
23 governmental funding mechanisms, which do not involve
24 any commitment to a specific project, which may result
25 in a potentially significant physical impact on the

75

1 environment. In addition, the adoption of the
2 Guidelines is exempt from CEQA under what is commonly
3 referred to as the common sense exception that is
4 provided in Title 14, California Code of Regulations
5 §15061(b)(3), and that section indicates that CEQA only
6 applies to projects that have a "significant effect on
7 the environment," which is defined in Public Resources
8 Code §21068 and Title 14 of the California Code of
9 Regulations §15382 as being a substantial adverse change
10 in the environment. Thanks.

11 CHAIR WEISENMILLER: Commissioners, any
12 questions or comments?

13 COMMISSIONER DOUGLAS: I also support this and
14 recommend it to you for your approval. We're really
15 coming into the home stretch on some of these Recovery
16 Act programs and that's a good thing, it means that we
17 have a period yet before us of sustained and focused
18 attention and time and effort getting to the home
19 stretch. I'll move Item 8.

20 COMMISSIONER PETERMAN: I'll second.

21 CHAIR WEISENMILLER: Okay, all those in favor?

22 (Ayes.) This item passes unanimously.

23 What we're going to do is take a very brief
24 five-minute break and then we'll come back and deal with
25 nine and 10, and then do the lunch break. But, again,

76

1 five minutes.

2 (Break at 11:45 a.m.)

3 (Reconvene at 11:57 a.m.)

4 CHAIR WEISENMILLER: All right, let's go back
5 on the agenda. What I wanted to do was to cover nine
6 and 10 so we break for lunch and then essentially I'll
7 allow people interested in nine and 10 not to have to
8 come back after lunch.

9 So let's now deal with Item 9, which is the
10 New Solar Homes Partnership (NSHP) Guidebook. LeQuyen.

11 MR. NGUYEN: Good morning, Chairman and
12 Commissioners. My name is LeQuyen Nguyen and I am the
13 Program Lead for the New Solar Homes Partnership
14 Program. I have with me Mr. Gabe Herrera from our Legal
15 Office. At this time, I've prepared a presentation for
16 you that describes the major revisions to the NSHP
17 Guidebook. Next slide, please.

18 I'll begin with a brief background of the
19 program. This is part of the California Solar
20 Initiative, which is a statewide solar program. This is
21 a 10-year program that began in January 2007 and it ends
22 at the end of 2016. Eligible projects are new
23 residential construction and they must be electric
24 customers of the investor-owned utilities. Next slide,
25 please.

1 Our main goal is to incentivize the
2 installation of high performing solar systems on highly
3 efficient residential construction. We hope to install
4 400 megawatts by the end of the program in 2016 and also
5 have solar energy systems on 50 percent of new homes,
6 and also to incentivize or get a self-sufficient solar
7 industry. Next slide, please.

8 I'll now go over the timeline for the NSHP
9 Guidebook. The first Guidebook was adopted in December
10 2006, the last revision occurred in January 2010 with
11 the adoption of the Third Edition of the Guidebook. We
12 began working on revising the Guidebook in early 2011
13 and this began with a stakeholder workshop on February
14 8th, 2011, to discuss conceptual changes. A staff Draft
15 Guidebook was then noticed on September 14th, 2011, and
16 this was followed with a second stakeholder workshop,
17 and this was to receive stakeholder input and solicit
18 comments. The Draft Guidebook that is currently under
19 consideration today was noticed on December 14th and we
20 have received comments for this Guidebook. These
21 comments were considered and a decision not to move
22 forward with some of the proposed changes was noticed on
23 January 10th, 2012.

24 Despite the funding uncertainty surrounding
25 the program and the pending CPUC proceeding, staff is

1 moving ahead with revisions to the Guidebook for many
2 reasons. Additional funding could become available from
3 expired projects or modified reservations, and that
4 would allow us to process additional reservation
5 applications. In addition, this revised Guidebook
6 includes clarifications and revisions that clarify the
7 program requirements and streamline some of the
8 processes, and many of these clarifications and
9 revisions were requested by stakeholders and are in
10 response to stakeholder feedback. Next slide, please.

11 I'll now go over some of the major -- or all
12 of the major proposed revisions. First of all,
13 Applicants must now use the same HERS provider for both
14 the energy efficiency and PV field verifications. Any
15 building receiving electricity from the solar energy
16 system must meet the program's energy efficiency
17 requirements and, if the common area is the only
18 building receiving electricity from that solar energy
19 system, then an associated residential building must
20 also meet the program's energy efficiency requirements.
21 Next slide.

22 We have also put a lot of work into modifying
23 the incentive levels and the decline schedules. The
24 incentive rate will no longer be determined by the level
25 of an Applicant's commitment to solar, but will be

1 determined by the energy efficiency of the residential
2 building. In addition, affordable housing common areas
3 will no longer qualify for the Affordable Housing
4 Incentive and their incentive rate will be determined by
5 the energy efficiency of their building. Next slide.

6 We are proposing also that increases in system
7 sizes for approved reservations be funded at the
8 incentive level in effect at the time that increase and
9 the supporting documentation is provided to the Program
10 Administrator. And this next proposed revision
11 regarding Solar as an Option projects, these are
12 developments that do not know the home that will be
13 receiving solar at the time of the NSHP reservation and
14 currently, to prevent over-reservation of funds, the
15 program reserves up to a 2 kilowatt system for each
16 home, but in response to stakeholder concerns and to
17 provide flexibility in the program, we have increased
18 that default size to 3 kilowatts.

19 And then another change is the 30-day
20 incentive decline notice; that will no longer be
21 provided prior to a decline in the incentive level.
22 This is in response to a spike in applications seen
23 during the incentive decline in August 2011, and this
24 ensures that we will remain fiscally responsible,
25 preventing over-subscription of the megawatt targets by

1 allowing us to lower the incentive levels once a target
2 has been reached. And more information on the current
3 incentive levels, the megawatt capacity that is under
4 review and approved, will be posted on our GoSolar
5 website and on online application tool providing
6 increased transparency of the program and providing
7 stakeholders with real time information.

8 And the last major proposed revision is an
9 incentive amount cap. The incentive for affordable
10 housing projects will be limited to 75 percent of the
11 total system cost. This is consistent with the Public
12 Resources Code §25401.6. And the incentive amount for
13 all other projects will be limited to 50 percent of the
14 total system cost. This is consistent with the Emerging
15 Renewables Program and, in addition, other incentive
16 programs in the country also have rebate limitations.
17 Next slide, please.

18 So that concludes the major revisions. There
19 are some minor revisions that do need to be made to the
20 Guidebook. There are some minor editorial mistakes that
21 were overlooked by staff and one item was brought to our
22 attention by stakeholder comments. At the direction of
23 legal counsel, I would like to read that correction into
24 the record. On page 6 of the Draft Nsph Guidebook,
25 Fourth Edition, Table 1-1, Summary of Program

1 Eligibility Requirements, the initial incentive levels
2 are incorrectly listed and this section should read:
3 "Expected Performance-Based Incentive, EPBI, based on
4 the referenced system receiving \$2.90 a watt for
5 affordable housing dwelling units, \$2.00 a watt for
6 projects meeting Tier 1 energy efficiency requirements,
7 or \$2.25 a watt for projects meeting Tier 2 energy
8 efficiency requirements." And next slide.

9 In the Draft Guidebook posted on December
10 14th, we originally proposed two revisions that dealt
11 with when a reservation had to be submitted and the
12 issuance of a Certificate of Occupancy and the solar
13 permit. The intent of these revisions was to ease the
14 administrative burden for NSHP Program Administrators
15 and our Applicants. After reviewing stakeholder
16 comments, these revisions have been removed from the
17 proposed Guidebook to provide Applicants with more
18 flexibility. Next slide, please.

19 And this is the last slide of my presentation,
20 our next steps. If the Proposed Revisions to the NSHP
21 Guidebook are adopted today, staff plans to take the
22 following steps to ensure the program changes are
23 successfully implemented and that stakeholders are made
24 aware of the changes. We will finalize the Guidebook
25 and post it; we will update the online application tool

1 and our PV Calculator; and in addition, we have planned
2 a series of NSHP training workshops for stakeholders
3 with the first two to occur on January 24th and February
4 7th at the Energy Commission. I respectfully request
5 your approval of a resolution for the adoption of the
6 Proposed Guideline Revisions to the *New Solar Homes*
7 *Partnership Guidebook*. At this time, I would be happy
8 to take any questions or comments you may have.

9 CHAIR WEISENMILLER: Thank you very much for
10 your presentation. Commissioners, any questions or
11 comments?

12 COMMISSIONER PETERMAN: I will have some
13 comments at the end, after public comment.

14 CHAIR WEISENMILLER: Okay, then in terms of
15 public comment, Dan Chia from Solar City.

16 MR. CHIA: Thank you, Mr. Chair and
17 Commissioners. My name is Dan Chia, Deputy Director of
18 Government Affairs at Solar City. For purposes of my
19 comments today, I'm also speaking on behalf of SunRun.

20 Solar City is a full service provider of PV
21 solar systems with more than 9,000 projects installed or
22 underway in California. Our company provides integrated
23 PV solar system services to its customers from a single
24 source, including engineering, design, financing,
25 installation, leasing, and monitoring services. We are

1 headquartered in San Mateo with more than 900 California
2 employees based in 11 commercial warehouse and office
3 facilities around the state.

4 Solar City and SunRun acknowledge and
5 appreciation the hard work by CEC staff and
6 Commissioners in developing these Guidebook Revisions
7 over the past year. Overall with the last set of
8 revision changes proposed on January 10th, I support
9 adoption of the new Guidebook today. Though we remain
10 concerned about one provision related to the payment of
11 incentives for increases in system size, we appreciate
12 the Commission's consideration of our comments and your
13 support for maintaining the flexibility builders and
14 solar developers need in order to maximize deployment of
15 solar on new homes. We especially thank Commissioner
16 Peterman for her leadership in shepherding the Guidebook
17 Revisions and for her receptiveness to the concerns of
18 our two companies.

19 More broadly, we remain concerned about the
20 future of the program moving forward. As we all know,
21 with the demise of the Public Goods Charge, funding for
22 the program has ceased, creating a budget shortfall and
23 your adoption of a wait list. While the PUC has adopted
24 its PGC equivalent, at the request of the Governor, it's
25 not clear that the PUC will fund the program in Phase 2

1 of its proceeding. So we obviously remain very
2 concerned and active in that proceeding. I look forward
3 to working with you making sure the program is funded.

4 Unfortunately, this development cannot come at
5 a worse time. Solar installations on new homes have
6 increased dramatically over the past year and remain one
7 of the few bright spots in the new housing market. We
8 expected 2012 to be a banner year for new solar
9 installs, but now must reassess this prediction. Given
10 the lead time associated with housing construction,
11 there's a significant risk that, for example, one half
12 of a new community will have solar while the other half
13 will not, simply because of lack of incentives and not
14 lack of demand.

15 I will end on a positive note, however, and
16 here I'm speaking on behalf of SEIA, the Solar Energy
17 Industry Association, by acknowledging and also
18 accepting Commissioner Peterman's previous invitation to
19 work with the industry to collaborate on the program, on
20 future revisions moving forward, maintaining a
21 continuing dialogue, and so we graciously accept that
22 invitation and look forward to working with you and your
23 staff. And with that, I thank you for your
24 consideration.

25 CHAIR WEISENMILLER: Questions? Okay, thank

1 you. George Nesbitt.

2 MR. NESBITT: George Nesbitt. I'm a Building
3 Performance Contractor, HERS Rater, Green Rater,
4 Certified Energy Consultant, and Certified Passive House
5 Consultant. I want to thank the Commission for
6 listening to me two years ago and directing staff to
7 make some edits and revisions on the NSHP Guideline at
8 the time. I want to speak in favor of the current
9 revisions on leaving the 180 days past occupancy permit
10 for systems, which may be a flip flop in my position,
11 but I think definitely that would hurt a lot of
12 subdivision type projects if we removed it.
13 Clarifications on the PV Systems for nonresidential
14 spaces, mixed use buildings has been much needed.
15 Adding -- naming the Rater on the NASHPl is a great
16 idea, although my experience in utility rebate programs
17 over the years is it's been a requirement, but not
18 always enforced, but it's a great idea.

19 I want to thank staff for listening to me on
20 sort of additions and alterations which are still
21 allowed, there's a lot of -- part of our net zero energy
22 goal for 2020 is that a large percentage of gut rehabs
23 and additions also be net zero, and so I'm glad that as
24 long as they meet the efficiency measures as a new house
25 that they're allowed. I also want to thank staff, it's

86

1 taken, I think, one Commission Business Meeting and two
2 or three workshops in two years, for fixing the
3 flowchart and showing that the energy efficiency
4 measures and verification is separate from installing
5 the PV system and the verification of it. It's an
6 important reminder that they're kind of different things
7 because almost all except one single family home I've
8 worked on as a Rater has been done, completed building
9 before I was called to verify, which also reminds me, I
10 also want to thank staff for writing in that Raters can
11 verify projects after drywall with documentation because
12 we've been doing it, I've hated it, now at least I have
13 the explicit permission to do it at my discretion, which
14 is important.

15 A couple things -- requiring the Rater to be
16 approved, or requiring both the Energy Efficiency Rater
17 and the PV Rater to be under the same provider, I have a
18 little issue with because, assuming we had two
19 functioning providers at the moment, which we don't, the
20 larger rating companies have always had some Raters who
21 were certified through one, and another certified
22 through another. And it's a tremendous cost to have to
23 either have, you know, everyone certified through both,
24 you know, you might send one person or another and they
25 may be with different providers to do the different

1 verifications. Now, my understanding from an Installer
2 is it's been a problem with processing the rebates, and
3 I would say that's a problem that should be fixed, not
4 by requiring that both Raters are with the same
5 provider. I would also -- for two years now, we've had
6 a requirement for the CF4REE NSHP and I'm still waiting
7 to see one. So we're waiting for that. And in the
8 current Guidebook, most of the measures that you list
9 under that are Energy Code measures that are not HERS
10 measures, so we're not trained to verify rating at
11 barriers, or thermal mass per se on some of those items.
12 I have always looked at everything because that's what
13 they tell me my job was, and then they tell me it's not
14 to look at everything, so I argue with them.

15 So I recommend that you adopt these changes
16 today, although I guess there are some that would like
17 them delayed, but what I'd like to suggest moving
18 forward is I like the Tier 1 and 2 incentives, honestly,
19 I think they should be greater, the difference between
20 the two. All the projects I work on are Tier 2. We
21 should be encouraging as we go to net zero that people
22 don't just do the minimum. So putting more on the Tier
23 2 side, we should really look at. And the other thing
24 is, NSHP has been so slow to take off that I think that
25 the steps -- we need to put more megawatts and more

1 money in the earlier steps because why should we be
2 giving rebates come 2020 when it's Code to be net zero
3 by then? And so what I suggest is a stakeholder
4 meeting, not just a normal little public one, but one
5 where you actually invite, or require the Utility
6 Administrators, the Plan Checkers, the Provider, invite
7 some of us HERS Raters, invite BIA and the solar
8 industry, and get everyone together and to really talk
9 about the process, and everyone can talk about it from
10 their end, and look at ways to streamline things even
11 more. And I say that because last night I got my first
12 rejection letter. I'm facilitating my first NSHP
13 application as a HERS Rater on a project and also the
14 Advanced Home Program Rebate and --

15 CHAIR WEISENMILLER: I'm afraid you're going
16 to have to speed it up, we've got --

17 MR. NESBITT: I'm done, that's it.

18 CHAIR WEISENMILLER: Okay, thanks.

19 MR. NESBITT: So I now feel the solar
20 industry's pain a little more directly for what it takes
21 to get an allocation through.

22 CHAIR WEISENMILLER: Okay, thanks. Matt
23 Brost, SunPower.

24 MR. BROST: Good morning, Chair,
25 Commissioners, Matt Brost with SunPower Corporation. We

1 are a California-based manufacturer of high efficiency
2 solar electric systems. SunPower has been participating
3 in the NewSolar Partnership Program now since 2006.
4 We're probably one of the more active participants.
5 We've put more than 5,000 new solar homes through
6 program in this time. And so I wanted to take just --
7 make some very brief comments towards the recent
8 Guidebook changes.

9 The first thing I'd like to say is that I
10 think the Commission staff has been very responsive to
11 the comments that we've provided as an industry in the
12 stakeholder group since I think they began back in March
13 or April of last year, so this comment period has been
14 going on for some time now and I think that their
15 response to the comments that we've provided will
16 greatly improve the efficiency and the procedures with
17 which the program operates, and will from not only a
18 stakeholder participant from the program, but just the
19 participants themselves. So I would like to suggest
20 that you do adopt the Guidebook and the Fourth Edition
21 as it currently exists and I would also like to say that
22 there is an opportunity going forward to modify this
23 Guidebook, as it is a living document that we can
24 continue to modify and improve. And in doing so, I
25 would recommend that we reinstitute the NSHP Committee

1 which was initially founded back in 2005, which helped
2 develop the Guidebook in its first state; by
3 reinstating that committee, I think that we can work
4 together and perhaps in the Fifth Edition make even
5 better improvements. So I appreciate your time, would
6 like to recommend we pass it, and thank you.

7 CHAIR WEISENMILLER: Questions? Anyone on the
8 phone? Okay, Commissioners, any questions or comments?

9 COMMISSIONER PETERMAN: I'll offer some
10 comments. Thank you for that presentation and thank you
11 for the stakeholders that are with us today, especially
12 thanks to staff, and I'm supportive of staff's efforts
13 to make sure we get the highest value from this program
14 as possible, and that we're able to use this pot of
15 funds to incentive as many systems as possible. Just a
16 comment on something Mr. Nesbitt raised, in fact, if you
17 look at the incentive schedule now vs. what was
18 established in 2007, there was more money put into the
19 first few buckets. And as we move forward, we'll try to
20 get as many megawatts as we can with the available
21 funds. I especially also thank staff for their
22 responsiveness to stakeholder comments to maintain
23 flexibility on application timing, and I would ask that
24 stakeholders give us feedback about the change to the
25 requirement -- the changes to the requirements around

1 system size increases and incentives, and let us know
2 how that actually works in the real world, and if that's
3 affecting your businesses. It's probably a good
4 opportunity, as well, to mention and thank stakeholders
5 such as the Builders and SunPower who, after
6 establishing the waiting list for the program, they were
7 able to go back and identify reservations that were not
8 going to be used, and that has freed up, so far, \$7.5
9 million for the program. Those efforts are terrific,
10 we're thankful for them, and that will allow us, again,
11 to keep the program moving, and install as many systems
12 as possible. As has been noted, I've enjoyed the
13 meetings I've had with stakeholders over the last few
14 weeks, in particular, and am committed to working with
15 the stakeholders over the next year to continue to
16 streamline the program and make sure that it continues
17 to work. So those are all my comments. I will move the
18 item.

19 MR. HERRERA: Commissioner Peterman, could I
20 interrupt?

21 COMMISSIONER PETERMAN: Yes.

22 MR. HERRERA: Just quickly.

23 COMMISSIONER PETERMAN: Please.

24 MR. HERRERA: Gabe Herrera with the Legal
25 Office. I just again need to repeat the comments I made

1 earlier on Item 8 concerning CEQA and maybe I can do
2 that in a briefer fashion and just indicate that, for
3 the same reasons that the Legal Office opined that Item
4 8 wasn't a project for CEQA, those same reasons apply
5 here, specifically, the exclusions in Title 14 of
6 California Code of Regulations §15378(b)(2) and (b)(4),
7 and also what's known as the Common Sense Exception in
8 Title 14 of the California Code of Regulations,
9 §15061(b)(3). So I think the Commission is good to go;
10 again, not a project under CEQA. Thanks.

11 COMMISSIONER PETERMAN: Thank you, counsel.
12 I'll move the item.

13 COMMISSIONER DOUGLAS: Second.

14 CHAIR WEISENMILLER: All those in favor?

15 (Ayes.) This item is adopted unanimously.
16 Thank you.

17 MS. NGUYEN: Thank you.

18 CHAIR WEISENMILLER: Thank you very much for
19 the presentation.

20 Item 10. Developing Renewable Energy on State
21 Property. Heather.

22 MS. RAITT: Thank you. Good afternoon. I'm
23 Heather Raitt of the Executive Office. I'm here to
24 request the Energy Commission's approval of the Lead
25 Commissioner Report, *Developing Renewable Generation on*

1 *State Property*. I'll give a brief presentation on the
2 findings of the report. It develops an inventory of
3 opportunities to develop renewable resources on State
4 property, it also puts forward a goal for developing
5 renewables. It goes over the barriers and potential
6 solutions for advancing distributed generation, in
7 particular, and identifies some next steps. And the
8 report actually focuses on distributed generation, 20
9 megawatts and smaller, but also looks at large scale
10 renewable energy.

11 We first developed a staff draft in April of
12 2011 and held a -- it was part of the Integrated Energy
13 Policy Report process, and we held a committee workshop
14 on May 9th in 2011, and then following direction of Lead
15 Commissioner Peterman, staff updated the report to
16 reflect public comments, information from the Governor's
17 Conference on Local Renewable Energy Resources, updates
18 from our sister agencies and market and regulatory
19 developments.

20 The updated report under consideration today
21 was posted on November 30th, 2011, and we requested
22 comments by December 12th, and we have not received any
23 comments.

24 When we first started looking at this, we
25 looked at the benefits to the State from developing

1 renewables on a property and those benefits included
2 reducing costs to State buildings, also potentially
3 creating new revenue streams by leasing rights of way to
4 vacant lots to developers, also potential cost savings
5 through eliminating maintenance obligations for lands
6 that are leased to developers, and also to demonstrate
7 the benefits of renewables and to spur further
8 development.

9 The aim is to use existing programs and
10 develop renewables at no net cost to the State. This is
11 a joint effort, we're working with our sister agencies,
12 and the eight agencies listed here have signed a
13 Memorandum of Agreement in December 2010 to work
14 collectively to develop renewables on State property.
15 The Energy Commission and the Departments of General
16 Services, Corrections, Water Resources, and Fish and
17 Game were the original signatories. The California
18 State Lands Commission and the University of California
19 have since joined. And we welcome additional agencies
20 to join.

21 Staff put forward a goal of installing 2,500
22 megawatts of renewables by 2020 on State property. We
23 developed this goal in consideration of the 33 percent
24 Renewable Portfolio Standard mandate, Governor Brown's
25 20,000 megawatts by 2020 goal, and staff's inventory of

1 State property. We also recognize the importance of the
2 loading order which says to do efficiency first and
3 suggests focusing renewable development on buildings for
4 which the State has already made energy efficiency
5 advancements or investments.

6 The good news is that activity is already
7 underway, which I'll just touch on here. The Department
8 of General Services has entered contracts to install
9 about 57 megawatts at the California State University
10 campuses and State agencies; Caltrans is pursuing PV
11 installations along the highway and on their buildings;
12 the Department of Water Resources is working to
13 demonstrate PV along the State Aqueduct and along one of
14 its pumping stations, it's also negotiating a Power
15 Purchase Agreement for wind energy; the Department of
16 Forestry and Fire Protection, or CalFire, is looking at
17 using wood waste culled from fire management purposes
18 for electricity generation; Department of Corrections
19 and Rehabilitation has been very active in developing
20 renewables, they have installed one megawatt of ground
21 mounted PV and has contracts to expand to 26 megawatts.
22 They are currently exploring wholesale distributed
23 generation for projects up to 40 megawatts, and they are
24 also looking at wind opportunities; and the California
25 State Lands Commission manages thousands of acres as a

1 revenue source for the State Teachers Retirement Fund,
2 and these properties offer opportunities for utility-
3 scale development; the University of California as of
4 September 2011 has installed over eight megawatts of on-
5 site PV or it's under construction, and they have 6.2
6 megawatts of biogas.

7 The report looked at barriers and some
8 solutions for developing renewable energy and focusing
9 on distributed generation, and the four areas we looked
10 at are economics, integration, interconnection, and
11 permitting. For economics, the high upfront costs and
12 transaction costs are often a barrier in contracting
13 issues unique to the State, management can be -- or
14 unique to State processes can be a barrier, as well.
15 Third party contracts can help address the high upfront
16 costs and provide savings over the life of the project,
17 however, the contract may initially raise State Building
18 Electricity Rates, which could also be a hurdle. But
19 programs such as net metering, feed-in-tariffs, State
20 and Federal incentives can help bring down the costs, as
21 well as advancements through R&D.

22 And we also anticipate that the State's
23 efforts to inventory the potential opportunities can
24 help bring down the costs and reduce uncertainty to
25 developers.

1 We also looked at integration, the
2 intermittency of some renewable resources can pose a
3 barrier or a problem for grid management, and Smart Grid
4 storage, Demand Response, and improved forecasting can
5 help with that.

6 Looking at interconnection, managing the ever-
7 increasing numbers of interconnection requests has been
8 challenging and time consuming, and can be expensive.
9 CPUC is helping to address this by negotiating a
10 settlement process to reform Rule 21 interconnection
11 processes for distributed generation with the investor-
12 owned utilities.

13 Permitting is another barrier. The State
14 agencies regulate the private use of State lands through
15 authority granted in statute, but State agencies also
16 need to make sure that the projects satisfy CEQA and are
17 consistent with local requirements. And permitting
18 issues can be minimized with preliminary evaluation of
19 the site, such as what we plan to do more of, and in
20 coordination with stakeholders and collaboration to
21 maximize the use of existing State resources and
22 expertise.

23 So looking at the inventory that staff did, we
24 looked at opportunities both for self-generation and
25 wholesale generation, and for simplicity the inventories

1 based on estimates of PV potential, but the intent is to
2 develop a range of technologies and mix of technologies.
3 So looking first at the potential to serve on-site load,
4 staff looked at clusters of State buildings in seven
5 load centers near existing distribution lines, and we
6 excluded the sensitive lands, or areas that already had
7 projects, and basically found that about 16.2 megawatts
8 of PV could be rapidly deployed and considered that the
9 low hanging fruit on rooftops and parking lot spaces.

10 We also looked at potential on-State property
11 to develop projects that could serve on-site load and
12 also produce energy for wholesale. This included
13 properties for Department of Corrections and Department
14 of Mental Health Facilities, and the staff estimates
15 that about 55 to 195 megawatts of potential on those
16 facilities.

17 Finally, staff looked at other State
18 properties with potential for wholesale such as pumping
19 plants, excess lands, highway intersections, and other
20 properties. The rough estimate was 12,800 to over
21 23,000 megawatts of potential to develop PV, and that
22 was primarily to looking at utility scale projects.
23 Alternately, there was potential to produce or develop
24 about 1,900 megawatts of wind.

25 Looking at the next steps, the Energy

1 Commission looks forward to working with our sister
2 agencies to continue to evaluate and identify renewable
3 development opportunities on State buildings and
4 properties. We also anticipate evaluating sites
5 appropriate for wholesale renewable development,
6 including conducting preliminary environmental analysis,
7 identifying access to transmission or distribution
8 lines, and identifying areas that may be appropriate for
9 land swaps. We're looking forward to coordinated
10 procurement strategies and opportunities for group
11 purchases and the Energy Commission is working with the
12 Governor's Office and the Office of Planning and
13 Research to implement these next steps towards meeting
14 the 2,500 megawatt goal. And that concludes my
15 presentation. And I request that the Energy Commission
16 adopt the report. Thank you.

17 CHAIR WEISENMILLER: Thank you, Heather.
18 Commissioners, questions?

19 COMMISSIONER DOUGLAS: Actually, I do have
20 just one brief comment, which is that in the Desert
21 Renewable Energy Conservation Plan work we've been
22 doing, the State Lands Commission has been a really
23 invaluable partner and they've signed on as Co-
24 Applicants and I'm really hopeful that that process will
25 assist us in bringing more development potential to some

1 of the State Lands and their system.

2 COMMISSIONER PETERMAN: Yes, I'm also very
3 supportive and not just because I'm Lead Commissioner in
4 this area. I think this is a good opportunity and I've
5 really appreciated the working relationship we've had
6 with a number of the State agencies, and there's really
7 some tremendous work being done out there, and the
8 report provides an opportunity to showcase some of that.
9 More work to be done; I think we're meeting with the
10 agencies later today to continue forward, the report is
11 just the start of it, but I look forward to seeing as
12 many projects on the ground as soon as possible.

13 CHAIR WEISENMILLER: Yeah, obviously this has
14 been a great effort over time. I mean, I think we
15 started it well over a year ago and, in the first Brown
16 Administration, if you look at the Governor's energy
17 policies at that point, we had basically three legs and
18 one of them was using the regulatory powers of his
19 agency, the Energy Commission and PUC, in particular, to
20 help reshape and refocus investment; the other one was
21 to look at financial incentives and coming out of that
22 cave to ultimately establish in law, as was the BIDCO.
23 And obviously we looked at a lot of the incentive
24 programs that utilities could provide. And then we
25 really wanted the State to take a leadership role and

1 use its facilities to demonstrate what you can do in
2 energy efficiency and with renewables. This building
3 and the Bates Building next door was certainly an
4 example of that 30 years ago and we're certainly trying
5 to move forward in a different era to, again, make the
6 State -- those of us with climate change, I mean, that
7 was one of the actual questions the Governor was, "Okay,
8 the State talks a lot about energy efficiency and
9 renewables, what is the State doing in its facilities?"
10 So, again, this is part of that commitment, I think, to
11 really demonstrate our leadership role and, at the same
12 time -- obviously, we're going to learn lessons about
13 how difficult some of these things are to do, and that
14 can feedback from the policy arena. So, again, I'm very
15 supportive of this effort and glad that Commissioner
16 Peterman has really ran with it.

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

19 COMMISSIONER DOUGLAS: Second.

20 CHAIR WEISENMILLER: All those in favor?

21 (Ayes.) This item has been adopted
22 unanimously again.

23 So at this point, I think Chief Counsel has
24 Executive Session for us?

25 MR. OGATA: Thank you, Chair Weisenmiller,

1 Commissioners. Good morning. For the record, I'm Jeff
2 Ogata, I'm the Assistant Chief Counsel, I'm sitting in
3 for Michael Levy today who is on vacation, and Mike will
4 be back next week.

5 If I may just make two other points briefly,
6 first, we want to congratulate Commissioner Peterman on
7 behalf of the office, I know our staff has really
8 enjoyed working with you and we continue working with
9 you. Also, on our personnel front, we have today Alana
10 Matthews-Davis, who has joined us this week as a Staff
11 Counsel. She comes to us with eight years of experience
12 from the Sacramento District Attorney's Office, so we
13 look forward to using her skills to augment our
14 enforcement and compliance capabilities. Next week,
15 Elena Miller will be returning to the Commission as
16 Staff Counsel. On a sad note, today is the last day for
17 Jonathan Knapp, he will be taking a job with the PUC.
18 He has done a lot of excellent work for us. As you
19 recall, recently he handled the Dynacore Proceeding, so
20 he's done a lot of great work and I'm sure he won't
21 enjoy his work at the PUC as much as he enjoyed working
22 with us, but on the other hand, he's cutting four hours
23 of commute off his daily travel, so we had a hard time
24 arguing about that with him.

25 With respect to Closed Session, we don't have

1 anything to talk about with respect to the items in the
2 agenda item 15, but we do have two matters regarding
3 potential threats of litigation against the Commission
4 that we do want to discuss with you in Closed Session.
5 Assistant Chief Counsel Renee Webster-Hawkins will be
6 leading that discussion for you.

7 CHAIR WEISENMILLER: Okay. And so I'm
8 assuming that session, between that and lunch, that we
9 should be talking about restarting at quarter of two?
10 Okay. Okay, so we've checked on schedules and there are
11 some interviews and stuff, but we'll be back in session
12 promptly at a quarter of two. So, thank you.

13 (Break at 12:37 p.m.)

14 (Reconvene at 1:50 p.m.)

15 CHAIR WEISENMILLER: Good afternoon. We're
16 back on the record.

17 At this point in the Business Meeting, we're
18 going to take up Items 11 and 12. As I understand it,
19 we're going to do -- staff will do -- which are the --
20 11 is Negative Declaration for Regulations, including
21 Energy Efficiency Standards for Battery Charger Systems
22 and Self-Contained Lighting Controls, while 12 are the
23 Regulations including Efficiency Standards for Battery
24 Charger Systems and Self-Contained Lighting Controls.
25 And we're going to have a staff presentation that covers

1 both of these items, but we will vote on those
2 separately. And I should note that we are back on the
3 record, we've been in closed session to discuss two
4 areas of potential litigation exposure for the
5 Commission.

6 Staff, go forth with your presentation.

7 MR. LEAON: Thank you, Mr. Chairman. Good
8 afternoon, Commissioners. My name is Mike Leao, I'm
9 the Office Manager for the Appliances and Process Energy
10 Office. It's my pleasure today to present Agenda Items
11 11 and 12. With me today is Mr. Haringer Singh and Ken
12 Rider, Engineers for the Program who have worked on the
13 Battery Charger and Self-Contained Lighting Control
14 proceeding. Also with me today is Mr. Dennis Beck,
15 Staff Counsel for the program, who has also been working
16 on this proceeding with us.

17 I do have a fairly detailed presentation to
18 make today, but I think it's important that we share
19 this information to inform the discussion.
20 Specifically, I'll be providing you with some background
21 information on the Commission's Title 20 authority and
22 necessity for the Battery Charger Standards, and adding
23 Self-Contained Lighting Control Standards from the Title
24 24 Building Regulations to Title 20 Appliance
25 Regulations. I will also summarize what the Standards

105

1 do, the process used to promulgate the Standards, and
2 CEQA compliance for the project.

3 I would like to start my presentation by
4 saying that today the Commission has the opportunity to
5 take affirmative action that will remove inefficient and
6 wasteful battery charger systems from the market, save
7 California \$306 million a year in reduced utility bills,
8 reduce peak load by 300 megawatts, and reduce GHG
9 emissions by one million metric tons annually. Next
10 slide.

11 I will start off by talking a little bit about
12 the authority for adopting Standards and also the
13 necessity for these Proposed Standards. Next slide.

14 All right. Under the authority granted to it
15 in the Warren-Alquist Act, the Commission is mandated to
16 adopt Energy Efficiency Standards for appliances that
17 are not Federally regulated, and that consume a
18 significant amount of energy statewide. Standards must
19 be cost-effective, meaning that the consumer must be
20 able to recover any increased cost of the product
21 through the value of the energy savings over the
22 lifetime of the product.

23 In addition, the Standards must also be
24 technically feasible meaning that the manufacturers must
25 have a technically feasible way of complying with the

1 Standard. Adopting Appliance Efficiency Standards is an
2 important policy goal for the state because they are the
3 most cost-effective method for reducing dependence on
4 fossil fuels and maintaining system reliability.

5 In addition, the goal of any Standard is to
6 achieve market transformation by removing the most
7 inefficient products from the market. To date,
8 Appliance Efficiency Standards have been highly
9 successful in achieving energy savings. Since 1976,
10 existing Standards have reduced power consumption by
11 20,000 gigawatt hours per year, and have saved
12 California \$36 billion off of their electricity bills.

13 Concerning Commission policy in regard to
14 Appliance Efficiency Standards, the current Battery
15 Charger Proceeding was conducted under a 2007 Order
16 Instituting Rulemaking and a 2008 Scoping Order. Under
17 the 2008 Scoping Order, the Commission has previously
18 adopted a test procedure for battery charger systems, a
19 general surface lamp standard, and an efficiency
20 standard for TVs. Respectively, these two standards
21 have saved the State 11,000 gigawatt hours per year and
22 6,000 gigawatt hours for a combined savings of 17,000
23 gigawatt hours.

24 The Scoping Order also directs staff to
25 develop power usage regulations and requirements for

1 battery chargers, more specifically, Battery Charger
2 Systems. These Standards are now up for consideration
3 and for approval by the Commission today.

4 I'd like to talk a little bit about plug use
5 as Battery System Chargers are an important measure for
6 addressing growing electricity use through plug loads.
7 And I'll talk big picture here first, looking at the
8 national picture.

9 This graph shows the projected energy
10 intensity from 2007 to 2035 for major U.S. residential
11 end uses. Energy intensity is measured as the average
12 electricity usage per dwelling unit. The U.S. Energy
13 Information Agency, or EIA, predicts that lighting,
14 heating and cooling in major appliances, e.g., clothes
15 washers, refrigeration, and water heaters, will all see
16 a decreased energy intensity over the coming decades.
17 This is in part due to State and Federal Standards that
18 have been adopted over the last decade. However,
19 electronic plug loads such as personal computers,
20 televisions, and set top boxes, are all expected to see
21 an increase over the same time period. The end use with
22 the most significant increase is the miscellaneous
23 category. This category includes all plug loads that
24 don't have a designated EIA category such as cell
25 phones, power tools, electric toothbrushes and electric

1 razors, all of which will be covered under the proposed
2 Battery Charger Standards.

3 Turning our focus to a more California
4 specific look at plug loads, as this pie chart
5 indicates, plug loads in lighting represent a
6 significant portion of power consumption in residential
7 buildings. Specifically, lighting represents 22 percent
8 of residential power consumption in consumer electronics
9 and office equipment, including battery chargers,
10 combined represent another 20 percent of power
11 consumption, and therefore approximately 42 percent of
12 residential electricity use is used by lighting,
13 consumer electronics, and office equipment. Next slide,
14 please.

15 Looking at the commercial sector, the
16 California Consumer End-Use Survey that was performed in
17 2006 shows that lighting and office equipment also
18 constitute a significant amount of power usage in
19 commercial buildings. Approximately 47 percent of
20 commercial building load is lighting and plug loads.
21 The Battery Charger Standards will help reduce this load
22 incrementally, but, clearly, as the Commission moves
23 forward with new Standards, significant lighting and
24 plug load energy saving opportunity remain in both the
25 residential and commercial sectors.

1 Drilling down now to look specifically at
2 battery chargers, Battery Charger Systems, specifically,
3 with the introduction of more and more rechargeable
4 electronic devices, the plug load from battery chargers
5 is increasing. As of 2009, there were 170 million
6 Battery Charger Systems in the California market.
7 battery chargers are used in a wide variety of products,
8 including consumer and non-consumer products. The scope
9 of the Proposed Regulations cover over 16 product
10 categories, including laptops, cell phones, power tools,
11 personal care products, and non-highway vehicles.

12 Based on the projected growth in Battery
13 Charger Systems, it is estimated that, without the
14 Regulations, energy use from battery chargers would
15 increase by 139 percent over 2009 levels by 2015.

16 In regard to the energy usage from battery
17 chargers, these systems currently use 8,000 gigawatt
18 hours per year of energy statewide. However, 5,100
19 gigawatt hours are wasted as heat by over-charging the
20 batteries after they are full. And the intent of the
21 regulations is to go after this wasted energy. The goal
22 of the Standards is to reduce the amount of wasted
23 energy by 40 percent, or 2,100 gigawatt hours per year,
24 enough energy to power 350,000 homes and reduce carbon
25 emissions by one million metric tons.

1 This graph illustrates the growth in power
2 consumption by Battery Charger Systems with and without
3 the Standard. Without the Battery Charger System
4 Regulations, the amount of energy used by Battery
5 Charger Systems will increase by one-third in the next
6 10 years. The analogy we like to talk about here is
7 that, without the Standards, inefficient wasteful
8 battery chargers are going to be able to continue to
9 enter the market, and think of it in terms of filling up
10 your gas tank and, after the tank is full, gas, if it
11 doesn't shut off, gas continues to pour and spill out.
12 And the same analogy applies to what we're talking about
13 with the Battery Charger Standards. We're going after
14 that wasteful inefficient use of energy.

15 Battery Charger Systems represent the second
16 greatest opportunity for savings for Californians from
17 our Appliance Standards. This chart shows the 21
18 appliance categories that are currently not regulated by
19 either the Department of Energy or the Commission, with
20 the greatest energy savings potential. The Battery
21 Charger Standards represent a key energy efficiency
22 measure to help achieve public policy goals related to
23 reducing dependence on fossil fuels, reducing peak
24 demand, maintaining system reliability, reducing GHG
25 emissions and meeting zero net energy building goals.

1 The only other product category that uses or that has
2 more energy savings potential than the Battery Charger
3 Systems is computers.

4 So that's a little background on authority and
5 necessity, which sets the stage. This is the problem
6 that we're trying to address.

7 So now I'm going to get into the Regulations,
8 specifically, and the stakeholder process we used in
9 developing the Proposed Regulations that are before you
10 today.

11 In regard to the proposed Battery Charger
12 System Standards, the Proposed Regulations are based on
13 the premise that, after the batteries have been fully
14 recharged, the battery charger should shut off the flow
15 of electricity and provide only low maintenance charge
16 current on an as needed basis. The technology fixes for
17 non-compliant products can be implemented with
18 inexpensive off-the-shelf technology that will not
19 require extensive re-design of regulated products. The
20 Regulations establish a standard for small and large
21 battery chargers which can be further differentiated
22 into consumer and non-consumer Battery Charger Systems.
23 The Regulations also establish separate Standards for
24 inductive charger and battery back-up and
25 uninterruptable power supplies. Regulated Battery

1 Charger Systems will not be able to be sold or offered
2 for sale in California unless the manufacturer certifies
3 to the Commission that the Battery Charger System meets
4 the applicable Standard that is listed on the
5 Commission's database.

6 Looking at current compliance, it should be
7 noted that there are Battery Charger Systems currently
8 on the market across a wide variety of product
9 categories and price levels that have already addressed
10 the problem by including inexpensive charge sensors
11 and/or switches in their product designs. Recently, an
12 updated IOU estimate of statewide marketing compliance
13 indicates that as much as 70 percent of the market is
14 currently compliant for these regulator products, and
15 this is just a subset of the product categories that
16 we're regulating.

17 Regarding labeling requirements, the
18 Regulations also establish a marking or labeling
19 requirement that Battery Charger Systems be sold with a
20 mark on the product, or a label on the package, with a
21 BC inside a circle. This requirement will help to
22 inform retailers regarding whether Battery Charger
23 Systems are compliant with CEC Regulations. This is
24 important because the only way for a retailer to
25 independently verify compliance would be to search the

1 Commission's Appliance Database, which all retailers may
2 not be aware of and which may be a time-consuming
3 process for them to do. The labeling requirement will
4 make verification of compliance much simpler to
5 retailers.

6 In addition, the labeling requirement will aid
7 the Commission in verifying compliance when conducting
8 marketplace surveys. The Commission conducts these
9 studies periodically to collect compliance data on
10 regulated appliances to inform its enforcement process.
11 The labeling requirement will provide a quick way to
12 verify compliance of Battery Charger Systems. In
13 addition, the labeling requirement is part of the
14 Commission's commitment to improving compliance and
15 enforcement.

16 Finally, the marketing requirements will help
17 to harmonize labeling requirements across various
18 jurisdictions, including United States Department of
19 Energy, Canada, Australia, and possibly other states.
20 The California labeling requirement will inform future
21 DOE action on any Federal labeling requirement and could
22 also be used in future international marking
23 requirements. The Department of Energy has indicated
24 that it will consider a labeling requirement in a
25 technical support document under the Federal Battery

1 Charger Proceeding. By adopting a California labeling
2 requirement, the CEC can set a precedent that could
3 inform the DOE process. CEC staff will follow any
4 future Federal proceeding and will provide comment
5 through the DOE process.

6 In regard to an international labeling
7 requirement, the Commission has received a letter of
8 support from the Australian Government, Government's
9 Department of Climate Change and Energy Efficiency, and
10 they are supportive for developing an international
11 marking requirement and they have offered their support
12 in pursuing that objective.

13 In regard to what the Standards do,
14 themselves, it's pretty straightforward. The Standards
15 set maximum power consumption for Battery Charger
16 Systems with a full battery, maximum power consumption
17 for Battery Charger Systems without a battery, and
18 minimum efficiency requirements for charging a battery.

19 In regard to the process staff followed in
20 developing the Proposed Standards, it has been a robust
21 process. Staff opened the Battery Charger Proceeding
22 with a public workshop on October 13th, 2010, to take
23 public comments on an initial proposal for Battery
24 Charger System Standards. Based on the comments
25 received at the workshop, staff began developing a CEC

1 staff report proposing a Commission standard for Battery
2 Charger Systems. Staff also developed a lifecycle cost
3 model for the proposed standard and posted this model to
4 the Commission's website in January 2011 for stakeholder
5 review and comment.

6 On February 2nd, 2011, staff docketed a letter
7 asking for any alternative lifecycle data that
8 stakeholders believed would be more representative than
9 the data the Commission was using. Our staff received
10 no data that would alter its conclusion that the
11 Standards were cost-effective based on incremental
12 costs, lifecycle, and duty cycles.

13 Subsequently, a staff workshop was held on
14 March 3rd, 2011, to take comments on the proposed CEC
15 standards as set forward in the CEC Staff Report. Based
16 on public comments from those workshops, staff prepared
17 a revised report and this revised report was then
18 considered at a Committee Workshop on May 19th, 2011.
19 Subsequent to the Committee Workshop, after further
20 review and revision, proposed Permit Regulations were
21 noticed with the Office of Administrative Law on October
22 11th, 2011, and the Notice was docketed and mailed.

23 The initial 45-day public review and comment
24 period on the Proposed Regulations -- and the Notice
25 initiated that 45-day review -- a public hearing was

1 held on October 24th, 2011, to take public comments on
2 Proposed Permit Regulations. Based on these comments,
3 further changes were made to the Proposed Standards and
4 they were released for an additional public review and
5 comment period on December 14th, 2011. This review
6 period ended on January 3rd, 2002 [sic], and based on
7 the comments received, staff believes that no further
8 changes are required to the Standards, and it is now
9 appropriate for the Commission to consider adoption of
10 the Proposed Regulations.

11 All right, counsel advised me that I should
12 also note that, along with the publication of the 45-day
13 language, that included the Initial Statement of
14 Reasons. And was there another document there?

15 MR. BECK: Dennis Beck from the Chief
16 Counsel's Office. Just noting that, with publication of
17 the documents from OAL, the documents published were the
18 Notice of Proposed Action, the expressed terms of the
19 Regulations which are the 45-day language, as well as
20 the Initial Statement of Reasons.

21 MR. LEAON: Thank you for that clarification,
22 Dennis. In regards to responsiveness to stakeholder
23 comments, staff has carefully reviewed and considered
24 all the comments in this process. As a result of
25 feedback received during the pre-Rulemaking phase, staff

1 made several changes to the Standards in response to
2 stakeholder concerns and comments, including excluding
3 from the scope Class 1 or 2 battery charger equipped
4 devices for human use under the Federal Food, Drug and
5 Cosmetic Act. Also excluded from the scope, Battery
6 Charger Systems that are used in illuminated Exit signs,
7 and those with use with battery analyzers. It also
8 changed the effective date for Battery Charger Systems
9 use with non-consumer products and made changes to the
10 Standard for small consumer Battery Charger Systems to
11 provide greater flexibility in how manufacturers can
12 meet the Standard, specifically in regard to how they
13 allocate the power use. And finally, staff also
14 increased the power allowance for battery capacities of
15 2.5 watt hours or less.

16 Staff worked closely with manufacturers,
17 including individual meetings and numerous phone calls
18 in making these changes to the initial staff proposal,
19 and believes that these changes have addressed the
20 technical barriers that manufacturers had in complying
21 with the Standard.

22 In regard to changes made during the formal
23 Rulemaking phase, based on comments received, staff has
24 created a separate effective date for consumer battery
25 chargers that are charged with USB chargers with a

1 battery capacity of over 20 watt hours. There was a
2 specific technical issue that was brought up with USB
3 charging, staff looked at the technical issues that were
4 behind that request and determined that it would be
5 appropriate to provide manufacturers of this particular
6 type product using this battery capacity with additional
7 time. However, I did want to note in regard to this
8 change that there are currently no products using that
9 battery size capacity in USB charging in the markets
10 today. So there will be no impact to the energy savings
11 by making this change, so I wanted to make that a point
12 of emphasis.

13 Staff also modified the marking requirements
14 by providing additional option of not just requiring
15 manufacturers to place a mark on the product itself, but
16 giving the flexibility to include a label and packaging
17 materials that are sold with the product, and this will
18 be at the manufacturer's discretion which option they
19 would like to use in order to comply with the marking or
20 labeling requirement.

21 And finally, staff also made some clarifying
22 changes to the test procedure language to facilitate
23 compliance with the Standards.

24 Okay, I think I've covered the first two --
25 well, I've covered the labeling. Also, we received a

1 request for extending the effective date for small
2 battery consumer chargers by one year and staff
3 considered this request, but it does have significant
4 impacts to the energy savings, this change would affect
5 77 percent of the products that are offered for sale in
6 California, and it would reduce energy savings
7 significantly not only in the first year, but over the
8 lifetime of those products that are introduced in the
9 first year. Also, the basis for the request was a
10 technical one, that manufacturers needed more time to
11 make design changes; however, work on this particular
12 proceeding goes back to the battery charger testing
13 procedure that was previously adopted, even further back
14 than that, so manufacturers have been well aware that
15 the Standard is coming, it's not anything new to them,
16 they've known this is coming for several years. And in
17 addition to that, the technical fixes are well
18 understood. We're talking about making changes to the
19 charge control circuitry with inexpensive off-the-shelf
20 components that are cost-effective to do, we're talking
21 about making -- or switching to a more efficient power
22 supply. So, in regard to this request that you are
23 going to hear today, staff doesn't feel that there's a
24 technical reason to provide that particular extension
25 for that effective date, and that is going to really

1 impact the energy savings in the Regulation.

2 In regard to other exemptions requested, the
3 loosely-coupled inductive chargers, principally we're
4 talking about charging pads that are sold without a
5 product. These devices don't meet the definition for a
6 Battery Charger System because they don't have a product
7 and, given that there's no way for them to be tested to
8 meet the Standard, we feel that they do fall outside the
9 scope of the Regulation and there's no need to provide a
10 specific exemption in the Regulation for that particular
11 product.

12 Regarding the Class 1 Medical Products, these
13 products are not life threatening products and the
14 Battery Charger Systems used with these products,
15 improving the efficiency of these products is, again,
16 cost-effective and feasible. So, again, we didn't feel
17 that there was a specific technical reason to provide
18 this exemption either.

19 Okay, I'd like to talk a little bit about the
20 Self-Contained Lighting Controls that is behind this
21 change. Self-Contained Lighting Controls are currently
22 regulated under the Energy Commission's Building
23 Efficiency Standards found in Title 24, Part 6 of the
24 California Code of Regulations. A Self-Contained
25 Lighting Control was defined as a unitary lighting

1 control module where no additional components are needed
2 for it to be fully functional, a fully functioning
3 lighting control. Self-Contained Lighting Controls
4 include an astronomical time switch control, an
5 automatic daylight control, an automatic time switch
6 control, a dimmer, a lighting photo control, or an
7 occupant sensing device.

8 Currently, Title 24 requires that both manual
9 and automatic lighting controls be installed with
10 lighting systems. However, because these products are
11 not required to be certified under the Appliance
12 Efficiency Provisions under Title 20, non-compliant
13 controls are not prohibited from being sold or offered
14 for sale in California and this can lead to non-
15 compliant controls being installed in buildings. This
16 can reduce the amount of energy savings that should
17 otherwise have been achieved through the installation of
18 compliant controls. Lighting controls help save energy
19 by automatically dimming or turning off lights. As
20 indicated in the pie charts shown earlier in this
21 presentation, lighting account for 22 percent of
22 residential energy use and 28 percent of commercial
23 energy use. As such, in order to achieve ZNE energy
24 goals, it is essential to capture all cost-effective and
25 feasible energy savings from Self-Contained Lighting

1 Control Systems.

2 The proposed regulatory change would help
3 address this problem by adding Self-Contained Lighting
4 Controls specifications to the Appliance Efficiency
5 Regulations in Title 20 or, specifically, by adding the
6 Lighting Control Regulations to Title 20 that in the
7 future such products cannot be sold or offered for sale
8 in California unless certified to the Commission and
9 included in the Appliance Efficiency Database. The
10 effect of this change is to move enforcement upstream,
11 and this will help ensure that only compliant controls
12 are available for purchase and installation in
13 California buildings.

14 Concerning CEQA compliance for the project, as
15 the adoption of the Regulations constitutes a project
16 under CEQA, the Commission must adopt an environmental
17 document for the project before adopting the
18 Regulations. To comply with CEQA, staff prepared an
19 initial study, a Negative Declaration for the project,
20 staff reviewed the potential adverse environmental
21 impacts associated with the project when preparing the
22 initial study, and determined that the project did not
23 pose any significant adverse environmental impacts.
24 Based on that finding, staff prepared a Negative
25 Declaration for the project, finding that the proposed

1 Regulations do not pose any significant adverse
2 environmental impacts, the Regulations should have net
3 environmental benefits by reducing the need for fossil
4 fuel use and reducing GHG emissions, and will save
5 ratepayers millions of dollars in reduced electricity
6 costs.

7 The Negative Declaration was released for a
8 30-day public review period on October 11th, 2011.
9 Staff received no comments on the environmental
10 documents during the public review period.

11 I would like to make a few points in
12 conclusion. For the last 18 months, Commission staff
13 has worked with stakeholders and industry to promulgate
14 the Battery Charger Standards. In that time, we have
15 conducted three workshops, a webinar, and a public
16 hearing, while releasing the staff report for review and
17 comment through that process, and the process we used
18 here was, again, a robust process and we think we
19 addressed stakeholder concerns through that process.
20 And we feel that the Regulations are going to remove
21 inefficient Battery Charger Systems from the market and
22 that these systems, as my previously slide indicate
23 waste, a significant amount of energy, and the goal here
24 is a conservative goal, to only reduce that amount of
25 wasted energy by 40 percent. We're not going after the

1 whole amount here and we think the Standards are
2 reasonable in that way and conservative in taking that
3 approach, and are cost-effective and feasible. In
4 addition, they are going to reduce electricity costs for
5 ratepayers, saving Californians over \$300 million per
6 year. The Standards will specifically save at full
7 implementation 2,100 gigawatt hours per year. This can
8 avoid need for future generation and also reduce
9 dependence on fossil fuel.

10 So with that, I'll conclude my presentation
11 and would be happy to answer any questions you might
12 have. Oh, let me -- I would like to conclude by stating
13 that none of the -- we're going to take two motions here
14 and --

15 MR. BECK: It's a little too small for Mr.
16 Leason's poor old eyes, so this is the ask, as it were,
17 in conclusion, none of the comments that we received
18 during the 15-day or 45- or any of the additional ones
19 of the 45-day comment period, and nothing else in the
20 record justifies any additional changes to the express
21 terms of the Regulations that were published in the 15-
22 day language on December 14th, 2011. Therefore, staff
23 is recommending based on the whole record before it,
24 including but not limited to the initial study prepared
25 for Docket Number 11AAER-2, finding that there was no

1 substantial evidence that adoption of the December 14,
2 2011 express terms would have a significant effect on
3 the environment, and based on the finding that the
4 Negative Declaration reflects the Commission's
5 independent judgment and analysis, that the Commission
6 adopt both the Negative Declaration and the Initial
7 Study and, furthermore, staff also recommends that the
8 Commission adopt the express terms of the Regulations as
9 they were proposed on December 14, 2011.

10 MR. LEAON: Thank you, Counselor. That
11 concludes the presentation. Happy to take your
12 questions.

13 CHAIR WEISENMILLER: Thank you.
14 Commissioners, any questions before we go to public
15 comment?

16 COMMISSIONER DOUGLAS: I did have some
17 questions for Mike or for staff. We received a letter
18 recently from the Chair of the Assembly Committee on
19 Utilities and Commerce and a number of other members,
20 and I wanted to ask you about a couple of the questions
21 and concerns that are raised in the letter.

22 One question -- and I'm just going in order --
23 one question is whether the Notice of Proposed Action
24 has been updated -- or states that the Notice of
25 Proposed Action has not been updated to reflect the

1 December 14th, 2011 amendments. And I think there is a
2 concern expressed that by not reflecting the amendments,
3 there might be an over-estimation of savings. Could you
4 respond to that?

5 MR. LEAON: No, I don't think there's any
6 validity to that comment. We don't think the energy
7 savings are over-estimated. We look at the full effect
8 of the Regulations at full implementation and we fully
9 expect that these savings will be realized as we have
10 stated.

11 COMMISSIONER DOUGLAS: Well, I note that, you
12 know, as you stated in your presentation, I mean, one of
13 the issues is that the change moving the compliance for
14 the USB chargers out does not actually impact savings,
15 and so because there are no current products that are
16 not compliant, so that is certainly one of the issues,
17 but I wanted to just ask and make sure that there's
18 nothing else --

19 MR. BECK: Dennis Beck from the Chief
20 Counsel's Office. There also appears to be a
21 misunderstanding that comes through in the letter. The
22 letter talks about a change in the effective date for
23 the Standards for large battery chargers. There seems
24 to be some misunderstanding because that effective date
25 was not changed subsequent to the issuance of the NOPA,

127

1 the Initial Statement of Reasons, and the 45-day
2 language, that remains January 1st, 2014, and that has
3 been consistent since the Regulations were formally
4 proposed, so there appears to be a misunderstanding on
5 the part of the author of the letter. And, again, to
6 reiterate what the Commissioner said, the comments that
7 we received about USB Charging Systems with large
8 battery capacities were primarily directed towards
9 products that do not exist in the market and a concern
10 about how that might impact the evolution of that
11 technology, and that we determine that giving that
12 extension of time that is in the 15-day language was
13 appropriate.

14 COMMISSIONER DOUGLAS: Okay. And so the
15 savings estimates that you have provided the Commission
16 today reflect the current proposal? Is that correct?

17 MR. BECK: Right.

18 COMMISSIONER DOUGLAS: Yes, okay. Another
19 question that I wanted to make sure we addressed today
20 is the question of the combination or the assertion that
21 we are combining the cost-effectiveness analysis for
22 multiple categories of products. Is it the case that
23 that analysis was done separately, as well?

24 MR. RIDER: Yeah, it certainly was presented
25 in the aggregated form in the body of the staff report

1 and in the NOPA, but the Appendix to the Staff Report
2 has a detailed break-out of the model used to calculate
3 the overall savings and it's not aggregated, it's
4 disaggregated with individual savings for each product
5 type.

6 COMMISSIONER DOUGLAS: Okay, so this is in an
7 Appendix to the Staff Report?

8 MR. RIDER: It's in the Appendix to the Staff
9 Report that explains how the overall savings were
10 calculated, and also demonstrates that those standards
11 are cost-effective for each individual product category.

12 COMMISSIONER DOUGLAS: Okay. And, you know, I
13 see kind of in general in the letter a concern about
14 small businesses and whether they would be able to
15 adjust the product as necessary to meet the timeline in
16 the Standards. Could you describe what a manufacturer
17 would have to do, or what the basic technical changes
18 are that we're talking about, to make chargers
19 compliant?

20 MR. RIDER: Yeah, sure. Well, first of all,
21 let me state if it's a very customized piece of
22 equipment for a small business that those types of
23 products would have until January 1, 2017 to comply with
24 the Standards. Mike's presentation ran through some of
25 the basic changes necessary for the consumer type of

1 products; our analysis in the Staff Report shows that
2 these changes are fairly simple, including improvements
3 to power supplies and incorporating a switch in the
4 product, and that these types of changes can be made
5 within a one-year time span and should not affect small
6 businesses.

7 MR. BECK: And Commissioner, if I could add
8 one thing, there seems to be some concern expressed in
9 the letter about the timeline of OAL, Office of
10 Administrative Law, review and approval of the
11 Regulations subsequent to Commission adoption. There
12 seems to be some concern that that might interject or
13 inject some question, or some unpredictability to the
14 effective date of the Standard. The effective date of
15 the Standard is in the Regulation itself, and it is over
16 one year from today's date. There was required in
17 Section 25402(C)(1) of the Public Resources Code that
18 says any new or revised Standard cannot become effective
19 sooner than one year before it is adopted by the
20 Commission, so the Legislature has determined
21 statutorily that that is an appropriate amount of time
22 between the time that the Commission adopts the
23 regulation and its effective date. Also, the OAL, once
24 the package is submitted to them, the Final Statement of
25 Reasons, they have 30 days to review it and, if they

1 approve, it's published in the Notice Register and
2 becomes effective 30 days after. So, given the fact
3 that we have more than a year to submit the package to
4 OAL, and have them review it and address any concerns
5 they may have, we have no real concerns that OAL will
6 not approve the Rulemaking package prior to the
7 effective date of these Regulations.

8 COMMISSIONER DOUGLAS: Thank you. I suspect
9 that I will have more questions through the public
10 comment period, or after, but I think that satisfies my
11 questions for now. Thank you.

12 COMMISSIONER PETERMAN: Thanks. One or two
13 questions. You mentioned that 70 percent of the
14 products on the market are currently compliant, are
15 there any common themes and trends between the remaining
16 30 percent -- in terms of similar products, same
17 ownership, same companies, and manufacturers?

18 MR. RIDER: Well, yeah, we did find that
19 within a single company, you typically see a mix of
20 compliant and non-compliant products, so it's not really
21 targeting one particular manufacturer or one particular
22 product category. I think that's what you're getting
23 at, right? Yeah, so we did take a look at that during
24 the rulemaking process and did not find that it was
25 unfair to, you know, was not targeting a certain

1 manufacturer, or a technology, or product category.

2 COMMISSIONER PETERMAN: Thanks. My general
3 concern is just making sure there is sufficient
4 competition and supply as you move forward with the
5 Standards. And you feel comfortable that there will be?

6 MR. RIDER: Yes.

7 MR. BECK: And one thing that maybe we should
8 clarify about the Standards, as well, a popular
9 misconception that we've dealt with, is the Standard
10 will apply to products that are manufactured on or after
11 the effective date of the Regulation, so any products
12 that are manufactured before the effective date of the
13 Standard may be sold and continued to be sold in
14 perpetuity in the State of California.

15 COMMISSIONER PETERMAN: Thank you.

16 CHAIR WEISENMILLER: Let's turn to public
17 comment at this time. The first person is Thomas
18 Enslow, IBW.

19 MR. ENSLOW: Good afternoon, Chairman and
20 Commissioners. Tom Enslow on behalf of the IBAW and
21 NICA, California State Labor Management Cooperation
22 Committee. I would like to apologize for the late
23 submittal of comments on this. There's just one
24 definition that we're concerned about in the Lighting
25 Control proposal that our clients just recently realized

132

1 could cause some misinterpretations based on comments
2 they heard from other users. And the problem there is
3 the Title 20 Regulations define Self-Controlled Lighting
4 Controls, which is what you're setting Appliance
5 Efficiency Standards for, for the sale, and that
6 definition is fine, but then it goes on to add a
7 superfluous definition of lighting control systems which
8 creates a definition of lighting control systems that
9 excludes self-contained lighting control systems, and
10 then goes on to say that lighting control systems are
11 regulated under Sections 119 and 134 of Title 24 of the
12 California Code of Regulations. And the problem that we
13 found is people are interpreting this as meaning that
14 self-contained lighting control systems are not
15 regulated by Title 24, and that is not the case
16 currently, and that should not be the case going
17 forward. You know, the stated purpose of these
18 Regulations were to take the performance standards for
19 lighting control Regulations that are in Title 24 and
20 put them into these Appliance Efficiency Standards so
21 that whatever is sold is compliant. And that we
22 support. The problem is, we want to make sure that it's
23 clarified that the self-contained lighting control
24 systems are part of the overall building electrical
25 system, that's an important concept. And it's also --

1 and these type of systems should be, you know, when you
2 talk about what's being put into a building, what's
3 required of a device, how it is installed, how it's
4 accepted, that's all Building Standard issues that by
5 law have to be in Title 24. Point of Sale requirements
6 are going to Title 20. So, to the extent that this is
7 talking about Title 24 or to be interpreted as
8 interpreting or limiting what Title 24 means, we think
9 that's inappropriate and causes some confusion.

10 For that reason, our suggestion is to just
11 eliminate this definition of the lighting control
12 system. We don't think it's necessary with the rest of
13 the Regulations, the definition of Self-Contained
14 Lighting Control is sufficient, that is what you're
15 regulating; having some other definition that talks
16 about what is in Title 24 just creates confusion and can
17 be interpreted in a way that we think is contrary to
18 law. Thank you.

19 COMMISSIONER DOUGLAS: I think -- so thank you
20 for raising those concerns, better late than never and
21 it's an opportunity for us to clarify what we mean to
22 do. And so let me ask staff or staff counsel to
23 respond.

24 MR. BECK: Staff and I did speak with Mr.
25 Enslow about this issue and what we understand his and

1 his clients' concern, we don't see that as being
2 problematic and we don't see the need to remove or
3 modify the definition of lighting control systems that
4 are currently in the Regulations or Proposed
5 Regulations. Rather, what we want to make on the record
6 is a clear statement of what the intent is, and that is
7 that adding Self-Contained Lighting Controls to Title 20
8 does not in any way, shape or form abrogate change, or
9 modify the requirements in Title 24 pertaining to
10 lighting control systems or self-contained lighting
11 controls. With that on the record and with a statement
12 in the Final Statement of Reasons, and the Response to
13 Comments section that states the same thing, that a
14 clear statement of intent that these are only to define
15 what needs to be certified to the Commission under Title
16 20 and in no way is to impact the requirements of Title
17 24, we think that's sufficient. Additionally, as the
18 Commissioners know, the Title 24 Standards, Building
19 Standards, are currently in development and the 45-day
20 language should be forthcoming. We have also spoken
21 with Mr. Enslow and assured him that we will make any
22 necessary modifications to the language in Title 24
23 regarding lighting control systems and self-contained
24 lighting controls, to make sure the intent that I've
25 already expressed is clear in Title 24, as well. So

1 there will be no loophole.

2 COMMISSIONER DOUGLAS: Thank you, Dennis. I'm
3 glancing across at Mr. Enslow. I think that we hear the
4 concern you raised. We, as Dennis said, in no way,
5 shape, or form, or in any way intend this Title 20
6 definition to abrogate in any sense what Title 24
7 covers. I think we do have an opportunity as we move
8 forward with Title 24 to make that additionally clear.
9 And I appreciate you bringing that forward.

10 COMMISSIONER PETERMAN: May I ask why not
11 clarify the intent in this set of Regs?

12 MR. BECK: By changing the language, it may
13 trigger the need to do 15-day language, which means we
14 would not be able to adopt today. It is possible that
15 we could make a change that would be considered a non-
16 substantial change under Section 40 of Title 1 of the
17 California Code of Regulations, but I think out of an
18 abundance of caution, and out of I think a more, again,
19 a more simple and, we think, definitive statement of
20 intent will rectify that situation, rather than running
21 the risk of having a change being seen as non-
22 substantial, or having to do 15-day language.

23 COMMISSIONER PETERMAN: Okay, I just wanted to
24 make sure that's not subject to misinterpretation going
25 forward, so I'm assuming one of the things you suggested

1 will make this very clear and legally defensible.

2 MR. BECK: Yes. Thank you.

3 CHAIR WEISENMILLER: Okay, we have lots of
4 comments so, again, remind people of the sort of three
5 minutes, and obviously to the extent some of you have
6 duplicative comments, you can cross refer, don't
7 necessarily have to repeat them, or repeat what you have
8 found in writing. The next person is Travis Ritchie,
9 Sierra Club.

10 MR. RITCHIE: Thank you, Chairman and
11 Commissioners. Travis Ritchie representing the Sierra
12 Club. As I'm sure you know, Sierra Club is a national
13 environmental advocacy group, we have over 125,000
14 members in California. And Sierra Club is committed to
15 moving both California and the nation forward to a clean
16 energy future that reduces our reliance on dirty fossil
17 fuels. An important part of this effort includes energy
18 efficiency measures such as the battery charger
19 standards that were proposed today. We support those
20 standards.

21 Energy efficiency is a source of energy, it's
22 like coal, gas, and nuclear, except that instead of
23 dangerously drilling holes in the ground, or blowing the
24 tops off of mountains to look for fossil fuels, energy
25 efficiency allows us to use today's technology to do

1 more with the energy we generate. In every home and
2 office, we can prevent waste and save money by using
3 energy more efficiently, and these measures today would
4 help us towards that goal, therefore Sierra Club
5 supports the measures and we hope that you vote to
6 approve it.

7 CHAIR WEISENMILLER: Thank you. Next speaker
8 is Daniel Hamilton, SMUD.

9 MR. HAMILTON: Thank you, Commissioners.
10 Daniel Hamilton, Sacramento Municipal Utility District.
11 I want to thank you for the opportunity to provide
12 comments on the Battery Charger Systems Efficiency
13 Standards. SMUD supports the continued improvement of
14 these Standards for appliances and electronics and
15 supports the 15-day language and its supporting
16 documentation as an appropriate and effective method for
17 improving an otherwise wasteful category of electronics.
18 As part of the Codes and Standards process, the
19 Investor-owned utilities and CEC are working together to
20 improve efficiency across a wide range of products and
21 this category represents the one in most need of
22 attention and that is rightfully here first before you
23 today.

24 SMUD, along with the State of California and
25 many local governments have set ambitious goals for

1 improving energy efficiency and reducing carbon
2 footprint for our actions. With the average California
3 home containing eleven battery chargers, it's pretty
4 critical that we take action as soon as possible to
5 address these inefficient appliances and improve the
6 quality and usability of our consumer electronics.

7 As California utilities, both public and
8 private, seek to find ways to control power bills for
9 our customers, while meeting broader environmental
10 goals, incremental improvements such as those in this
11 language are essential to the long-term success of a
12 comprehensive energy strategy. SMUD continues to work
13 with the Energy Commission and the Investor-owned
14 utilities to ensure the greatest protection of our
15 residents through the Codes and Standards process, and
16 believes that these Standards are a critical step in the
17 continued path towards a more efficient state. Thank
18 you.

19 CHAIR WEISENMILLER: Thank you. Spencer
20 Stock, Lester Electrical.

21 MR. STOCK: Thank you, Chairman and
22 Commissioners. Spencer Stock, Lester Electrical. We
23 are a battery charger manufacturer in Lincoln, Nebraska,
24 primarily for commercial industrial applications, golf
25 carts, forklifts, things of that nature.

1 I just want to start by thanking the CEC staff
2 throughout this process, especially Ken and Haringer,
3 they've been great to work with and very open to our
4 comments and concerns, and have made a lot of changes
5 based upon our comments and concerns as a commercial and
6 industrial manufacturer of battery chargers.

7 We have one final item of concern and I
8 submitted this in our comments to the 15-day language,
9 but I wanted to take this opportunity to bring it up,
10 which is, to this point in time, golf has been discussed
11 as a consumer application, and we -- that's a concern to
12 us. Over 90 percent of new golf cars are sold to
13 commercial and industrial businesses, primarily golf
14 courses, and so we just want to ask that, in the
15 interpretation and enforcement of the Regulation, that
16 golf be considered non-consumer or, at the very least,
17 the portion of golf cars that are sold to commercial and
18 industrial businesses be considered non-consumer. The
19 change to the effectiveness date that was made of making
20 non-consumer products pushed out to 2017 was a very
21 important change. These type of products -- there is a
22 very long design cycle and a very very long cycle of
23 acceptance by the OEMs that make these vehicles. Often,
24 it takes well over two years of testing. And so that
25 change for the non-consumer products was very important,

1 and so golf is probably one of the largest categories of
2 those non-consumer electric vehicles, and so we would
3 just ask that, in the interpretation and the enforcement
4 that the golf cars that are being sold to consumer and
5 industrial businesses be considered consumer and not --
6 or be considered non-consumer, excuse me -- and not
7 consumer. Thank you.

8 COMMISSIONER DOUGLAS: I would just like to
9 ask if staff would like to respond on the spot, or if
10 they'd like to follow-up on this question?

11 MR. RIDER: Well, I think it comes down to the
12 interpretation of the Federal Statute on Consumer and
13 Non-Consumer Products, which is cited in our
14 Regulations. And I think we need to take a closer look
15 at that before we respond.

16 MR. BECK: And just to clarify, we do not make
17 a distinction between what is consumer and non-consumer,
18 necessarily, it is the Department of Energy that makes
19 the distinction between what is consumer and non-
20 consumer, and we have to tier off of that because of
21 preemption purposes. As the Commission knows and the
22 Commission will hear, that DOE is proposing a Standard
23 for consumer battery chargers and not -- not -- non-
24 consumer chargers. So, again, as I think we'll discuss
25 later, DOE has not come out with a Notice of Proposed

1 Rulemaking which would actually propose the rule. We
2 believe that golf carts may be considered to be a
3 consumer product pursuant to DOE that will be further
4 fleshed out in the Notice of Proposed Rulemaking when it
5 comes out, so as Ken said, we will have to evaluate what
6 we see from DOE in terms of how it categorizes certain
7 products as consumer or non-consumer.

8 COMMISSIONER DOUGLAS: Thanks for that
9 response. You know, I just do want to commend Lester
10 Electric for the way that they have worked with us and
11 our staff because I recall more than one workshop where
12 we had some in-depth discussion and I know out of the
13 workshop follow-up, and it was very helpful.

14 COMMISSIONER PETERMAN: Yeah, and I would just
15 be curious if there are products that DOE would
16 categorize as both -- just following up on the comment
17 from Spencer about how there's a shared market.

18 MR. BECK: Again, I'm not sure how DOE is
19 going to plan to divide up golf carts, if at all. I
20 think -- the way it is defined in Federal law is that
21 it's a consumer product if to -- I don't remember the
22 language verbatim -- but if to a general extent, or to a
23 large extent, if it is distributed in commerce and sold
24 to consumers for personal use. So this is not something
25 that we need to get into too much because it's going to

1 be up to the DOE, but if DOE makes a decision that it
2 meets that criteria, if a certain threshold is reached
3 for who are the consumers of this particular product,
4 then I think that that might push it into being a
5 consumer product and lumping it all into consumer
6 products. But, again, that will depend on how DOE
7 decides to handle it.

8 CHAIR WEISENMILLER: Okay. Thank you.
9 Charlie Stephens, Northwest Energy Efficiency Alliance.

10 MR. STEPHENS: Chairman Weisenmiller,
11 Commissioner Douglas, Commissioner Peterman, good
12 afternoon. I'm here as the Senior Codes and Standards
13 Engineer from the Northwest Energy Efficiency Alliance.
14 We're a nonprofit in the Pacific Northwest that is
15 funded by over 130 electric utilities and the Bonneville
16 Power Administration to do market transformation work, a
17 significant fraction of which will involve Codes and
18 Standards. And we look at California frequently in our
19 work for examples of where we're going and what to do
20 next.

21 We strongly support the Commission's adoption
22 today of the battery charger system Regulations as
23 proposed in the current 15-day language. Given the size
24 of the savings and given the relatively low cost of the
25 investment required to achieve them, we think that it is

1 a winning proposal for Californians and their economy.

2 We have been at this quite a long time, since
3 Edison starting looking at battery charging systems, and
4 the Commission is about to consider the final step in a
5 market transformation here. As you've heard, these
6 products waste a considerable fraction of the energy
7 that they use, and I think the Commission has discovered
8 on several occasions, product-by-product, that this is
9 not unusual we've been going after wasted energy. The
10 travesty here is that this waste, a significant fraction
11 of it, is wasted while the product delivers nothing of
12 value to anyone. This is the worst kind of waste that
13 we can encounter, and I think it's a market failure that
14 needs to be addressed. These are just simply the latest
15 ones that have been investigated by the Commission, and
16 this Energy Efficiency machinery here in California that
17 is the envy of the rest of the country.

18 I won't repeat too many other comments, but I
19 will say, if the Commission adopts these Regulations
20 today, I will take those Regulations northward and I
21 will work with the other members of the Pacific Coast
22 Collaborative to enact those Regulations for the North
23 and other jurisdictions; this isn't the first time this
24 has happened, I managed to do that in Oregon and
25 Washington with some of the earlier Standards that

1 you've enacted, and for DVD players, Compact Audio,
2 External Power Supplies, and British Columbia's
3 Television Regulations went into effect this month. So
4 we would like to do that again and I pledge that I will
5 do that if you will enact these Regulations. I think
6 it's long past time when our economy can really afford
7 the luxury of significant energy use for no apparent
8 purpose, that many or most of the manufacturers of these
9 products have not yet invested the small amount that it
10 takes to achieve that energy efficiency, quite frankly,
11 is a testament to the kind of market failures that these
12 Regulations are meant to address.

13 My organization looks at one-third of the
14 energy efficiency savings that we'll achieve in our
15 region, 5,800 average megawatts by about 2,030 coming
16 from Standards like this one. And that's why I'm here
17 today, to strongly support the Commission's adoption of
18 these Standards, and I thank you for hearing me out
19 today.

20 CHAIR WEISENMILLER: Thank you for being here.
21 Henry Wong, IT Industry Council.

22 MR. WONG: Good afternoon, Commissioners. My
23 name is Henry Wong. I'm a Senior Power Technologist at
24 Intel. And I'm here on behalf of the IT Industry
25 Council. And the IT Industry Council happens to work

1 with a lot of agencies, both in D.C., as well as in
2 other regions around the world with regards to Energy
3 Efficiency Standards and basically Computing Standards
4 associated with these electronics.

5 I wanted to first comment about the wasted
6 power. Most of the advanced systems such as Notebooks,
7 cell phones, and other advanced electronics that we are
8 currently producing already shut down when they are
9 fully charged. This is really evident in most of the
10 products that you use currently, and I look at my
11 Notebook, it will tell you that it's done charging and
12 it will cease to go ahead and bleed more power off of
13 the wall for the purposes of battery charging. However,
14 as I noted last year, the test methods and the limits
15 inadvertently lumps non-battery functions as part of the
16 budget required for compliance to the used battery
17 charging specifications. Therefore, what occurs in the
18 industry that, instead of including multiple functions
19 into these devices, what the specifications really
20 advantage in these complex devices is the use of single
21 use systems, single function systems, therefore you can
22 reduce the wall plug energy and still comply. That has
23 an unintended consequence associated with proliferating
24 many more single use devices as opposed to working with
25 the industry and coming up with more smarter, multi-

1 function devices, so that you can consolidate the loads
2 and charge the battery for multiple functions.

3 I've already included these inputs in previous
4 hearings, so you can go back through those comments from
5 before, and our main goal there was to go ahead and see
6 if we could find a way to offer potential solutions and
7 limit changes to help mitigate these unintended
8 consequences. That is as much as I want to say about
9 the comment on waste power, per se.

10 There were other items that I've conferred
11 with my IT Industry Council brethren with regards to the
12 adoption of the amendments to the Regulations and
13 enacting the Regulations on battery charge devices. We
14 believe that the amendments are good, but remain
15 insufficient to mitigate the implications and the
16 challenges that we've noted to the Commission
17 previously. The IT industry does appreciate the
18 consideration for USB powered devices and chargers to
19 allow for the consolidation of these charging devices in
20 advance of these newer systems that are going to be
21 capable of using that USB cord to charge those greater
22 than 20 watt hour devices.

23 We also appreciate the consideration of
24 allowing the labeling scheme to be solely on the
25 packaging, as well as the accompanying documentation in

1 lieu of labeling the compliance on the product itself.

2 The IT industry was disappointed that the
3 Commission did not take into consideration using the
4 Energy Star Version 5 database to comprehend the impact
5 and the levels of these non-battery functions, despite
6 the age of data, the data is three to four-years-old,
7 but is very comprehensive compared to the limited
8 samples that were available in the Commission assessment
9 on these particular devices for this Regulation. We are
10 also disappointed in the lack of consideration to the
11 impact to the manufacturing margin's yield and
12 capabilities that would directly impact the consumer
13 cost of these components, as well as what we believe is
14 stalling the adoption of these more efficient devices.
15 Obviously, as these new devices enter the market, if
16 they're more expensive, there is a consumer tendency to
17 not go out and buy more expensive components just
18 because of the additional cost. Though the industry
19 understands that the time pressure associated with the
20 Regulations, we're disappointed that despite our offer
21 to help develop a revision to these test methods and
22 providing some limit -- relaxations -- for especially
23 the smaller battery power devices, that the Commission
24 elected not to go ahead and engage with the industry to
25 develop these test methods. We do hope that the

1 Commission and the industry remains open to working with
2 the Commission and its staff to describe and share and
3 review market data similar to what we've been doing with
4 the U.S. EPA and the Energy Star Program, so that we can
5 avoid or at least address these unintended consequences
6 as the Commission looks into scope enhancements on
7 computers and servers and set top boxes, as was noted
8 late last year.

9 Let me go ahead and give you a personal note
10 because I just returned from CES, which is occurring
11 currently. And I was amazed at the focus and the
12 technological advancements that my industry brethren
13 have been able to produce, both from an efficiency
14 standpoint, as well as this notion of combining a lot of
15 these functions to increase the productivity and the way
16 of life that we currently enjoy, and making them as
17 efficient as possible. The attention to efficiency was
18 outstanding across the entire floor and there are so
19 many products there. What I worry about, and what I
20 fear, is that as the industry goes ahead and attempts to
21 improve the productivity and reduce the effective energy
22 footprint for consumers and so forth, that Regulations
23 without addressing some of these unintended consequences
24 may stall that level of innovation. It would be a shame
25 if California could not participate in this

1 technological revolution. Thank you for your time.

2 CHAIR WEISENMILLER:

3 COMMISSIONER DOUGLAS: Thank you, Mr. Wong --
4 another regular participant in our workshops and our
5 process. I just wanted to ask staff to respond quickly
6 to the concern raised about the test method and the
7 extent to which the test method is or is not able to
8 account for multi-function devices within or as part of
9 the charger.

10 MR. RIDER: So the test method addresses non-
11 battery charger functions by requiring that those
12 additional functions be turned off, shut off, so that
13 way they are not measured and not included in the
14 requirements that we're proposing today; however, you've
15 been looking at laptops today and the energy consumed,
16 in the Energy Star database that Mr. Wong referenced,
17 even without -- even including those additional
18 functions in measurements, these devices comply with the
19 Regulations -- to a large extent, they comply with the
20 Regulations. So I do not believe that this is a major
21 concern and I believe it is an issue that the industry
22 can work through. At this time, we are preempted from
23 altering the test procedure. At one point, we were
24 working with Mr. Wong and looking at ways to alter the
25 test procedure; since that time, the U.S. DOE has

150

1 adopted a test procedure for consumer products and we no
2 longer can make any amendments to that test procedure.

3 COMMISSIONER PETERMAN: I had a follow-up
4 question for Mr. Wong. Starting from the position of 70
5 percent of products being in compliance, can you
6 elaborate on what you see as the impact on manufacturing
7 margins?

8 MR. WONG: Well, when I submitted the
9 calculations for test margin and so forth, that 70
10 percent number doesn't jive with my calculations. In
11 fact, they were not included as though somehow the
12 manufacturers were going to just absorb that. In
13 response to what Mr. Rider was indicating, yes, we are
14 as a back-up plan for most of the manufacturers, we are
15 considering adding in functions to try and disable these
16 non-battery charger functions. In some cases, it's
17 difficult for sure, and we have a number of people, and
18 I indicated as challenges -- they are challenges, it's
19 not that it's impossible to do, it's just unfortunate
20 that we have to spend engineering time to go ahead and
21 put in functions that really don't help the consumer
22 very much, just so we can isolate and comply with the
23 Regulations. And I understand that, given the
24 timeframes associated with what has happened in U.S. DOE
25 rulings and adoption of the test methods, that we can't

151

1 intercept it, and that's unfortunate.

2 COMMISSIONER PETERMAN: I need to clarify to
3 make sure I understand what you were talking about, so
4 I'm thinking here profit margins and you're talking
5 about something besides profit margins?

6 MR. WONG: It's not profit margins. When
7 we're talking about yield, although it might get
8 translated as profit margins, what ends up happening is
9 it's the cost of goods sold, right? And as a result,
10 what manufacturers will do is take that as cost of goods
11 manufactured, the yield loss, per se, and the further
12 down the assembly line that we're talking about, the
13 more expensive that loss is. Once you lose that
14 product, it basically adjusts the pricing of all of the
15 other products that can actually pass.

16 COMMISSIONER PETERMAN: How much more
17 expensive do you think this will make your products?

18 MR. WONG: I don't know, maybe about -- I'm
19 reluctant to guess, depending on the yield loss, it
20 could be 20 percent, 15 percent, something of that
21 nature, especially with the kind of losses that we're
22 looking at.

23 COMMISSIONER PETERMAN: Thank you. Does staff
24 want to comment at all on the cost, expectations of the
25 cost --

1 MR. RIDER: So -- and you can correct me if my
2 understanding is incorrect -- but you have a Standard
3 that you have to meet and the closer you are to that
4 Standard, your product is to that Standard, or how
5 tightly you are barely under that line, is going to
6 directly impact the cost that Mr. Wong was mentioning,
7 and so, you know, there's an abundance of ways to
8 improve the compliance with the Regulations, and if the
9 incremental cost was 20 percent, I think it would be
10 much cheaper to improve the components or software of
11 the device, rather than going through throwing away a
12 fifth of the products, or something along those lines.

13 MR. WONG: That's one of the reasons why we
14 are looking -- I mean, a lot of the manufacturers are
15 looking into that back-up plan, and looking at how to
16 inject new functions to disable everything but the
17 battery. But these are additional -- again, additional
18 features that normally the product would never want to
19 do, or have to do.

20 COMMISSIONER PETERMAN: Thank you.

21 CHAIR WEISENMILLER: Thank you. Jay Taylor,
22 Schneider Electric.

23 MR. TAYLOR: Commissioners, good afternoon.
24 Thanks for the opportunity to speak to you again. I've
25 worked with Henry and some of the other folks at the IT

1 Industry Council for about eight years and it's been an
2 interesting tour because I was around when you were
3 doing the EPS work, and then I was around during several
4 other ones, and I don't remember any of you all during
5 the EPS work, so I guess things change, and so now I'm
6 in a new job with Schneider Electric and I just want to
7 tell you thanks for letting me come up and talk with you
8 about this. Next slide, please.

9 So candidly, I'm unaware today when I look at
10 the dataset that was provided to me by the Commission,
11 I'm unaware of any UPS systems that really pass the
12 Regulations, there is one data point in the data that
13 indicates a pass. But what I've done is I've gone out
14 and taken a look at the market sector that indicates UPS
15 systems, and I've taken a look at my systems, I've taken
16 a look at competitive systems. Now, I don't want to
17 perpetrate that this is a complete examination, or an
18 exhaustive examination of the marketplace, I'm just
19 simply saying I have one data point in your data that
20 indicates one system passes, and I can't duplicate it.
21 I either can't duplicate it because there's really a
22 system out there that passes your requirements, there's
23 a system out there that has a proprietary architecture
24 that passes your requirements, or there's an error in
25 the way that it was measured. I don't know what the

1 three it is, but it's there. And that's the one that's
2 used as the baseline for representing what UPS systems
3 can actually do in the California marketplace.

4 So I've taken a look at what we have in
5 development, I've taken a look at what we have currently
6 in production, I've looked at competitive systems, and
7 I'm at a loss. I don't know where to take this. So I
8 basically stated this in the October testimony, given
9 the development cycle times and the way that we do
10 business inside of the industry, we have about a year to
11 get into compliance. I realize that we have been
12 working on this for probably on the order of about two
13 years, no one starts down the path of changing their
14 product until they know there's a fairly certain level
15 of change that's going to be required for them to
16 implement. Now, when did they believe that? Probably
17 in October which really gave the advance cycle time for
18 development to be about 15 months. So, given the
19 consumer UPS systems, about 15 months is insufficient
20 for the hundreds of skews which exist in the
21 marketplace. I don't know that it's a matter that we
22 can't get down there, I'm simply saying we don't today.
23 And I'm not saying that we can't do it, I'm saying that,
24 given 15 months, it's going to be a real tough nut to
25 crack with hundreds of systems in the marketplace. I'm

155

1 talking about not just Schneider's but the hundreds of
2 systems that exist with my competitors, as well.

3 UPS systems exist in the continuum, as Henry
4 was discussing, they don't do just battery charging, in
5 fact, two percent of the time, UPS systems do battery
6 charging and the rest of the time they're correcting
7 voltage sags, they're correcting aberrations in the
8 power that come through to the systems to protect the
9 systems, or they're constantly measuring systems to say,
10 "Do I need to jump here and save the day?" That's what
11 a UPS system really does is it saves the day. Next
12 slide.

13 So what we did was we put up some proposed
14 limits, where the proposed limits were, what the
15 measured values were that we came up with, and what we
16 were doing. We thought it was a really good idea that
17 the Commission narrowed the scope to include only VFD
18 types of UPS systems, because they were the systems that
19 purportedly come into the consumer cycle time and also
20 they are probably the most adaptable to the test
21 procedure that we have available today. These are the
22 results of a handful of the systems that I put up there.
23 Now, we do know, for instance, that there's also a
24 certain type of UPS which is a VFD, which is voltage and
25 frequency dependent, but that type of system that we

1 included inside of the Proposed Regulations, that
2 probably will never meet the intent of this Regulation
3 because it sits there closer to four watts than it sits
4 to the one watt limit that we've got with the current
5 rules. And so, fundamentally that system is going to
6 have to be withdrawn from the market and will end up
7 going to a system that's not covered by the Standards.
8 But all of the other systems I'm showing, the red line
9 indicates where the limit is, and all of the other
10 systems indicate what I've actually measured, those are,
11 by the way, APC systems that I've measured, so I'm not
12 representing any other competitive equipment.

13 So in the end, next slide, please, we proposed
14 in October, and we proposed before, that we really need
15 1.8 watts plus the battery size --adder -- in order to
16 meet the requirements for UPS systems, and that if you
17 want to include voltage regulating transformers, that
18 other style of UPS systems which fall into the VFD, you
19 would actually have to make it 3.8 watts. And the
20 reason is because it's doing things that are not
21 completely related, and you can't shut them off in order
22 to make a pure battery charger measurement, and that's
23 going to be true, and we've explained this also to the
24 DOE, and we've talked to the DOE; unfortunately we still
25 don't have the data that we've also supplied to -- we've

157

1 provided an additional lot of systems to the DOE so they
2 can go off and perform the measurements against the test
3 procedure and provide the results back, they're in their
4 quiet period. And that's the process that the Federal
5 Government uses. On the other hand, we turned around
6 and requested an extension of the compliance date for
7 consumer UPS systems to July 1st, 2014. Why? Because
8 we're looking at when could we get all of the systems in
9 the marketplace to that level in a design cycle. So
10 it's either we get a compliance from an adder, so to
11 speak, to the limit, or we need an extension of the
12 period of time so that, when we started back in October
13 to make the design changes, we can have adequate
14 coverage for the California marketplace with the
15 products that we serve the marketplace with. So it's
16 one of the ranges of opportunities we have here, it's
17 either a product, or it's a cycle time. Next page,
18 please.

19 So the next steps for us were the methodology
20 you use for compliance measurement will prove
21 challenging, we anticipate there's going to be a
22 substantial -- at least up front, if you measure UPS
23 systems, there's going to be a substantial number of
24 false failures in the cue, and we're going to be
25 spending a lot of time educating people on how do you

1 test a UPS system to comply with the requirements.
2 Because you can't just follow the test procedure and
3 magically come up with the answer, it fundamentally
4 won't work. The other short term thing is we'll work to
5 utilize the existing test procedure, which is what we're
6 doing right now, and document the additional steps
7 required in order to comply with that test procedure to
8 get into the range. But what we're asking for is one or
9 the other, we're either asking for a bump on the limit,
10 or we're asking for an extended cycle time. I've talked
11 to my competitors in the industry, no, we don't talk
12 about cost or any of the other antitrust things, but
13 what we do talk about is what the performance and
14 features are that are in these systems that deliver this
15 performance. And so my competitors are looking at me
16 going, "I don't know which -- that data point -- I don't
17 know what that represents either, it's not one of our
18 systems." So I've talked to quite a few people about
19 where this came from, and that's why I came back and
20 said I am concerned that the data point could either be
21 an error, or it could be a proprietary architecture, and
22 I don't know which it is. It also very well could be a
23 system that complies, but one out of a handful of
24 systems, less than 10 that comply with the marketplace,
25 and you're going to set a limit to enter the marketplace

1 around that compliance? It is a concern that we all
2 share because it's really really low. I also used to
3 take quality courses and Deming would call you, you
4 would really need to take a look at the underlying
5 statistics before you would go off and implement that.
6 But long term, we also proposed to the IEC that they
7 consider a battery charger spec, or a battery charger
8 Standard, for UPS systems. We already have a efficiency
9 standard which has been developed, the IEC 62040, for
10 UPS systems, under which the Energy Star for UPS systems
11 will be using that as a criteria, or as a methodology
12 for measuring, and then we're proposing the same thing
13 for battery chargers for UPS systems -- not available in
14 time for this Regulation, but we're proposing into the
15 future where this goes. None of us don't believe in the
16 efficiency thing, we all support the efficiency movement
17 forward in the California Regs; what we're saying is
18 that there are some things which work and some things
19 which don't, and we're looking for a little help on
20 that, that's all. And thank you very much for the
21 opportunity.

22 CHAIR WEISENMILLER: Thanks for being here.
23 Commissioners, any questions or comments?

24 COMMISSIONER DOUGLAS: I just thought it would
25 be helpful if we ask staff to discuss their review of

1 the UPS systems and any issues that you've seen with
2 them.

3 MR. LEAON: Before Ken gets into the technical
4 response, I would just like to say, while I sympathize
5 with the predicament, again, I think manufacturers have
6 known this is coming for years now and we also have to
7 take into account that, by providing time extensions,
8 we're going to be allowing inefficient battery charger
9 systems to continue to enter the California market,
10 continue to waste energy, and I think we need to keep
11 the big picture in mind here, as well.

12 COMMISSIONER DOUGLAS: Well, if I remember
13 correctly, we've been working on these Standards for
14 four years, but at the same time, you know, that we have
15 made changes in the Standards, in the proposal over the
16 four years. Let me ask for Ken or others on the
17 technical staff to give us their thoughts.

18 MR. RIDER: Yeah, sure. Let me start by
19 addressing the technical basis for the UPS proposal. We
20 received the initial proposal from the IOUs in the case
21 study and we have also reviewed since that time the U.S.
22 DOE's technical documents, and in that document they
23 perform some tear downs of UPS systems and so did Ecova
24 under contract of the IOUs and all that information and
25 background was used to form the proposed Standards that

1 we're putting forward today. In terms of the testing of
2 these items, I just wanted to add that, again, as I
3 mentioned to the best ability of the manufacturer, you
4 turn off the additional functions, but in this case,
5 without getting too much into the test procedure, you
6 also do not -- you're not allowed to connect it to any
7 external products. So you have a UPS system, but it
8 wouldn't be connected to the computer, or whatever that
9 it is meant to back-up. So we're really looking at just
10 regulating the maintenance mode, the amount of energy
11 used while the battery is full, and this device is not
12 connected to an end-use product. And so, I mean, that I
13 think adds to the feasibility of this ask because a lot
14 of the functions that these provide are functions that
15 occur while connected to an end-use load, or could
16 detect the difference between being connected to an end-
17 use load or not. And then that has worked because they
18 do not currently do that, but it does speak to the
19 feasibility because we're not -- this is an unusual test
20 situation and there are ways that we can get to the
21 actual maintenance of the battery charger, and maybe
22 around a lot of the additional functionalities that may
23 be measured to make it difficult for these products to
24 comply.

25 MR. TAYLOR: So there lies where we disagree

162

1 and agree.

2 MR. RIDER: Yeah.

3 COMMISSIONER PETERMAN: I would just ask a
4 clarifying question, not being intimately familiar with
5 this particular issue, is there some data or information
6 you can share with the gentleman regarding the source of
7 that data point that was brought up in the beginning?
8 Could you just address that specific point?

9 MR. RIDER: Maybe when the IOUs come up to the
10 podium, since they did that, we don't actually -- I
11 didn't have a laboratory and test the product, so maybe
12 they can speak to that and, in terms of the DOE data, we
13 also -- I mean, all of this is in the record, but I
14 would like to give them an opportunity if they want --

15 CHAIR WEISENMILLER: As we go through, we have
16 a lot of speakers, but certainly we will ask each of the
17 utilities and Ecova to address this specific question.

18 MR. TAYLOR: Fair enough.

19 CHAIR WEISENMILLER: So thank you. Next
20 speaker is Sabrina Larson, Environment California. Is
21 Sabrina in the room or on the phone? Okay. The next
22 speaker is Kevin Washington, AHAM.

23 MR. WASHINGTON: Good -- I prepared to say
24 good morning, we're now well into the afternoon. But
25 it's still Happy New Year, and I wish that to all of

1 you, Mr. Chair, Commissioners, both, and a special
2 congratulations to you, Commissioner Peterman, again on
3 your confirmation hearing yesterday.

4 It's good to be back yet again talking about
5 energy efficiency in California, representing the
6 Association of Home Appliance Manufacturers. And we
7 enjoy recognizing California taking its leadership role
8 in this conversation, helping to foster innovations in
9 and amongst manufacturers that help reach the
10 marketplace and serve the customer bases that my members
11 like to reach. We appreciate that California lives on
12 the cutting edge, not just with this issue, but many
13 issues, Smart Grid, Commissioner Douglas, you and I have
14 spent good conversation time on innovations like that,
15 and those are certainly policies that we enjoy
16 supporting.

17 Working on that cutting edge, as much as we
18 enjoy it, one of the things that we would wish against
19 is that a cutting edge wouldn't be so sharp as to cause
20 injury, but that's actually what we fear this rulemaking
21 actually does. After some time, and I agree with the
22 comments Mr. Leao has made to a degree, after some time
23 of working on this rulemaking, officially first
24 introduced as the 45-day language in October, AHAM has
25 certainly been involved and has appreciated the

1 opportunities for comments and interaction with staff,
2 both in the written comments, the workshops, and offline
3 and individual conversations that have gone on, indeed.
4 However, we still feel very strongly, as has been
5 submitted in the cumulative 20 pages or so of commentary
6 filed since November, that this rule causes harm to the
7 members who make products in my association representing
8 home appliances that consumers buy here in the state.

9 This rule is simply -- and I could go on quite
10 a bit chapter and verse in addition to the 20 pages that
11 are already before you in the docket, but quite simply
12 this rule is just not ready. The rule has been at once
13 rushed, and where it hasn't been rushed, it's been
14 insular. Now, it might seem quite a thing to say that
15 we have been working since October and, in effect,
16 perhaps even three or four years actually for AHAM's
17 records, we've been involved in this battery charger
18 conversation and EPS conversation since the early
19 2000's, so indeed, as I said, I agree with Mr. Leao to
20 a degree that certainly companies have known that this
21 is coming, but while the conversation goes on and one
22 doesn't know what the Standard is that is going to set
23 the conversation, it might be a bit difficult to
24 actually comply with what would be seen as a moving
25 target, not set steady until last October, whereupon

1 AHAM made comments observing that the rule had a couple
2 of flaws. We were just talking about the innovation to
3 potentially turn the battery chargers off, what
4 potentially Mr. Rider alluded to earlier of using --
5 some discussion that we might use switch technology.
6 One of the innovations that some of our products
7 actually uses is offering an indicator, an LED
8 indicator, that would allow consumers to know when the
9 product is in fact fully charged, so they can in fact
10 disconnect the product, it stops charging. Unplug it
11 from the wall, we're done until such time as it needs to
12 be recharged.

13 Mr. Rider is correct that California is
14 currently preempted from deviating from the Federal test
15 procedure, which does not allow for the testing
16 including additional modalities such as an LED indicator
17 light. However, AHAM had advocated for the CEC
18 providing a credit for that functionality, that
19 recommendation was summarily dismissed. AHAM opines in
20 the 15-day language that there is an unnecessary and, to
21 us, unusual and not yet -- we couldn't quite understand
22 the distinction between the USB and non-USB battery
23 charger distinction, we've heard that explanation today,
24 but the explanation we hear is that the distinction is
25 made for products that actually don't even yet exist on

1 the market, and so there isn't an impact to the rule
2 because the energy savings that the proposal would set
3 forward will not be impacted by that change because
4 these products have not yet come to market, and I
5 actually -- unless I missed something, I don't think I
6 did -- I haven't actually heard a forecast for when
7 those products are in fact expected to come on to
8 market. In the mean time, non-USB chargers such as
9 those made by my members and the products that they sell
10 are impacted by what is still a shorter runway, if you
11 will, for the effective date of February 2013, to
12 distinction of the USB chargers, which now have the
13 effective date of January 2014.

14 We would make the recommendation and have
15 before that we need more time for the retooling, for the
16 remanufacture, redesign, and various steps that are
17 involved in that process, to bring newly compliant
18 products to market, again, which has fallen on deaf
19 ears. We have offered that the current proposal
20 overstates the energy savings, this is something that is
21 demonstrated as submitted in our November and December
22 comments in a few ways, things that are as simple as,
23 well, math miscalculations, all the way to assuming
24 products that under a DOE rubric would no longer be
25 countable under the energy savings that the CEC would

1 purport to enjoy. There is much more again that could
2 be said, and I want to be, in the interest of time and
3 the attention which we greatly appreciate of the
4 Commissioners, be brief then as I come to a close to
5 discuss that this rulemaking, we feel, as I said, it
6 lacks, but the rulemaking also will hurt my membership
7 in the sense that our members will be faced with choices
8 if this rulemaking is approved as it currently stands:
9 provide less product, potentially impact their products
10 by increasing their costs, potentially increase the cost
11 or diminish the product choice because they have to
12 consider incorporating proprietary technology that they
13 don't themselves have and must acquire, which threatens
14 to limit the supply that would be available to
15 consumers. Ultimately, we at AHAM feel, while we have
16 various of our misgivings up to and including issues
17 with responsiveness to our commentary, we ultimately
18 feel that with the diligence and the commitment to
19 energy efficiency that the Energy Commission has clearly
20 demonstrated, you as the Commissioners in charge with
21 running this institution, with this agency, in executing
22 its objectives, you can do better. You can have a
23 better reflection of your commitment than this rule in
24 its current form. And I believe it's in that spirit
25 that the Legislature might have sent its letter recently

1 asking for the conversation to continue to the extent
2 that the effective date of this rule be extended for an
3 additional 18 months for battery charger products that
4 are represented by my industry. We would echo that and
5 urge that, in fact, you use this opportunity and this
6 moment to consider amending the current proposal for
7 that reflection, and we would hope that you would take
8 that under serious consideration. I thank you for your
9 time and attention and I'm happy to, to the extent I
10 can, respond to any questions you might have.

11 CHAIR WEISENMILLER: We certainly thank you
12 for being here. Commissioners, any questions?

13 COMMISSIONER PETERMAN: No direct questions at
14 this time. Thank you.

15 CHAIR WEISENMILLER: Thank you again.

16 MR. WASHINGTON: Thank you, all.

17 CHAIR WEISENMILLER: Pierre DelForge, NRDC.

18 MR. DELFORGE: Mr. Chairman, Commissioners,
19 thank you for the opportunity to comment here today. On
20 behalf of NRDC's 100,000 members in California, we are
21 here today to express strong support for this battery
22 charger Standard and to urge the Commission to adopt it
23 today.

24 The battery powered products are becoming
25 increasingly ubiquitous in California, in our homes, in

1 our businesses. We all love the convenience, I
2 certainly do. The problem is that many of them use a
3 lot more electricity to charge the battery, that isn't
4 necessary, and they still use outdated and inefficient
5 charging systems. We've heard from CEC staff early on
6 that, on average, they waste two-thirds of the power
7 which doesn't reach the product, and in some of the
8 worst cases, the worst products that we've seen, it's
9 over 90 percent of the energy which is wasted without
10 reaching the product, and we clearly think that we can
11 do better than that.

12 The Standard, as proposed, will have three
13 benefits, again, I'm going to go quickly, it was shown
14 in the staff presentation, it will allow more efficient
15 charging, it will ensure it no longer has much waste
16 when maintaining a full battery, and it will ensure the
17 product doesn't waste energy unnecessarily when the
18 battery is not connected.

19 The evidence on the record shows that the
20 standard is feasible with off-the-shelf, inexpensive
21 components, and it's extremely cost-effective. We just
22 want to highlight the fact that, for every cent of
23 additional cost to make the products more efficient,
24 consumers will save seven cents of reduced electricity
25 cost over the life of the product, which is very cost-

1 effective by any standard.

2 The other number which is interesting to note
3 is that the cost of the energy saved is around between 1
4 and 1.3 cents per kilowatt hour, which is extremely
5 cost-effective and compares to -- is one of the most
6 cost-effective opportunities to save energy which is
7 available, and if we are serious about reaching and
8 achieving a clean energy and low carbon economy, this is
9 the sort of opportunity that we cannot ignore and pass
10 on.

11 The benefits speak for themselves. Avoiding
12 the need for a 250 megawatt power plant, the annual
13 electricity use of the older households in a city the
14 size of San Jose, over one million tons of CO₂ emissions
15 avoided per year, and I want to highlight again the
16 number which has been quoted already of over \$300
17 million savings for each year of sales over the life of
18 the product. This savings would be reinvested in the
19 California economy, stimulating local economic activity
20 and jobs.

21 The last two points I would like to address
22 are, 1) the process that CEC has followed. We've been
23 involved in that process since the beginning in October
24 2010, we've participated in numerous discussions with
25 CEC staff and industry, we feel that CEC has been

1 extremely responsive to the legitimate concerns that
2 were raised by stakeholders, and they have amended the
3 proposal accordingly and, we feel, sufficiently to be
4 able to meet the Standard within the required timeframes
5 today. We don't believe that this will hurt innovation;
6 on the contrary, it's going to ensure that innovation
7 happens by taking into account efficiency requirements.

8 The last point I want to make is to address
9 why it is so important for California to go ahead now
10 while the DOE is developing a Federal Standard in
11 parallel. First, I think the earliest the DOE Standard
12 could go into effect would be 18 months after the CEC
13 and, you know, they haven't released a NOPA yet, so it's
14 likely going to be later than this. In the mean time,
15 CEC has an opportunity to influence the DOE process by
16 adopting the Standard today before the NOPA is released,
17 so that the DOE Standard has the same level, an
18 equivalent level of stringency as the CEC proposal, and
19 so that Californians keep the same level of savings as
20 they would with the CEC Standard once the California is
21 preempted.

22 Also, in the mean time, I think it's important
23 to lock in the savings so that the products just sold
24 during that interim period, which will continue to be
25 used for many years in homes and businesses in

1 California, don't waste unnecessary energy.

2 So in conclusion, I just want to commend the
3 CEC for conducting this proceeding in such a transparent
4 and flexible manner, and I would urge the CEC to adopt
5 the Standard without delay. Thank you. And I'm happy
6 to answer any questions.

7 CHAIR WEISENMILLER: Thank you. No questions?
8 Thanks again for being here. Ron Gorman, Sempra
9 Utilities.

10 MR. GORMAN: Thank you, Chairman and
11 Commissioner -- Commissioners, I'm sorry. I am a
12 Program Manager for energy efficiency programs Codes and
13 Cycles for the Sempra Utilities, San Diego Gas and
14 Electric, and Southern California Gas Company.

15 Sempra supports the California Energy
16 Commission's proposed battery system Standards. This
17 Standard is an important next step to address the
18 Battery Charger System efficiency of hundreds of plug
19 load products. The energy savings opportunity for all
20 chargers is nearly one power plant worth of energy. The
21 net present value of consumer battery charger energy
22 savings from the first year of sales alone is more than
23 \$250 million. Additionally, the measure supports the
24 California Long Term Energy Efficiency Strategic Plan,
25 which is important. Thank you very much.

1 CHAIR WEISENMILLER: Thank you. Randall Higa,
2 Southern California Edison.

3 MR. HIGA: Thank you, Mr. Chairman,
4 Commissioners. My name is Randall Higa from Southern
5 California Edison Company. I also manage the Codes and
6 Standards Program for SCE. First, I want to thank the
7 CEC staff who worked hard and long and had a lot of
8 patience in getting this through, so I want to applaud
9 them.

10 Most of what I want to say has already been
11 said, so I'm just going to keep this short and say that
12 Southern California Edison supports the Commission's
13 adoption of this Battery Charger Standard. We believe
14 that this Standard will go a long way to address and
15 cost-effectively mitigate our customers' growing plug
16 loads. These Standards do support many of California's
17 policies such as the AB 32 Greenhouse Gas Mitigation,
18 Zero Net Energy, and as Ron mentioned, the California
19 Long Term Energy Efficiency Strategic Plan. So, with
20 that, thank you for consideration on this matter.

21 CHAIR WEISENMILLER: Thank you.
22 Commissioners?

23 COMMISSIONER PETERMAN: Are you the utility
24 person I should ask my follow-up question, which we
25 deferred from earlier about data sources, in particular

1 to the gentleman's question about UPS?

2 MR. HIGA: I'm going to have to defer to our
3 technical consultants on that.

4 COMMISSIONER PETERMAN: Okay, well I'll assume
5 that whoever can answer that question, when they come
6 up, they will do so, so I won't ask everyone from your
7 utility. Thank you.

8 MR. HIGA: Thank you.

9 CHAIR WEISENMILLER: Kelly Jensen, Consumer
10 Electronics Association.

11 MR. JENSEN: Mr. Chair and members, Kelly
12 Jensen representing the Consumer Electronics
13 Association. I want to first of all thank Chairwoman --
14 or Chair Douglas for her kind time over the last few
15 months and meeting with members of industry on this
16 important rulemaking.

17 We remain very concerned and echo the comments
18 of our industry partners going forward on this, we
19 believe there needs to be more care and closer focus on
20 implementation issues. I would say there -- it is
21 unfortunate that you scheduled this hearing during the
22 CES Conference, where many of the industries that are
23 going to be affected by the Regulation are there
24 showcasing their new products. It's unfortunate they're
25 not able to be here to testify, but again, we look

175

1 forward to continuing to work with the Commission going
2 forward. Thank you.

3 COMMISSIONER DOUGLAS: If I could, not a
4 question, just a brief comment. I have, as referenced,
5 had a number of meetings with a number of manufacturers
6 and CEA, and appreciated their engagement in the
7 process. I just wanted to note that one of the reasons
8 why we're hearing this item today and not back in
9 November of last year is that we have twice in these
10 last couple of months extended deadlines for comment due
11 to, of course, Thanksgiving and the Christmas, New Year
12 holiday period, and issued 15-day language to make a few
13 additional clean-up measures. So it's an unfortunate
14 coincidence. I was honored to have been invited to the
15 event in Las Vegas and, at another time I would sure
16 like to accept that invitation and go to the event, it
17 didn't work out this time. Thank you.

18 CHAIR WEISENMILLER: I was just going to --
19 obviously, I appreciate the opportunity to meet with
20 your members when you were in Sacramento last summer and
21 talk about these issues.

22 COMMISSIONER PETERMAN: I guess I'll also add
23 that I haven't had the opportunity to meet with the
24 manufacturers and I don't work on energy efficiency at
25 the Commission, and so we appreciate the opportunity to

1 engage with you.

2 CHAIR WEISENMILLER: Okay, Kathy Van Osten,
3 Tech America.

4 MS. VAN OSTEN: Hi, Mr. Chair, members. Thank
5 you for the opportunity to present to you today. I'm
6 here on behalf of Tech America, which is an association
7 of about 1,200 information technology, biotechnology
8 companies, small, medium and large, globally. So while
9 Tech America is headquartered in D.C., I represent their
10 interests out here, and I know that you've seen some of
11 our representatives over the years through this process,
12 so... I just wanted to highlight a couple of things. I
13 was pleased to hear your staff's comments with respect
14 to the inductive chargers, or the loosely-coupled
15 inductive charging systems. It appears from what I've
16 heard that it's not the intent to include those, that
17 you're focusing on the tight coupled-inductive charging
18 systems. With that said, and I understand you're right
19 at the finish line, so I totally get that, I've heard
20 you on that, but that would seem to be, if that is in
21 fact an item that is not included, perhaps just some
22 clarification that might be non-substantive and may not
23 trigger that 15-day rule, and I would certainly
24 encourage you to consider that, that would be very
25 helpful.

1 With respect to the timeline, you've heard
2 before it's a complicated process, I appreciate the fact
3 that you do have a small business exemption for some of
4 these products. We do have members who have products
5 where, while some of the elements may be off-the-shelf,
6 you have design processes that you have to go through,
7 you just can't pull these things together, you have
8 supply chains that you have to deal with and provide
9 orders to. So one year may work for some products, one
10 year, I would argue, is probably very difficult to meet
11 for most of the 30 percent of the products that you're
12 addressing today, with the other 70 percent apparently
13 in compliance. So that is a significant concern. I
14 understand you're not looking to delay adoption, but we
15 do want to raise that as a concern.

16 We would like to see some clarification with
17 respect to network back-up batteries. We know that the
18 intent is to exempt these from these rules, again, if
19 that is the intent, if that is the directive that staff
20 has, or has indicated, it would just -- some
21 clarification would be non-substantive and we would
22 certainly request that clarification. While the
23 Commissioners and staff may view this as somewhat
24 clearer, the problem is that we have attorneys in-house,
25 as well as other folks that might look for opportunities

1 to challenge that. So it would seem clarification, if
2 it's not substantive, might be an easy fix to address
3 that.

4 The labeling, while we do appreciate, I know
5 that Tech America staff has worked with the CEC, we
6 appreciate the changes that have been made in labeling,
7 the clients would like to see just a further adjustment
8 on that where that labeling might be included either
9 electronically, or in the manual. I've addressed the
10 implementation timeline. We would love to see that
11 pushed back to February 14 simply for the -- just for
12 the substantive design development, supply chain issues
13 that most of these folks are going to face.

14 And then I'm going to get into something
15 technical, so I'm going to put my glasses back on.
16 There is an efficiency formula in here that many of our
17 clients believe are too strict for mobile computing
18 devices, and we would -- we believe that there is a
19 reasonable alternative that might provide a better
20 balance in this, and would request, again, noting that
21 we're at the finish line, we would request that this be
22 adjusted to increase the multiplier from 1.6 to 1.85.
23 This would address many of the concerns that a lot of
24 our member companies would have, so with that, we do
25 continue to look forward to working with your staff as

1 you consider scoping and enforcement mechanisms. So we
2 appreciate the opportunity.

3 COMMISSIONER DOUGLAS: I just wanted to ask
4 briefly if staff could respond to the concern about the
5 network back-up batteries and loosely-coupled chargers.

6 MR. RIDER: Okay, I'll respond in that order.
7 So, for the network equipment, and this is actually an
8 area that we worked with APC and particularly with Jay
9 Taylor, APC submitted a comment that requested that we
10 exempt these really critical type of back-up systems
11 that would be used on very critical network equipment
12 and servers, and these are kind of like the larger high-
13 end UPS systems, and it was based on -- and they're one
14 of the major manufacturers of those systems -- and so,
15 on the basis of the APC comment, we believe that a lot
16 of these type of equipments would be exempted under the
17 language we included in the scope of the regulations as
18 proposed today.

19 COMMISSIONER DOUGLAS: And what about the
20 loosely-coupled inductive chargers?

21 MR. RIDER: For the loosely-coupled chargers,
22 as Mike mentioned, they are not covered as they are sold
23 in the market today as after-market products. They do
24 not meet the definition of a battery charger system as
25 we've written them in the Regulations today, and

1 therefore would not be covered.

2 COMMISSIONER DOUGLAS: If a company has a
3 concern because they hear us say this, and yet they
4 wonder how to prove that that's what we think to, you
5 know, their attorneys in Washington, and you know, being
6 an attorney, I might occasionally have caused someone
7 grief in that way, too, by asking someone to show me
8 exactly why this is the case, you know, what would we
9 do? Would we maybe write them a letter if they
10 requested a letter and post that on the website? Or,
11 you know, what might we do to make it crystal clear for
12 somebody who wants clarity?

13 MR. RIDER: I'm going to respond and then let
14 Dennis elaborate. Well, I'll just let Dennis go.

15 MR. BECK: Well, one thing that we could do is
16 have FAQs on the website that could address those
17 questions; of course, we have to be mindful of
18 underground regulations and not running afoul of the APA
19 in that regard. But certainly we're in a better
20 position to tell people when they have an actual
21 product, to say this does or does not comply. Where we
22 run into trouble is when someone has a theoretical or a
23 hypothetical product and they want to know whether that
24 applies. It makes it difficult to give an opinion
25 because sometimes all of the factors are not given to us

181

1 when we render the opinion, and then it gets relied on.
2 So we do -- our certification staff interprets that all
3 the time, but in terms of working with attorneys and
4 trying to have something published, as I said, I think
5 we can do FAQs or something like that on the website
6 that would help in that regard.

7 MR. RIDER: And additionally, we will respond
8 to all the comments in the record in that sort of
9 document, and it's my understanding that that can be
10 used in the court of law to interpret the Regulations as
11 adopted. And you can correct me if I'm --

12 MR. BECK: Well, it certainly would act as
13 clarification in the public record as to whether -- or
14 what the extent is of any particular category.

15 COMMISSIONER PETERMAN: Can staff comment on
16 the request to allow labeling to be electronic or in the
17 manual?

18 MR. RIDER: So the Proposed Regulations right
19 now include a little bit of -- labels in the manual as a
20 permanent record for consumers who buy the product. If
21 the labeling was included in the packaging, which you
22 throw away, in terms of labeling electronically, the
23 greatest value of this label is to retailers, to
24 determine compliance and in a warehouse situation, or a
25 store shelf situation, it is much too difficult to turn

1 on the device and determine -- and get to the menu or
2 the client's menu, or whatever, to determine compliance.
3 So that's why we kind of stuck with on the product, or
4 on the package label.

5 CHAIR WEISENMILLER: Thank you. Mike Robson,
6 Qualcomm.

7 MR. ROBSON: Hi, my name is Mike Robson and I
8 am representing Qualcomm today. Qualcomm is a wireless
9 technology industry pioneer based here in California and
10 their concern really was the topic you just discussed on
11 the loosely-coupled charging systems, and so in the
12 interest of time, I don't think I need to repeat their
13 concern other than that. Anything you can do to clarify
14 the intent in the Regulations would be appreciated. And
15 thank you.

16 CHAIR WEISENMILLER: Thank you for being here.
17 Valerie Winn, PG&E.

18 MS. WINN: Good afternoon, Chair and
19 Commissioners. First, I wanted to let Commissioner
20 Peterman know that Suzanne from Ecova will be able to
21 respond to her technical question. I would have sent
22 her an email, but I didn't charge my Blackberry enough
23 this morning.

24 CHAIR WEISENMILLER: Not even an efficient
25 charger?

1 MS. WINN: Exactly. So I did --

2 CHAIR WEISENMILLER: It would have been SMUD
3 power if she used the Energy Commission's.

4 MS. WINN: So I just wanted to make a few
5 brief comments this afternoon. As most people are
6 aware, PG&E is a very strong supporter of Codes and
7 Standards, and we really see them as a vital tool for
8 helping California achieve its clean energy future. You
9 know, the battery chargers that you're considering
10 adopting today are, you know, a very cost-effective way
11 to reduce energy consumption, and to reduce consumer
12 cost, and to reduce greenhouse gas emissions. And so,
13 as I've noted, we support adoption of the charger
14 Standards as they've been proposed by the CEC.

15 And, you know, after five years of a lot of
16 research, a lot of stakeholder meetings, and a lot of
17 discussions, and a lot of collaboration among
18 stakeholders, we feel it's really time to, you know,
19 let's get started, let's start getting some of these
20 benefits for customers. And, you know, everyone will
21 always have some concerns, but let's get started and
22 start accomplishing and capturing these savings. So we
23 look forward to working with people on future Codes and
24 Standards, and thank you for your work on this.

25 CHAIR WEISENMILLER: Thank you. I certainly

1 thank you for your help. I thank all of the utilities
2 for the help on helping us develop the technical
3 standards. Suzanne Porter, Ecova. I understand you
4 have an answer for Carla.

5 MS. FOSTER-PORTER: Good afternoon. Suzanne
6 Foster-Porter, Ecova. I'm a Technical Consultant to the
7 IOUs Statewide Code and Standards Team. I'm happy to
8 start by answering your question, Commissioner Peterman,
9 if you would go ahead and --

10 COMMISSIONER PETERMAN: Well, I was more
11 trying to make sure that the gentleman's question was
12 answered, so specifically, and I don't recall your name,
13 sir.

14 MS. FOSTER-PORTER: The specific question was
15 around the data point associated with UPSs --

16 COMMISSIONER PETERMAN: Okay, electric --

17 MS. FOSTER-PORTER: -- that was shown in a
18 dataset, that was publicly available, I believe from the
19 IOUs. Is that correct, the question? Okay. I'd like
20 to speak to the conclusions that were made by the IOU
21 technical team on why the -- on the cost-effectiveness
22 of UPS systems, generally. This was based on two pieces
23 of research, the first one was by measuring systems
24 directly and not opening up the box or taking them
25 apart, and this is what the gentleman, Jay from APC,

1 specifically focused on. And we did observe when we did
2 these measurements that there is a relatively low
3 compliance rate in the same way that APC did. Our
4 additional market research showed that part of the
5 reason for this is because a lot of these small standby
6 UPS topologies that are the focus of this regulation
7 have not had any market incentive to increase their
8 efficiency, or lower their consumption in low power
9 modes; although UPSs are subject to energy efficiency
10 focus once they get quite large as part of data centers,
11 or other industrial-type applications, these small, more
12 consumer focused applications haven't really had that
13 requirement in any way.

14 From a technical perspective, the other part
15 of research that we did was to actually open up the
16 boxes and do an engineering analysis on these products.
17 When we opened them up, we found that the extra
18 functions that we observed in the products were more
19 limited than in more complex UPS systems. What we found
20 were USP interfaces, RS232 interfaces, these are both
21 communication interfaces, and LED status interface that
22 says basically with lights what the status of the UPS
23 is, as well as building wiring fault detection
24 circuitry. Right now, none of these functions are able
25 -- are turned off, they're sort of on all the time,

1 regardless of whether or not those interfaces are being
2 used. And the LEDs are not necessarily controlled with
3 an efficient controller, they're a user-resistor to
4 regulate their current as opposed to other silicon
5 technologies, making the LEDs use more power than really
6 required.

7 At a high level, the on/off switch, an on/off
8 switch that controls the output of the UPS can also be
9 used to shut off these extra communication functions.
10 The building wiring fault detection circuitry uses a
11 very small amount of power that is easily meetable
12 within the Standards required. As a reminder, these are
13 only subject to the battery maintenance portion of the
14 no-load, and so have a slightly higher target than many
15 of the other products because the no-load component is
16 not measured. So that's how we reached our conclusion,
17 was both through the data, but also through the
18 engineering analysis. And we encountered this for a few
19 product categories other than UPSs. Some product
20 categories have relatively high compliance, others, the
21 transferable technology is going to be more widespread
22 as a result of the Standard, rather -- where it's only
23 found in narrow products right now, narrower number of
24 products. Does that help answer the question?

25 COMMISSIONER PETERMAN: Yes, thank you. That

187

1 was worth the wait.

2 MS. FOSTER-PORTER: Okay, sorry if it was too
3 detailed. The only other thing I'd like to state today
4 is we've heard comments from a number of stakeholders
5 related to the 12-month compliance timeframe, and the
6 IOU Technical Team did submit comments in the March 3rd
7 docket related to concerns around the 12-month time
8 frame. Our research concluded that the 12-month
9 timeline is feasible for a number of reasons. I want to
10 note that removing the power factor requirement for
11 consumer chargers, which was done early in the process,
12 significantly eases the burden associated with redesign,
13 it is one of the only parameters that actually made
14 efficiency harder to achieve. Now, many of the things
15 that are done to improve the efficiency of a battery
16 charger actually improve both metrics, including
17 improving the efficiency of the power supply, reducing
18 the fixed losses, and improving charge control.

19 In addition, we've heard some concerns about
20 the design cycles. I'd like to emphasize that many of
21 these products, although there may be many skews for a
22 particular manufacturer, many of the topologies that we
23 observed across a product range are very very similar,
24 so if you have a standby topology for a UPS, or a
25 topology that is typically used to charge a shaver or an

1 electric toothbrush, what we find is that manufacturers,
2 in order to reduce costs, have a very similar topology
3 with small tweaks across a wide range of product types.
4 This makes redesign also very -- a lot more
5 straightforward because once redesign is achieved for
6 one particular topology, then it's a tweak across all
7 the different associated topologies for an entire
8 product line.

9 The second thing is, or excuse me, the third
10 thing is that consumer products are regularly redesigned
11 to encourage consumer upgrade and distinguish product in
12 the market. Circuit design and board design can be
13 absorbed in regular OEM schedules for these consumer
14 products. The other thing I'd like to note that we made
15 note of in our March 3rd comments is that product
16 molding changes are not required for all the redesigns
17 that we looked into through our research. The
18 components that are more efficient are small and fit
19 inside existing circuit board space, often taking up
20 less space than the less efficient components. The
21 mark-up on these extra components was applied in the
22 analysis. The mark-up associated with that is meant to
23 recover a lot of the cost associated with dealing with
24 design schedules and additional supplier chain issues.

25 Lastly, there's been -- we'd also like to say

1 we did a full investigation of the UL process associated
2 with recertification of products by skew number. What
3 we learned is that full safety testing is not always
4 required when small changes are made to the design. For
5 example, in our conversations with UL, we learned that
6 using a new external power supply, which is one of the
7 design changes that can achieve compliance for some
8 products, does not require recertification unless the
9 EPS interacts directly with the battery charger
10 circuitry. Also, using new battery charger circuitry,
11 you're only required to retest for safety if you're
12 outside of the standard range specified by the battery
13 manufacturer. And this testing is less costly and takes
14 less time.

15 In addition, you all let us know that they
16 have a large capacity to be able to accept a number of
17 manufacturers testing at once because of their
18 international facilities both here in the U.S. and in
19 Asia, where many of these products are designed and
20 manufactured. With all of this research, we conclude
21 that the 12-month time frame is feasible and it's cost-
22 effective with the costs that we represented in the IOU
23 case report and comments since that time. Thank you for
24 the opportunity to comment.

25 CHAIR WEISENMILLER: Thank you.

1 MS. FOSTER-PORTER: Any questions?

2 CHAIR WEISENMILLER: Commissioners, any other
3 questions?

4 MS. FOSTER-PORTER: Okay.

5 CHAIR WEISENMILLER: Thank you. The next
6 speaker, I believe Ted Harris, Wireless Association.

7 MR. HARRIS: Thank you, Chairman, members of
8 the Commission. I'm Ted Harris, a principal at
9 California Strategies, on behalf of the Wireless
10 Association. The Wireless Association is an
11 international trade organization that represents both
12 Carriers, Manufacturers, and Internet Providers. And
13 first, on behalf of the whole Association, thank the
14 staff, especially Ken Rider, and everyone for the hard
15 work and the process for the last year and a half.

16 I also want to share that the Association
17 strongly shares the goal of energy efficiency and really
18 appreciates the process going through the last, again,
19 year and a half. Despite the shared goal and the
20 appreciation for some of the amendments that have been
21 made to this point, the Wireless Association still
22 remains concerned about potential cost, about the
23 potential hindrance on innovation for functionality, and
24 on potential implications on some of the critical
25 communication facilities and infrastructure for 911,

191

1 Enhanced 911, and others. I know we touched on that
2 briefly a moment ago, but I just want to make it really
3 really clear that we appreciate the feedback from staff,
4 we appreciate that the intent doesn't appear to be to
5 cover those critical facilities required by the FCC and
6 by the PUC, but the language currently out there doesn't
7 put all the different Carriers, Manufacturers
8 comfortable that it necessarily wouldn't cover at least
9 parts of that system. You know, three-phase chargers,
10 one-phase, I'm not an expert on the technical parts, but
11 it does seem like there's not enough clarity and, at a
12 minimum, we would request that, in the Final Statement
13 of Purpose, or today, that there could be a more
14 explicit exception for those critical facilities.
15 Again, it's very important that, at a moment's notice
16 during a crisis, that there is 100 percent
17 functionality, so that that entire system needs to be
18 explicitly covered by the current Standards.

19 Another item that was briefly touched on today
20 are the inductive charging loosely-coupled systems.
21 Again, I fully understand that currently, in order to be
22 a full system, the current Regs do not apply to devices
23 on the market right now, that's my understanding. But
24 there's a concern that that's not as explicitly stated
25 in the Standards, and if there is clarification either

1 in response to comments, and ideally *and* in the
2 Statement of Purpose, to make it very clear that it does
3 not affect those current devices. And then, anything
4 that can be included to encourage innovation to allow to
5 address e-waste and all the problems associated with
6 having lots of different charging, that's an area that
7 can be supported, so if there's language that can be
8 folded in to the Final Statement of Purpose to encourage
9 the reduction of wall warts, that would be greatly
10 appreciated, as well.

11 And the third item is on the USB chargers. I
12 want first to thank staff and you all for considering
13 the amendments for the larger 20 volt USB chargers.
14 There are other devices either emerging or on the market
15 that either a) we respectfully request the
16 implementation schedule be adjusted for all USB devices
17 to be 2014, or b) have USB devices exempted from the
18 Regs. But with that, I think that unless we can today
19 get real clarification on the emergency back-up device
20 and infrastructure related to 911, Enhanced 911 and
21 others, if we can't get clarification today, I would
22 request that we continue the item for a month until we
23 work through that, to make sure that we have enough
24 clarification to put folks at rest, that those critical
25 facilities will be available at 100 percent

1 functionality at a moment's notice. But if we can work
2 through today, that would be even better. So with that,
3 thank you.

4 CHAIR WEISENMILLER: Well, certainly thank
5 you. I must say, some of my best friends are lawyers,
6 but they get very nervous, well, then let's get on the
7 record very clearly the intent.

8 MR. HARRIS: Okay, thank you.

9 COMMISSIONER DOUGLAS: So maybe staff could
10 respond to the question about critical communications
11 infrastructure, which is cell towers, and so on.

12 MR. RIDER: Right, so first let me say that
13 these would be considered non-consumer; if they were
14 covered, they would be considered non-consumer products.
15 We believe that the very system critical type of back-up
16 systems have been exempted under the Voltage Independent
17 and Voltage Frequency Independent Exemptions. In
18 addition, we have another exemption for high voltage
19 stationary devices, which would also cover the utility-
20 type back-up power supplies that were hooked to higher
21 levels of the Grid. We certainly will respond to the
22 comments in the FSOR [ph] [02:15:47] and also would
23 offer that, given that this compliance date is so far
24 down the line that we could work together to ensure that
25 FAQ adequately covers this issue, and maybe continue the

1 discussion with industry until we have reached the level
2 of clarification where we're all comfortable.

3 MR. BECK: And just because we brought up the
4 FSOR and clarification in Response to Comments, I just
5 want to note for the record that what we're talking
6 about is in Government Code 11346.9(a)(3), which
7 requires a summary of each objection or recommendation
8 made regarding the specific adoption, amendment, or
9 repeal proposed, together with an explanation of how the
10 proposed action has been changed to accommodate each
11 objection or recommendation, or the reasons for making
12 no change. So in a situation where someone is making a
13 change based on a clarification point, we could say that
14 we rejected the proposed language change and indicate
15 that we think that the language as currently written
16 clarifies that certain products are exempted from the
17 scope of the Regulations, or whatever else is
18 appropriate.

19 MR. RIDER: Yeah, and it's difficult to
20 clarify right now because just the word "voltage" and
21 "frequency independent," "back-up battery system" is
22 difficult to explain, let alone how that would interface
23 with the telecommunication system. So I think it's
24 going to need to kind of be more detailed and we're
25 going to need to sight other comments in response. But

1 I hope that we grant you the level of clarification in
2 that response and in the detailed, you know, technical
3 rationale behind why we did what we did.

4 MR. HARRIS: We look forward to working with
5 you.

6 CHAIR WEISENMILLER: Great. Well, thank you
7 for your participation so far and we certainly look
8 forward to your continued involvement and to work with
9 you on future Standards, and also any implementation on
10 these Standards.

11 MR. HARRIS: Thank you.

12 CHAIR WEISENMILLER: As we're moving along
13 slowly, actually, I guess at this point I've had two
14 requests for a quick response, and so let me say I will
15 limit it to a very short response from Kevin Washington.
16 Go ahead.

17 MR. WASHINGTON: I appreciate the Chair's
18 indulgence. I will be true to my word and be very very
19 brief as I was hearing comments about the ramp-up time
20 for Manufacturers from the consultant, and how the
21 conclusion of one year actually being very easy, I would
22 submit and refer you to page 4 of our November 21st
23 comments, which actually would include a matrix of steps
24 that Home Appliance Manufacturers themselves will
25 undertake in manufacturing our products. If I identify,

196

1 randomly selecting, six of these steps that are simply
2 engineering and testing, and packaging and shipping at
3 the end of the -- well, the evaluation for that process
4 that immediately proceeds manufacture, the quotient of
5 time that the Home Appliance Manufacturers will consume
6 in that process is 20 to 23 months. It's not 12, it's
7 20 to 23. And this is already a part of the comments
8 that we have submitted to you, so we would patently
9 counter the information about the one-year conclusion
10 being easy and doable and evident as patently false.

11 CHAIR WEISENMILLER: Okay, thank you. I also
12 have a request from Jay Taylor. And what I'll do is I
13 will -- which I assume is again responding to Ecova, and
14 I'll give Ecova a very quick --

15 MR. TAYLOR: Actually, I wasn't trying to
16 respond at all. I wanted to -- obviously, there was a
17 misunderstanding, I'm not asking about whether somebody
18 thinks our cycle time is correct or not, my question was
19 what the data point in the dataset was, the only passing
20 unit, what was it?

21 CHAIR WEISENMILLER: Okay.

22 MR. TAYLOR: And that's what I was really
23 asking.

24 CHAIR WEISENMILLER: Okay. And that's good.

25 MR. TAYLOR: Thank you.

1 CHAIR WEISENMILLER: Suzanne, again, very very
2 briefly if you want to comment on those two.

3 MS. FOSTER-PORTER: This is Suzanne Foster-
4 Porter from Ecova responding to the question. I'm not
5 able to give you the Manufacturer, I'm not able to say
6 the Manufacturer name, nor the model number associated
7 with this product because of the way that we disclose
8 data on the part of the Investor-owned utilities. We
9 have made the dataset public in order for all
10 stakeholders to be able to see the data, but because of
11 legal liability concerns, we don't disclose the specific
12 unit. What I can say is that our laboratory -- there
13 was some question about the accuracy of the data -- our
14 laboratory is an ISO certified laboratory, which means
15 that it is for battery chargers, recently became
16 certified, which means that we meet an international
17 standard for quality and for repeatability and
18 reliability of our results. So I'm sorry that I can't
19 provide the specific manufacture and model number, but
20 hopefully that adds some clarification.

21 CHAIR WEISENMILLER: And Environmental
22 Defense?

23 MS. MOREHOUSE: Good afternoon, Mr. Chairman
24 and Commissioners. Thank you. My name is Erica
25 Morehouse and I'm here representing the Environmental

1 Defense Fund in support of these important Standards for
2 battery charging, and we strongly support the Commission
3 in adopting today, without delay, these important
4 standards. Battery charging for devices has flown under
5 the radar for years, slowly proliferating throughout our
6 houses, our offices, lifestyle, and racking up a huge
7 amount of wasted electricity. As individuals do what
8 they can do reduce their energy load, from installing
9 CFLs to adding insulation, plug load creep can undermine
10 the success. For California to meet its long-term
11 energy and greenhouse gas goals, this has to change
12 starting with the standards that are before you today.
13 Simple cheap technology exists today that can make
14 battery charging devices less apt to waste energy. The
15 only thing missing up to now has been straightforward
16 Standards to make using this technology common practice.
17 And the Regulations proposed by staff are an important
18 first step in making energy efficient battery charges
19 the norm.

20 So every day, more and more devices are
21 hitting the shelves, locking in years of wasted energy
22 and increased greenhouse gas emissions. After a lengthy
23 rulemaking process, backed up by legitimate scientific
24 and technological evidence, delay is simply not an
25 option. The Commission's Standards are a common sense

1 approach to a common problem, and will undoubtedly
2 forward California's legacy of adopting solutions that
3 will help us transition our economy to a lower carbon,
4 sustainable future. Thank you for your time.

5 CHAIR WEISENMILLER: Thank you. I believe
6 everyone in the room who wanted to comment has done so.
7 And now we'll go to folks on the phone. So let me start
8 out with Marianne DiMascio, Appliance Standards.

9 MS. DIMASCIO: Hello?

10 CHAIR WEISENMILLER: Yes.

11 MS. DIMASCIO: Hi. I am from Appliance
12 Standards and I'm speaking on behalf of our organization
13 and the Southwest Energy Efficiency Project who support
14 our comments. And I would like to just say I had to
15 drive home and I need one second to pull over with my
16 notes to be safe, thank you. So ASAP, as we're known,
17 we organize and lead a broad based coalition effort that
18 we work to advance wind and defend appliance equipment
19 and lighting standards, which will deliver large energy
20 and water savings, monetary savings, and environmental
21 benefits. We're led by a steering committee that
22 includes representatives from energy and water
23 efficiency organizations, the environmental community,
24 consumer groups, utilities, and State Government. And
25 today we urge the CEC to adopt the Battery Charger

1 Standards and the 15-day language. The Standards will
2 yield significant energy savings and electricity bill
3 savings. And, importantly, it could positively
4 influence the outcome of the U.S. Department of Energy
5 Battery Charger Rulemaking, which is underway right now.
6 In addition to the savings already mentioned by staff,
7 their analysis calculates the payback period for
8 Standards to be less than one year for both small and
9 large battery charger systems. So adopting these
10 Standards will mean that California will accrue savings
11 for consumer battery chargers before any DOE Standards
12 take effect, which can help the state meet the
13 progressive energy saving goals and reduce the
14 consumers' electricity bills. DOE was required by
15 statute to publish the Final Rule for Efficiency
16 Standards for Battery Chargers by July 1st, this past
17 summer, 2011, however, we still haven't even seen a
18 Proposed Rule published from DOE.

19 So, historically, the Federal Government has
20 often followed California's lead in establishing
21 Appliance Standards and we would hope and expect that,
22 if California sets Standards for battery chargers that
23 achieve significant cost-effective energy savings using
24 readily available technology, that DOE would establish
25 standards following that that are no less stringent. So

201

1 the impact of California Standards can be very large;
2 you not only achieve long-term energy savings for the
3 state, for the non-consumer battery chargers, but for
4 the consumer battery chargers you could also yield
5 additional long-term energy savings for both California
6 and the nation, and this is beyond what otherwise might
7 be achieved due to the potential for California
8 Standards to positively influence the outcome of the DOE
9 Rulemaking. So we urge you to adopt the Battery Charger
10 Standards and I thank you for the opportunity to provide
11 comments today. Thank you.

12 CHAIR WEISENMILLER: Thank you. Rick Erdheim,
13 Phillips Electronics.

14 MR. ERDHEIM: Good evening, Mr. Chairman and
15 Commissioners. My name is Rick Erdheim, I'm Senior
16 Counsel for Phillips Electronics. I'm going to limit my
17 comments to two areas, the first is emergency lighting
18 and then labeling.

19 I want to start off by agreeing with Mr. Leon
20 that the Commission staff has made numerous changes with
21 regard to emergency lighting, and I also want to agree
22 with him that there have been extensive dialogue between
23 our industry and the staff. Unfortunately, at the end
24 of the day, the CEC has virtually no data to make the
25 required determinations regarding technical and economic

202

1 feasibility for the remaining emergency lighting
2 products that are included in the proposed Standard.
3 There are four possible sources of data, the first is
4 the Department of Energy data, which you have heard
5 talked about before. The Department of Energy Standards
6 apply only to consumer products, this is not a consumer
7 product, so that data is not useful. The second is the
8 Case Report. The Case Report looked at 1) low-end
9 imported product out of dozens of products, products
10 which are used in a wide variety of environments and
11 applications. That one product, that one low-end
12 product, would meet the Standard, but it meets the
13 Standard because it puts out so little light, and the
14 way emergency lighting is regulated is you have to
15 generate a certain amount of light in a certain area, so
16 you can do that with one product, or five products, or
17 10 products, and when we've actually done an analysis,
18 which is in the record, which shows that when you take
19 nine of those products, nine of those low-end products
20 which would be necessary to meet the Standard, it only
21 takes two typical Phillips products to meet the
22 Standard. And when you actually total up the energy
23 used, there's much less energy used by the Phillips
24 products, which don't meet the proposed Standard, than
25 this low-end product. A third source of -- so I don't

1 think -- that data source is completely inadequate.

2 The third source of data is the Staff Report,
3 but there's no discussion of the applicability of any of
4 the technologies used to reduce energy to emergency
5 lighting in the report, and none of these technologies
6 are proven for emergency lighting. And the staff has
7 admitted to us when we've said to them these
8 technologies are irrelevant, they've agreed.

9 The final source of data is actually data we
10 provided, we submitted data under the Confidentiality
11 Requirements, I want to thank Mr. Beck for all of his
12 help in getting us to do that. I can't talk about that
13 data since it's confidential, but I can assure you it
14 doesn't provide any support for finding that the
15 proposed standards are economically and technologically
16 feasible.

17 So without data, the CEC can't make the
18 findings about feasibility and cost-effectiveness
19 required by the Warren-Alquist Act. The vast majority
20 of existing emergency lighting products do not meet the
21 maintenance mode power standards in the Regulations
22 because of the apparent performance attributes and
23 battery chemistries that are used. There is no
24 discussion in any of the staff documents about the
25 feasibility and cost-effectiveness for emergency

1 lighting.

2 In fact, the CEC proposal itself shows that it
3 can't really make the findings because it provides five
4 years for compliance. And when we've told the staff,
5 we've asked the staff, "Well, why is there five years
6 for compliance," they've said to us quite candidly,
7 "Well, that gives you time to figure it out." But, Mr.
8 Chairman and Committee members, the statute doesn't say
9 pass something that can give the industry enough time to
10 figure it out, the statute says you have to show that
11 it's technologically and economically feasible. And the
12 staff clearly hasn't done that.

13 Now, ironically, Mr. Leao started out by
14 talking about lighting controls, that was a standard
15 that was done by the CEC staff working closely with the
16 lighting control industry, the National Electrical
17 Manufacturers Association, the very same industry that
18 represents the Emergency Lighting Manufacturers, and
19 rather than having that same cooperative process which
20 we asked for at the very first hearing in October 2010,
21 instead we have had the process that we've gone through
22 and we're at complete loggerheads.

23 Finally, let me say, as much as I like my
24 electronic products, we're not talking about products
25 that we enjoy, or make us feel good with emergency

1 lighting, we're talking about heavily regulated life
2 safety products. If the staff -- if the CEC is not
3 right, then these things could have serious impacts, so
4 it's not like having my iTouch taken away from me, as
5 much as I love my iTouch, and we think the CEC should be
6 held to an even higher standard because it's dealing
7 with life safety products. So we would urge the CEC to
8 exempt the remaining emergency lighting products from
9 this Standard; if it feels that it wants to continue the
10 effort, there's plenty of time to sit down with the
11 industry and work to see if there are other things that
12 can be done, but based on the record you have right in
13 front of you right now, you don't have the data to make
14 the findings that you're required to make.

15 Second, let me respond to Mr. Leao in terms
16 of some of the things he said about labeling. First, he
17 said this was going to be an aid to retailers. I would
18 like to know if there's anything in the record from any
19 retailer anywhere saying, "Hey, we want to have labeling
20 because it's going to help us." Because we deal with
21 retailers all the time and, quite frankly, what they
22 tell us all the time is they strongly oppose the state-
23 specific labeling requirements because it adds burden to
24 them, because they have to track -- now they have to
25 track requirements in different states. Second, Mr.

206

1 Leaon said, "Well, this would be easier for them
2 because, otherwise, they'd have to look up something on
3 the Internet." Really? Are you kidding me? Look up
4 something on the Internet? How difficult is that? This
5 isn't 1989, this is 2012. You can use -- you don't even
6 have to go to a computer, you can use a personal device
7 to find this stuff. I mean, I just am at a loss to even
8 comment on that.

9 Finally, though, I think it shows a complete
10 lack of understanding of how retailers work. Retailers,
11 when we send products to retailers, they give us a
12 detailed list of requirements that we have to make, and
13 this would be one of the requirements. And we have to
14 show them that we're in compliance, and sometimes they
15 send the stuff -- these products out to third-party
16 testing organizations to test it. No one said -- no
17 retailer is sitting there going, "Oh, let me check the
18 box and make sure that this product really meets the
19 standards." I mean, it's just a ridiculous argument.
20 Second, there was talk about --

21 CHAIR WEISENMILLER: I believe you said
22 "finally." Can you wrap it up?

23 MR. ERDHEIM: Yes, I can. We talked about
24 verification. There is a requirement in the proposal
25 which we agree with, which would require us to submit

1 certified data to the CEC, and the CEC will have a
2 record of that and put it on its website. So you're
3 going to have plenty of opportunity to verify.

4 Finally, let me talk about the cost of
5 labeling because this has been an issue that some people
6 have talked about. Phillips believes that it costs us
7 \$1,000 to \$2,000 for each label change, and your first
8 reaction is, "Well, that's not that much." But we're
9 talking about hundreds and potentially thousands of
10 different products, and not only number of products, but
11 because of retailer requirement, we have to do different
12 labels for different retailers. So we're talking about
13 a huge number of products, and now the cost is hundreds
14 of thousands to millions of dollars for reasons which
15 make no sense, which can be addressed in other more
16 easily handled ways, which I've talked about before,
17 such as either product manual, or electronic labeling,
18 or even just using the website. So we would urge the
19 CEC not to go ahead with the labeling proposal. Thank
20 you very much.

21 CHAIR WEISENMILLER: Okay, thank you. Susan
22 Peterson, Blacktron.

23 MS. PETERSON: Yes, good afternoon. My name
24 is Susan Peterson. I'm the Director of New Product
25 Development for Blacktron, Incorporated. We are the

1 distributor of a brand new battery charger line that
2 cuts the power consumption to zero when the battery is
3 fully charged. Our new product line launched this week
4 at the Consumer Electronics Show in Las Vegas, and it
5 features battery charging items in the retail range of
6 \$24.95 to \$34.95. This is an example of affordable
7 technology that could be incorporated into battery
8 charging systems as a pathway to compliance. We support
9 the California Energy Commission moving forward with its
10 Battery Charger System Standards and emphasize that
11 there are many technologies available to increase
12 battery charger efficiency. Thank you very much.

13 CHAIR WEISENMILLER: Thank you. Larry Albert,
14 Black and Decker.

15 MR. ALBERT: Thank you very much. This is
16 Larry Albert. I'm from Stanley, Black & Decker, which
17 is a global manufacturer of power tools. I wish I was
18 there in person to be able to direct the Commissioners
19 directly, unfortunately I could not make it. I work at
20 Black and Decker in Product Safety, Product Compliance,
21 and Regulatory issues, I also have a background in
22 Electrical Engineering and have had prior experience in
23 designing manufacturable battery chargers for power tool
24 applications. I'm here today representing the Power
25 Tool Institute, which is a trade association of leading

1 power tool manufacturers in the United States. I would
2 like to thank the Commission for providing me with this
3 opportunity to comment to today's Proposed Battery
4 Charger Rulemaking.

5 In the past, PTI has provided frequent,
6 detailed and responsible commentary during CEC
7 rulemaking and workshops for Battery Charger Systems,
8 and before that, on external power supplies in similar
9 rulemaking. PTI is also a significant stakeholder as
10 battery operated power tools are a large and growing
11 portfolio of our business. PTI provided comments on the
12 45-day language and those comments still hold true,
13 nothing in the revisions that we've seen in the 15-day
14 language alters our objection to the proposed rule, or
15 diminishes the validity of the comments we've made
16 previously. But given that, I'm only going to just
17 restate the key elements from past comments and some of
18 these you've heard from other commenters, right? The
19 obvious preemption by the Federal Regulations that cover
20 the same small consumer battery chargers that are being
21 regulated by CEC Rule, the negative cost benefit that we
22 highlighted in our comments under the 45-day language
23 that California consumers, as a result of high unit
24 costs of implementation, coupled with very small energy
25 savings and a very short period of effectiveness. And

210

1 the flawed technical basis of the Standards,
2 particularly of the impact nickel-based chemistries,
3 which have significant inherent issues that were ignored
4 by the staff in incorporating the Standard levels.

5 But the big issue that I want to focus on
6 today if I could is the issue of timing. The Proposed
7 Regulation today for adoption is intended to become
8 effective for newly manufactured Battery Charging
9 Systems by February 1st, 2013, barely a year away. The
10 Standards levels are so severe that the majority of
11 power tool manufacturers will have a majority of their
12 Battery Charging Systems that are offered for sale
13 today, that will no longer comply under the new
14 Regulation. The particular example, I like to refer to
15 our evaluation of our Black & Decker charging systems.
16 Of what we've looked at so far, 85 percent failed to
17 comply with the proposed CEC Regulations, you should
18 note that's consistent with Mr. Leon's earlier slides
19 showing that there was a 90 percent non-compliance for
20 Battery Charger Systems. This isn't due to inherent
21 sloppiness, I guess, of battery chargers used for power
22 tool applications, for specific issues that are related
23 to the design of these chargers and the batteries they
24 charge, and these have been pointed out in numerous
25 previous comments, both in person and in writing. In

1 that dataset of testing that we've done, all the systems
2 for professional users do not comply. That means there
3 is no compliant system for those people who use power
4 tools to earn their living. All the nickel-based
5 systems do not comply. Highly robust, highly low
6 temperature compliant systems that are extremely safe,
7 inherently safe, don't comply. All of them fail on the
8 basis of this very limited metric of the maintenance
9 power plus the no battery power that was set at a little
10 over one watt for almost all of these product
11 categories.

12 Many power tool Battery Charging Systems
13 support a platform which is chargers, batteries and
14 tools that share a proprietary battery interface, so
15 when you eliminate a battery charger for a platform, you
16 eliminate not only that battery charger, all the
17 batteries that go along with it, and all the tools that
18 use all those batteries. There's a huge impact for
19 making a battery charger no longer compliant and being
20 removed from the marketplace.

21 So to be clear, right, unlike earlier
22 comments, we cannot substitute a compliant charger that
23 we might have for a non-compliant one because they're
24 not interchangeable with respect to the platform they
25 serve. That means that we and all other power tool

1 manufacturers must modify all of the designs that we
2 have for current products, current tools that we have
3 out there. At Black & Decker, and I assume that all of
4 our companies in PTI, it is simply not possible. Time
5 and effort to make even modest design changes is
6 enormous. Every change requires extensive in-house
7 analysis and testing to ensure that the charger
8 functions reliably, and most importantly, functions
9 safely. These are not minor tweaks, as it was earlier
10 claimed, these are large overhauls of the design, and
11 even small design changes have to go through extensive
12 testing. And for some models, particularly for nickel-
13 based systems, there may not be a technically feasible
14 solution, as we've pointed out in earlier comments.

15 If all of our battery charger design resources
16 in our company were redirected in the upcoming year to
17 making the required design changes, we would still be
18 unable to meet the deadline with all of our platforms in
19 place. The reality is that this proposed rule was
20 created without adequate consideration for the impact
21 upon manufacturers and clearly a very naive idea of what
22 it takes to manufacture a product and to make changes.
23 Because of this, and for many other valid reasons, Power
24 Tool Institute respectfully requests that the Commission
25 not adopt the Proposed Rule or, barring that,

1 considering extending the deadline for the effective
2 date an additional 12 months, to February 2014. Thank
3 you so much for your kind attention today.

4 CHAIR WEISENMILLER: Thank you. Chuck Mullet,
5 Power Sources.

6 MR. MULLET: Yes, I'm here. Can you hear me
7 all right?

8 CHAIR WEISENMILLER: Yes, we can.

9 Mr. MULLET: Okay, good. Chairman and
10 Commissioners, thank you for the opportunity to speak
11 today. I'm speaking on behalf of the Power Sources
12 Manufacturers Association, which is a nonprofit trade
13 association of power supply manufacturers and companies
14 that make the components that go into power supplies.
15 And my pitch is very short. I just want to reinforce
16 what we said in a letter last March to the Commission,
17 that the technology to implement these higher
18 efficiencies is readily available from us and other
19 companies that are members of our association, which are
20 many semiconductor makers and makers of other
21 components. And they're in high volume production and
22 the costs are very minimal. I can't speak for the
23 manufacturing delay times that Mr. Albert mentioned, but
24 I just want to make my pitch for the cost of the actual
25 hardware that's involved and the fact that the technical

214

1 excellence is there in efficient parts. And really,
2 that's what I have to say. Thank you.

3 CHAIR WEISENMILLER: Thank you. Andrew Pape,
4 Government of British Columbia.

5 MR. PAPE: Good afternoon, Commissioners and
6 people in the audience. My name is Andrew Pape Salmon,
7 I'm the Director of the Energy Efficiency Branch with
8 the British Columbia, Canada Ministry of Energy and
9 Mines. In 2008, the leaders of the Governments of
10 British Columbia, Washington, Oregon, California, and
11 Alaska signed the Pacific Coast Collaborative Agreement,
12 and I just wanted to introduce you to that agreement.
13 In 2010, four of those jurisdictions, excluding Alaska,
14 signed an Action Plan on Innovation, the Environment,
15 and the Economy, which included actions on energy
16 conservation. And one of those actions was for
17 Government officials and agencies to pursue a common
18 market transformation strategy for energy using
19 equipment, and I'm the Chair of the Pacific Coast
20 Collaborative Action Group on Energy Efficiency
21 Standards for Equipment since 2010, since that initial
22 Action Plan was put out, we've held three symposia or
23 meetings to pursue a common strategy for efficient space
24 heating and cooling, water heating, and lighting
25 equipment household appliances, electronics, and windows

215

1 and doors, and the initial focus has been on improving
2 the efficiency of televisions, battery chargers, set top
3 boxes, and computers for both standby and active power
4 consumption. And in response to that collaborative
5 action, British Columbia adopted harmonized Regulations
6 for televisions with California's Tier 2 Standard on
7 July 21st, 2011, with a future effective date, and the
8 goal is also to pursue common Standards for battery
9 chargers, the topic of today's discussion. And I wanted
10 to articulate that the staff officials of the Ministry
11 of Energy and Mines support the adoption of the Proposed
12 Standards and other requirements for Battery Charger
13 Systems.

14 And I wanted to close by just noting some of
15 the benefits of collaborative action on Standards.
16 Along the Pacific Coast, they will foster new Green
17 technology jobs to distribute and service efficient new
18 technologies and in some cases manufacture them in the
19 region, although this probably is not an example of
20 that. But more importantly, encourage enhanced
21 cooperation among jurisdictions to confirm the region's
22 global leadership and building green economies, and
23 developing a cluster of expertise around and market
24 demand for energy efficient equipment. Furthermore, the
25 collaborative action supports each jurisdiction's stated

1 energy efficiency policy goals. In British Columbia, we
2 have a goal under the Clean Energy Act to displace two-
3 thirds of electricity demand growth by 2020. We can't
4 quite meet the California Standard of 100 percent per
5 capita, but we've got a stated goal in legislation, and
6 I guess in California I wanted to acknowledge the
7 Governor's Eight Point Clean Energy Jobs Plan, which
8 includes energy efficiency as a key point to drive job
9 growth and economic diversification to technology
10 clusters. And Point 6 calls for stronger Appliance
11 Standards. Thank you very much.

12 COMMISSIONER PETERMAN: I'll just thank you
13 for your comments, I'll just add that I've had the
14 opportunity to represent the Commission and the State on
15 some specific clean coast collaborative activities and
16 so always appreciate opportunity to work with our
17 partners up north. Thanks.

18 MR. PAPE SALMON: Thank you.

19 CHAIR WEISENMILLER: Yes, thank you. Stanley
20 Rodriguez.

21 MR. RODRIGUEZ: Yes, hi. Stan Rodriguez with
22 Makita USA. Our company is headquartered in La Mirada,
23 California. It's been a long day, so I don't want to go
24 through everything that's already been restated, but I
25 am in complete support of the comments provided by Larry

217

1 Albert for PTI, also in complete support of what Kevin
2 Washington has been saying, and in some areas there with
3 the data with what Henry Wong stated earlier. And I
4 would like to express one main point, and that's in
5 regards to the timeframe that we're being given on our
6 chargers. With our chargers, we were one of the first
7 companies, first power tool companies, to actually get
8 Energy Star approval on the chargers, and at this point,
9 all of our chargers are Energy Star approved. However,
10 when we go ahead and look at the evaluation here, we
11 find that we're probably at about 85 to 95 percent of
12 all of our chargers needing to be redesigned and
13 manufactured. And the one-year time period is not going
14 to work, it's not possible. And there was a comment
15 that Susan Foster-Porter made earlier about the UL
16 process and being able to handle workloads, and our
17 experience has been many times UL's intentions are good,
18 and they try to accomplish the workloads that would come
19 in as best as possible, but in most cases they can't
20 deliver and I can see with this type of workload coming
21 at them, they are not going to be able to deliver. So,
22 in our own regard of being able to manufacture, design
23 performance tests, and then get it into UL, it's at
24 least a two-year period before we know we can handle all
25 of our products and get it through UL. UL can be

1 anywhere from two months to six months, depending on if
2 problems come up, there's issues, so it's not a sure
3 thing by any means. So our biggest concern at this
4 point is the one-year period. We think we need two
5 years. I thank you for your time.

6 CHAIR WEISENMILLER: Okay, certainly thank
7 you. Jason Lee, Australia Department of Climate Change.

8 MR. LEE: Yes, hi. Thank you, Commissioners,
9 for letting me talk on behalf of the Australian
10 Government. The Australian Government has been looking
11 at Battery Charger Systems to regulate for a number of
12 years also, and are currently in the process of going
13 through our regulatory assessment process in order to
14 regulate these products and has been following the
15 California Energy Commission's progress very closely.
16 We would like to, I think, as Australia's economy is
17 much smaller than most economies around the world, and
18 obviously smaller than California's, we seek to
19 harmonize a lot of our energy efficiency Standards, 1)
20 to make it less burdensome on manufacturers and
21 suppliers of these types of products when it comes to
22 regulation, and 2) just with the Australian economy
23 being a smaller, we don't want to lose the marketing
24 competitiveness within Australia. With that, we would
25 like to express our support for this proposed Battery

219

1 Charger Regulation from the Australian standpoint.

2 Thank you.

3 CHAIR WEISENMILLER: Thank you very much.

4 Commissioner.

5 COMMISSIONER PETERMAN: This is Commissioner
6 Peterman, I was just going to ask what time is it where
7 you are, and are you in Australia?

8 MR. LEE: It is around noon Friday.

9 COMMISSIONER PETERMAN: Well, thanks for
10 starting early with us.

11 CHAIR WEISENMILLER: Okay, I believe the last
12 potential speaker is Timothy Ballo with Earth Justice.
13 He's not on the line, okay. So I think we're finished
14 with public comment.

15 COMMISSIONER DOUGLAS: Commissioners, if we're
16 through with public comment, I'd like to make a few
17 brief remarks and, of course, I should stop and ask if
18 there are any questions before I do that. If there are
19 no other questions, you know, I just wanted -- I don't
20 usually do this, but I decided to have a small
21 demonstration today of what we're doing and why we're
22 doing it. I brought two chargers down, these are both
23 from inside the Energy Commission, one of these is the
24 charger that connects to our headsets, I'll bet there
25 are hundreds of these in this building. The other one

220

1 is a charger that we got with our Blackberries. The one
2 that connects to our headsets, even though I've had it
3 not plugged into any product, it's sitting here warm in
4 my hand from being in the wall and I suspect that this
5 is one of the chargers that continues to top off the
6 battery, even when the battery is full. Blackberry
7 charger, nice and cool, hasn't warmed up, I suspect, but
8 this is one of the power supplies that is of the most
9 efficient types. One of the simplest measures that a
10 manufacturer can take to improve efficiency, if they
11 haven't already done it, is improve the power supply. I
12 think we had a speaker who produces power supplies
13 mention that. So I wanted to give that brief
14 demonstration.

15 We've been in this process for quite a long
16 time. I saw today a long line of very familiar faces,
17 also a number of people who we worked with closely who
18 are not here today, and I think and I hope and I suspect
19 that that's a sign of the fact that we were able to
20 alleviate their concerns in a satisfactory way
21 throughout the process. We have worked closely with the
22 manufacturers, including the ones who are here, and
23 including the ones who are not fully happy with what
24 we've been able to do, but we've worked closely with
25 everyone and we've appreciated their participation, and

221

1 we've made a number of changes to the Standards as time
2 went on. I was reflecting on Kevin Bell's comment that
3 we could do better. We could have put forward a
4 proposal with more savings in it and, over the course of
5 this proceeding, we made a number of changes that I
6 think were justified, but that did result in fewer
7 savings than we had initially proposed, removing the
8 power factor requirement, combining the no battery and
9 maintenance mode, and increasing the allowance, and a
10 number of other things, providing an allowance for the
11 very small batteries so that we just had sort of a
12 hockey stick shape so the very smallest battery chargers
13 could just meet a single threshold, and a number of
14 other changes. We made those changes because I believe
15 that they were justified, that the industry had made a
16 case, and we had heard it. But I wanted to make the
17 point that we have, over the course of this proceeding,
18 made a number of changes, we've extended the compliance
19 deadline for non-consumer products, I think that was
20 justified, and I asked staff repeatedly through the
21 process, including I think yesterday, what about that
22 emergency lighting? I was satisfied with the response
23 I've gotten, and if Commissioners would like to ask, I'm
24 sure staff could provide their thinking on that.

25 I do want to say, as I reflect on the letter

222

1 that we received from Assembly Member Bradford and other
2 members on the Committee that he chairs, I see some of
3 the heightened concern that comes from the concern about
4 the fear of fines and penalties from the other item that
5 we had on our agenda today, and I want to ask staff, you
6 know, I don't know quite how to put this, but I guess
7 I'll just say that, you know, I think that it would be
8 -- I think it's important for the Commission as we move
9 forward with this new authority to be judicious and
10 responsible and careful and transparent and appropriate
11 of how it's exercised. I think that I would expect from
12 staff, if it happens that there are completely
13 legitimate and no fault reasons for why manufacturers
14 are having difficulty such as timely submitting to UL
15 their package, and delays at UL because of volume, which
16 is a concern that I think from our conversations with UL
17 we don't necessarily share, but if it were to occur, it
18 would be recognizably a problem. I think that we would
19 expect staff to bring those situations to us and other
20 obstacles that might occur. So I would like to see what
21 comments and questions my fellow Commissioners have, but
22 after a long process, I certainly would like to
23 recommend it for their approval.

24 COMMISSIONER PETERMAN: Commissioner Douglas,
25 I appreciate the comment that you just offered, asking

223

1 staff to bring to our attention as soon as possible
2 particular roadblocks that might develop along the way
3 if some of our understandings or assumptions prove not
4 to be correct because we do want to make sure that there
5 is work on the ground. I also want to take the
6 opportunity to say thank you, in particular to you, for
7 the amount of effort and time you've put into looking at
8 this issue. I know it's not been easy, and I appreciate
9 the amount of work that you have done, as well as the
10 staff. I've received numerous briefings on this topic
11 over the year and so I can see that changes have
12 occurred and that there has been real effort to work
13 with industry and manufacturers on this topic. So I
14 don't have any additional comments.

15 CHAIR WEISENMILLER: Yeah, I was going to say
16 I think we're facing today a marvelous opportunity to
17 move California forward on energy efficiency. We've
18 been working on energy efficiency obviously since at
19 least the first days I was here in '77, and you know,
20 we've been approaching things, and I think certainly one
21 of the changes in the last 30 years has been the
22 proliferation of electronics. And so, you know, we all
23 are surrounded by these devices and by their chargers,
24 and I think to the extent there seems to be very low
25 cost opportunities to achieves these savings, I think we

224

1 have to take that step today. I think certainly with
2 all these steps, it's always important for us to watch
3 how this works out, and I think part of the message is
4 that I certainly appreciate Commissioner Douglas'
5 activities, the staff's activity, all the parties who
6 have been involved in this multi-year process, certainly
7 the utilities' assistance, I mean, this is a partnership
8 between the industry, the utilities, and the Commission
9 going forward. I would have hoped that we could have
10 gotten more of a consensus, but certainly, you know, the
11 bottom line is my door is open so that if there is an
12 issue with UL, I want to hear that from the industry so
13 we can try to take timely action. And again, I think we
14 want to work together, you know, I realize that this
15 will cause changes, but this is the sort of change we're
16 going to be forced to do, just to deal with the effects
17 of climate change and other challenges we'll be facing.
18 And also, just to reduce the cost for people of their
19 energy services. It's not just the bill, or not just
20 the rate, but it's also the amount of energy we use. So
21 I think this is an important step towards California
22 having the power that it needs in the least cost and
23 least surmountable consequences. And, again, we
24 certainly want to work with industry that if any hiccups
25 come up along the way, let us know.

1 COMMISSIONER DOUGLAS: So with that,
2 colleagues, if there are no further comments or
3 questions, I'd like to move approval of Items 11 and 12
4 if I can move them together.

5 CHAIR WEISENMILLER: Do we have to do 11 first
6 and then 12?

7 MR. OGATA: Commissioners, this is Jeff Ogata.
8 My preference would be that there is a rational legal
9 basis for taking them in order separately, so I would
10 appreciate --

11 COMMISSIONER DOUGLAS: All right, our Chief
12 Counsel will get his preference. I will move Item 11.

13 CHAIR WEISENMILLER: I was going to note,
14 talking about attorneys who are nervous, we have some of
15 our own. But -- sure.

16 COMMISSIONER PETERMAN: I just wanted to add,
17 I really like the idea of, to the extent possible, doing
18 the FAQs to clarify the intent of certain things, that
19 concerned me, the fact that there still seemed to be
20 some different interpretations of intent on some of
21 those key items, and I would encourage you to work with
22 industry, or have industry send you what issues they
23 think need to be clarified in the FAQs. Thanks.

24 COMMISSIONER DOUGLAS: That's a good
25 clarification. So with that, I'll move Item 11.

1 COMMISSIONER PETERMAN: I will second Item 11.

2 CHAIR WEISENMILLER: All those in favor?

3 (Ayes.) Item 11 passes unanimously.

4 COMMISSIONER DOUGLAS: I will move Item 12.

5 COMMISSIONER PETERMAN: I will second Item 12.

6 CHAIR WEISENMILLER: All those in favor?

7 (Ayes.) Item 12 passes unanimously.

8 COMMISSIONER DOUGLAS: And colleagues, with
9 that, I want to say one final thanks to you for your
10 attention and care during this proceeding, to staff, you
11 know, Ken Haringer, Mike, Dennis, and many many others,
12 Panama, Rob, Adam in the back, so you know, there's been
13 a lot of hard work over a long period of time on this,
14 certainly the utilities have brought us strong technical
15 work which has helped us advance in this and other
16 Standards. And industry, I think we've said this
17 before, we'll say it again, the door is open as issues
18 arise. We're sticklers for wanting real issues and real
19 evidence and real facts, and you know that because
20 you've been working with us, and so we're receptive and
21 the door is open. So thank you.

22 CHAIR WEISENMILLER: Yeah, I thought it also
23 to be very important to get on the record that obviously
24 we got an important letter from Assemblyman Bradford,
25 that was certainly signed by other Legislators, and we

227

1 took that letter very seriously. We really have probed
2 into those questions and all of us thought about the
3 answers to that and as we went forward on our
4 deliberations. And certainly our point about, you know,
5 there is no real relationship between what we're doing
6 here and the enforcement, and also that we really want
7 to hear about issues if they come up, or certainly in
8 direct response to that letter.

9 So with that, Item 13, Minutes, December 14th
10 Business Meeting Minutes.

11 COMMISSIONER PETERMAN: I'll move the Minutes.

12 COMMISSIONER DOUGLAS: Second.

13 CHAIR WEISENMILLER: All those in favor?

14 (Ayes.) That item passes unanimously.

15 Item 14. Lead Commissioner or Presiding
16 Member Reports.

17 COMMISSIONER DOUGLAS: I don't think I have
18 anything to report. I got back from vacation last week
19 and have been spending a lot of time on Battery
20 Chargers, a lot of time on siting and other issues that
21 have come before us, and welcoming in the New Year, so I
22 think that's my report.

23 CHAIR WEISENMILLER: And we know what Carla
24 did.

25 COMMISSIONER PETERMAN: Yes, it's been a busy

1 week and this has been a really good business meeting.
2 We've been able to vote on some items that have been
3 percolating in the system for years, and so happy to see
4 especially those improvements in efficiency and
5 renewables, and I'll just also add my parents are in
6 town this week for my hearing, and they were very
7 impressed with the Energy Commission, and they said,
8 "Boy, you do a lot of work there." So, thanks to staff,
9 they were impressed by you.

10 CHAIR WEISENMILLER: And you didn't bring them
11 today?

12 COMMISSIONER PETERMAN: I did not bring them
13 today. They had to fly back to New Jersey to spread the
14 word about California.

15 CHAIR WEISENMILLER: We've had Chief Counsel's
16 Report. The Executive Director's Report.

17 MR. OGLESBY: I have nothing to prolong this
18 already long day.

19 CHAIR WEISENMILLER: Public Advisor?

20 MS. JENNINGS: Nothing to report. Thank you.

21 CHAIR WEISENMILLER: Public comment.

22 MR. NESBITT: George Nesbitt. I hope you have
23 a little left in your batteries.

24 CHAIR WEISENMILLER: You've got three minutes.

25 MR. NESBITT: It has been a long day. In

1 2001, PG&E did a good job training me as a Building
2 Performance Contractor, as well as CHEERS as a HERS --
3 what we now call a HERS 1 and 2 Rater. In 2008, I
4 participated in the HERS Phase 2 Title 20 Regulations
5 quite heavily. So I was happy to see in August that, on
6 the September calendar, CALCERTS was up for approval for
7 being a provider as a Building Performance Contractor.
8 Now, when they announced their classes, and I went to
9 sign up, I was surprised that BPI certification for
10 being analysts in envelope is a prerequisite. Now, this
11 is a surprise because in 2008, myself and others kept
12 BPI out of the Title 20 Regulations. It also now makes
13 sense to me Tiger Adolf's comment in September at one of
14 the Code Update Workshops, that she had spent all year
15 camped out in Bill Pennington's Office. And apparently
16 the effort was fruitful. So, I went back and I read the
17 Minutes, had I known it was going to be as exciting as
18 today, I would have hopped on Amtrak and come up and
19 gotten in the fray. But nowhere has the Title 20
20 regulation or the technical manual been changed to say
21 that BPI is required. So, you know, I guess my next
22 step is a formal challenge to CALCERTS to say you need
23 to recognize me because nowhere in Title 20 does it say
24 I have to be certified. My personal feelings are BPI,
25 to this day, does not add anything to the Regulation,

230

1 and I think that the danger of it, CBPCA, RECURVE, they
2 didn't get what they want three years ago, I didn't
3 either, okay? But I'm behind it 100 percent. Yeah,
4 there are things that need to be changed, but I'm behind
5 it, it's more good than bad, yet it's helped give them
6 maybe an impression and a hope that they are going to
7 replace HERS 2 with BPI. And I think that would be a
8 step backwards. So, you know, and really one of the
9 things is BPI does no QA, you know, so I just kind of
10 want to bring that to your attention that, you know, I
11 have a problem and others, you know, they've kind of
12 found out it's like more requirements? You know, so my
13 kind of -- I'm not against the Building Performance
14 contractor, like efficiency first, and CVPCAs, but I'm
15 against the BPI.

16 COMMISSIONER PETERMAN: Sorry, there seems
17 like there might be a specific request in what you're
18 saying, I heard what you're saying, and I also want to
19 make sure that we capture that. Is that letting our
20 staff -- is there something that you think is being done
21 in violation that we should do outreach on to correct?

22 MR. NESBITT: Well, since you put words in my
23 mouth --

24 COMMISSIONER PETERMAN: I was just offering
25 some ways to get us there, yeah.

1 MR. NESBITT: I would say that, yes, what
2 you've added is requirements that are not supported by
3 the rulemaking and that was not made, say, in a public
4 process with proper public comment and notice. I
5 certainly had no reason to suspect it as approval for a
6 provider under the rules, so you know...

7 COMMISSIONER DOUGLAS: I don't know if staff
8 was aware that you were going to raise this issue. I
9 think that if you let them know, then they'll have the
10 right person in the room to respond when we turn to them
11 and ask questions, and when you don't, I can turn to
12 Panama and say, "Is this something that you feel like
13 you want to respond to or provide any information on
14 now? Or would you like to follow-up with Mr. Nesbitt
15 later?"

16 MR. BARTHOLOMY: Panama Bartholomy, Deputy
17 Director of Efficiency and Renewables. I'd be happy to
18 work with Mr. Nesbitt offline to understand his issues
19 further, and then make a report back to the lead
20 Commissioner on Efficiency, how that conversation went
21 into some resolution.

22 COMMISSIONER DOUGLAS: That sounds like a good
23 process. Thank you.

24 COMMISSIONER PETERMAN: Yes, thank you. I
25 would appreciate that, as well.

REPORTER'S CERTIFICATE

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

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

IN WITNESS WHEREOF,

I have hereunto set my hand this 18th day of January, 2012.

A handwritten signature in cursive script that reads "Kent Odell". The signature is written in black ink and is positioned above a solid horizontal line that spans the width of the signature.

Kent Odell
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