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BUSINESS MEETING

BEFORE THE

CALIFORNIA ENERGY COMMISSION

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

CALIFORNIA ENERGY COMMISSION

HEARING ROOM A

1516 NINTH STREET

SACRAMENTO, CALIFORNIA

WEDNESDAY, MARCH 28, 2012

10:00 A.M.

Reported by:
Kent Odell

CALIFORNIA REPORTING, LLC
52 Longwood Drive, San Rafael, California 94901 (415) 457-4417

Commissioners Present (*Via Phone)
Robert B. Weisenmiller, Chair
Karen Douglas
Carla Peterman

Staff Present:

Rob Oglesby, Executive Director
Michael Levy, Chief Counsel
Jennifer Jennings, Public Advisor
Ken Celli
Kate Zocchetti
Gabe Herrera
Mark Kootstra
Panama Bartholomy

Also Present: (*Via WebEx)

*Mark Stanga, Daikin AC (Americas)
Monica Schwebs, on behalf of the Applicant
Hugh Bower, Emanuels, Jones and Associates
Carlos Fandino, City of Vernon
Stephen Keene, IID
Thomas Roth, Southern California Public Power Authority
Tim Tutt, SMUD
Tony Braun, California Municipal Utilities Association
Tim Carmichael, California Natural Gas Vehicle Coalition
Charles A. White, Waste Management
Jon Constantino, Coalition for Renewable Natural Gas
Todd Campbell, V.P. Public Policy and Regulatory
Affairs for Clean Energy, Clean Energy Renewable Fuels
Jay Hopper, Landfill Energy Systems
Charles Helget, representing Republic Services, Inc.
Melissa Cortez-Roth, California Wind Energy Association
Michael J. Carroll, Latham & Watkins
Nick Lapis, Californians Against Waste
Lenny Goldberg, The Utility Reform Network
Nidia Bautista, Coalition for Clean Air
Jeremy Weinstein, California citizen
Michele Wong, Clean World Partners
Kevin Best, Real Energy, and representing Ros Roca, Germany
Paul Sousa, Western United Dairymen
Michael Boccadoro, Dolphin Group
V. John White, CEERT
Tamara Rasberry, SoCal Gas
Valerie J. Winn, PG&E
*Shannon Eddy, Large Scale Solar Association
*Frank Mazanec, BioFuels Energy
*Laura Wisling, Union of Concerned Scientists
John Leslie, Shell Energy North America

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P R O C E E D I N G S

MARCH 28, 2012 10:12 a.m.

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

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

Good morning. Let's talk a little bit about the flow, the schedule of the meeting. It's actually short in terms of the number of items, but I think we're going to start out with a few moments, a resolution to talk to one of our departing staff, then the Consent Calendar, then Santa Clara, and then the eligibility.

My guesstimate is that the eligibility will come up around 11:00 or so, but certainly there's going to be sometime between now and then. And if anyone wants to step out, our Public Advisor, Jennifer Jennings in the back, will certainly collect your number and call you when we get to item 3. And anyone who wants to speak on any of the items should talk to Jennifer and fill out a blue card. So with that, let's start with the first item. Karen?

COMMISSIONER DOUGLAS: So, hi everyone. Commissioner Douglas. I wanted to recognize Panama

Bartholomy, who is the Deputy Director for our Renewables and Efficiency Division. He is leaving the Energy Commission and going to work in the Speaker's Office and handle Environmental Policy in the Legislature in the Speaker's Office. So we wish him well and I'd like to present a Resolution.

I had the privilege of working with Panama when he was an Advisor in my office. I hired him from then Chairman Pfannenstiel, brought him in as my first Advisor, and he served as my advisor for quite a while and through a lot of really intense and challenging and days that were just tremendously filled with potential because this was a time when the Recovery Act passed, this was a time when we were really gearing up to create a broad set of Recovery Programs, that we were working on the side on things like the State's Green Building Standards, on the T.V. Standards, and other Standards. So, anyway, I wanted to read the Resolution, even though I should say -- I should thank the many staff who has helped us both create the Resolution, and also edit out some of the parts that maybe needed to be edited out. So, Panama, a very nice clean Resolution for you:

"WHEREAS, Panama Bartholomy has worked for the State of California since February 2002 and with

the California Energy Commission since July 2006, and in that time has demonstrated a commitment to excellence and diligent effort on behalf of the people of the State of California;

WHEREAS, Panama, while working at the California Division of the State Architect, implemented the largest comprehensive Green Building online resource for school construction in the country and worked to reform Building Regulations related to solar, wind, water, and energy efficiency for schools, and during his tenure with the California Conservation Corps developed and implemented programs related to clean energy workforce training and environmental management systems; and

WHEREAS, Panama served as Advisor to two California Energy Commission Chairmen…," and, of course, that's sort of for a lack of a better word there, but which the Legislature provided us, "…providing expert analysis, policy recommendations, and motivational support on a variety of controversial and contentious issues related to climate change, land use, green building, energy efficiency, renewable energy, electricity, transmission, alternative fuels workforce development, and other matters; and

WHEREAS, Panama, as Deputy Director of the

Energy Efficiency and Renewable Energy Division oversaw four offices with more than 100 staff, developing and implementing programs related to energy efficiency, renewable energy, and energy-related workforce and economic development; and

WHEREAS, Panama contributed to the development of the State Climate Action Team's approach to land use-related climate change policies that served as a framework for Senate Bill 375, was the chief architect of the Clean Energy Workforce Training Program, which he insisted on calling Q-TIP, one of the largest programs of its type in the country, and played a foundational role in developing and overseeing the implementation of $314.5 million in energy-related programs under the American Recovery and Reinvestment Act of 2009, bringing long term energy, economic, and environmental benefits for all Californians, and in the process creating one of the largest home energy retrofit programs in the country; and

WHEREAS, Panama is a gifted public speaker who seeks out opportunities to share his passion for the environment, energy efficiency, community planning, workforce development, and yoga, who was named Man of the Year at Humboldt State University in 2001, and deemed to be one of the 100 most influential,

important, and interesting people in Sacramento by the *Sacramento News and Review* in 2010, and who seems to know everyone; and

WHEREAS, Panama is a creative innovative thinker who excels at challenging his colleagues to realize their full potential and stretch their thinking well beyond the status quo, while dedicating himself to recruiting new talent and loyally supporting all staff; and

WHEREAS, Panama leads by example when it comes to reducing his personal carbon footprint by recycling, using a bicycle and public transportation, and living, breathing, and even consuming renewable energy and alternative fuel through his collaboration with his brother, Obediah, in recycling cooking oil for fuel;

THEREFORE, BE IT RESOLVED, that the California Energy Commission recognizes and thanks Panama Bartholomy for his extraordinary diligence and professional contributions to the well being of the citizens of California and their environment, and for reminding us that his self-designation as your public servant is an honorable goal, and wishes him good health and all the best in his future endeavors."

So thank you, Panama. [Applause]

MR. BARTHOLOMY: Thank you that was a beautiful resolution. Thank you, Commissioners, very much for the time and I see you've implemented a new program here, so I'll keep my remarks, like my tenure here, brief.

I was -- I'm honored to have been part of an organization like the California Energy Commission. For about 36 years, this organization has had groundbreaking policies and approaches to energy, and I am honored to have been a part of one-sixth of that. And I think that, while much of our legacy rests on work from earlier decades, I think when we look back at the last six years we've spent together, that they will be also some of the most impactful years of the Energy Commission and the policies we implemented.

I'll just close by reflecting on a comment that Commissioner Douglas mentioned in the Resolution, in that nobody does anything at the Energy Commission by themselves; we have an amazing set of Commissioners and an absolutely fabulous set of staff implementing great policies. And so, while my name is on the Resolution, I'd like to accept it in the honor of the fantastic teams of individuals within this building. So thank you very much for the recognition and I look forward to continuing to work with you. [Applause]

COMMISSIONER PETERMAN: Just, Panama, I want to say, as a Lead Commissioner on Renewables, thank you in particular for your leadership of the Renewables Division. And your commitment and enthusiasm will be missed, and we're looking forward to working with you in your new role. So thank you again for your contributions.

CHAIRMAN WEISENMILLER: Yeah, again, certainly, Panama, thank you for your enthusiasm and dedication here, and to achieve the goals we all have in this administration, and certainly look forward to continue working with you on those goals in the future.

COMMISSIONER DOUGLAS: With that, I'll move approval of the Resolution.

COMMISSIONER PETERMAN: I'll second.

CHAIRMAN WEISENMILLER: All those in favor?

(Ayes.) The Resolution passes unanimously.

MR. OGLESBY: And if I could add my thanks and recognition of Panama's exceptional service to the Energy Commission, clearly anyone who has met him and talked to him for more than a minute recognizes that he's a man of exceptional talents and abilities, and I want to wish him well at the Assembly. I know his commitment to the mission here will be continued in his new role. Thanks, Panama.

CHAIRMAN WEISENMILLER: So Consent Calendar.

COMMISSIONER DOUGLAS: Move Consent.

COMMISSIONER PETERMAN: Second.

CHAIRMAN WEISENMILLER: All those in favor?

(Ayes.) Let me check, I think we have two representatives from Daikin on the phone. Would you check and see if they want to say anything at this moment?

MR. STANGA: Yes, this is Mark Stanga for Daikin AC (Americas). We have nothing to add or say, except to thank the Commission for the approval -- unless there's any question.

CHAIRMAN WEISENMILLER: No. We just wanted to give you the opportunity.

MR. STANGA: Thank you.

CHAIRMAN WEISENMILLER: Thank you. Let's go on to Item 2. Santa Clara Data Center Phase 2 Project (Docket No. 11-SPPE-01). Ken.

MR. CELLI: Good morning, Chairman Weisenmiller. Good morning, Commissioner Douglas and Commissioner Peterman. Kenneth Celli, C-E-L-L-I, on behalf of the Santa Clara SPPE Committee. The decision before you reflects the Committee's careful consideration of the evidence submitted by the parties. The proposed decision recommends that the Commission

grant the SPPE because the Santa Clara SC1 Data Center Phase 2 project is less than 100 megawatts and will not cause or contribute to any significant direct, indirect, or cumulative impacts to public health, safety, energy resources, or the environment. The Santa Clara SC1 Data Center is located in an industrial area in the City and County of Santa Clara. It's about a block away from the Mineta Airport.

The second phase of the project would install 16 diesel fuel back-up emergency generators and ancillary equipment, in addition to the existing 16 permitted diesel fuel backup generators that are already installed at the Data Center. This would bring it to a total of 32 emergency backup generators. Each backup generator has a capacity to generate 2.25 megawatts for a combined gross generating capacity of 72 megawatts. The project will not export any electricity out onto the grid.

In this case, there were no Interveners, the only two parties were staff and the Applicant. As usual, the public was given ample opportunity to participate. The public showed up at the informational hearing, but offered no comments, nor were there any comments at the Evidentiary Hearing.

The Committee recommends that the Commission

adopt the Committee's decision on the small power plant exemptions for the Phase 2 of the Santa Clara SC1 Data Center, which has been served on all of the parties, along with the Errata dated March 22nd, 2012, which should be in your materials, and it contains three corrections to the text.

With that, the Committee submits the matter to the full Commission. I'm happy to answer any questions regarding the decision, itself; otherwise, the parties are here to address the Commission.

MR. LEVY: Commissioners, just a clarification. There are two items before you on this, the first is the approval of the Mitigated Negative Declaration, and the second one is the consideration of the Draft Order. Thank you.

COMMISSIONER PETERMAN: No questions at this time. If you want to proceed ahead.

MR. CELLI: Thank you.

COMMISSIONER PETERMAN: Do we want to hear from the Applicant?

CHAIRMAN WEISENMILLER: Yeah. Let's hear from the Applicant.

COMMISSIONER PETERMAN: Is there anything -- do we want to hear from the Applicant or from staff?

UNIDENTIFIED SPEAKER: Staff has no comments.

MS. SCHWEBS: The Applicant has no objection to the entry of the Proposed Decision as written with the Errata. We do want to add, however, that we very much thank the Energy Commission staff for expeditiously returning to this matter and addressing it, and we also want to thank the City of Santa Clara for participating in the CEC's process and assisting with the Applicant and the CEC throughout this process.

CHAIRMAN WEISENMILLER: Any public comment on this decision?

COMMISSIONER DOUGLAS: I don't -- not seeing any public comments -- this is Commissioner Douglas -- I was the Presiding Member on this case, serving along with Commissioner Peterman on this case, and I just wanted to say that it's been rare in my experience to see issues come to resolution so quickly. The Applicant was very impressive in proactively submitting information and working out issues, really in advance of the informational hearing and site visit. Applicant and staff had had, as I understand it, numerous rounds of exchange of information, and so I wanted to express my appreciation to the Applicant and staff for working through issues quickly, and to the Applicant for being very responsive, and to the City of Santa Clara for being very much there in the room, in the informational

hearing certainly, but as I understand it, working with the parties, as well.

We made a effort to move this application through the procedural -- through the process at the Energy Commission expeditiously, in part because this is a project that had already entered on some substantive review, and so there was a lot of review that we were able to take advantage of, staff was able to take advantage of. So I just wanted to express my appreciation to all the parties and, of course, the Hearing Officer, Ken Celli, who we gave, of course, very little time to prepare the decision, but who also volunteered to get the decision done in relatively short order. So, thank you.

If there are no questions or comments, Chief Counsel can help me here if needed, but I will move approval of the Mitigated Negative Declaration and the Draft Order with the March 22nd, 2012 Errata.

MR. LEVY: Why don't we do them in separate votes because the second depends on the approval of the first.

COMMISSIONER DOUGLAS: All right, so, in that case I will move approval of the Draft Order with the March 22nd, 2012 Errata.

COMMISSIONER PETERMAN: I will second the

motion.

MR. LEVY: The Mitigated Negative Declaration first.

COMMISSIONER DOUGALS: Ah, okay. Move approval of the Mitigated Negative Declaration.

COMMISSIONER PETERMAN: I'll second.

CHAIRMAN WEISENMILLER: All those in favor?

(Ayes.) This item passes unanimously.

COMMISSIONER DOUGLAS: And now I will move approval of the Draft Order with the March 22nd, 2012 Errata.

COMMISSIONER PETERMAN: I'll second.

CHAIRMAN WEISENMILLER: All those in favor?

(Ayes.) This item also passes unanimously.

MR. CELLI: Thank you.

CHAIRMAN WEISENMILLER: Thank you. So with that, we actually moved faster than I thought.

MR. OGLESBY: Mr. Chairman?

CHAIRMAN WEISENMILLER: Yes.

MR. OGLESBY: Before we get started, there are those maybe watching this and from the overflow room because the room was quite full at the beginning; you may want to make an announcement from the dais that there is plenty of seating available now in this room.

CHAIRMAN WEISENMILLER: Okay. So with that,

let's make two announcements, one is that at this moment there is indeed seating in this room, and certainly encourage anyone who is in the overflow room to come over. I think Jennifer Jennings has sort of notified people of that. We move fast. And I was also going to point out, or perhaps you could explain to people, that we now have timers.

MR. OGLESBY: So the expectation is that, at times, the Commission will need to manage its calendar and the testimony, particularly on items that have a large number of commenters expected, and so the public testimony will be limited to three minutes per, and there is a timer that is visible both from the podium and, for those who are calling in and using the WebEx format.

CHAIRMAN WEISENMILLER: And this is our first time, I think the timers are close, but not precisely in alignment, we'll probably find. But anyway, so with that, staff?

MS. ZOCCHETTI: Thank you. Good morning, Mr. Chairman and Commissioners. I'm Kate Zocchetti with the Commission's Renewable Energy Office. With me today is Gabe Herrera from the Legal Office, and Mark Kootstra from my office.

As you know, the Renewables Portfolio

Standard requires California's Electric Utilities to procure 33 percent of their retail sales from renewable energy sources by 2020. With the first RPS Eligibility Guidebook having been adopted in 2004, the Energy Commission has adopted guidelines that describe the requirements, conditions, and processes to certify facilities as eligible for the RPS.

Today, staff proposes that the Energy Commission consider suspending these guidelines and allow electric generation facilities to be certified as eligible for the RPS if the facilities use biomethane to generate electricity. For these purposes, biomethane means biogas that has been conditioned and received into the natural gas pipeline system, and transported to an RPS eligible generation facility.

As I will note in my presentation, biomethane was not addressed as a separate eligible renewable energy resource category in the Guidebook until March of 2007. Although the underlying biogas fuel sources -- digester gas, landfill gas, and gas derived from biomass -- have always been identified as eligible in the RPS statutes.

Although the passage of Senate Bill X12 in April of 2011 did not change these eligibility requirements, the new RPS law does establish a

preference for electricity generation that provides more environmental benefits to the State by displacing in-state fossil fuel consumption, reducing air pollution within the state, and helping the state meet its climate change goals by reducing greenhouse gasses associated with electricity generation.

The current rules in the Eligibility Guidebook do not adequately address these environmental goals with respect to biomethane because the current rules do not require that the use of biomethane displaces fossil fuel consumption, results in reduced air pollution, or greenhouse gas reductions. Nor do the rules establish rigorous requirements to verify and track biomethane and its associated green attributes.

In September 2011, the Energy Commission hosted a staff workshop to discuss biomethane in the RPS in light of Senate Bill X12. I have a brief presentation to provide a framework and overview of these issues on the Proposed Suspension, if you would allow.

CHAIRMAN WEISENMILLER: Please go for forth.

MS. ZOCCHETTI: Thank you. So as you can see, this is just an outline of the topics that I'd like to cover. I hope to move through this rather quickly, but I wanted to bring everyone up to speed on

these issues.

The Energy Commission's RPS rules statutorily are to certify generation as eligible for the RPS, design and implement a tracking system for compliance, and now, with the passage of Senate Bill X12, to adopt Regulations for the RPS enforcement for the publicly-owned electric utilities. In the RPS Statute, however, for biomethane, the law does not specifically identify even biogas as an eligible renewable energy resource for the RPS. The law does identify biomass, digester gas, and landfill gas, but does not define these terms. The law is also silent on whether these fuels must be used to generate electricity on the same site as the fuels production; it does not specify how these fuels, if produced off-site, should be delivered to a power plant for purposes of generating electricity.

A brief history of how biomethane went along in the RPS in 2006, stakeholders came to us seeking clarification on whether transporting biogas via the natural gas pipeline system could be eligible for the RPS. We first addressed this for biomethane in the March 2007 Guidebook, as I mentioned. Since then, one facility was certified in 2008, two in 2009, a third in 2010, but currently in 2012, in March, we find 16 facilities certified as RPS eligible, with 13 pending

certification, and six are pre-certified with one pending pre-certification.

So to briefly summarize the eligibility requirements for biomethane, it must be first derived from an RPS eligible fuel; it must be converted to electricity in an RPS eligible electric generating facility; as I noted, it could be co-located at the fuel production site, or transported via a dedicated pipeline to an RPS eligible facility; or, it would be transported off-site as biomethane, as we're discussing today, to an RPS eligible facility through the natural gas pipeline system.

The receipt point, often called the injection point for biomethane, may be in any intrastate pipeline in the WECC, which is the Western Electricity Coordinating Council, or that is connected to a pipeline that delivers gas into the state. The delivery point must be to California if the facility is located in California, or, if it is outside of California, it must be directly to the facility.

To apply, the RPS Applicant must enter into contracts for delivery or storage of the gas, with every pipeline or storage facility operator from the receipt point to the delivery point. Green attributes must be conveyed to the electric generating facility

for the RECs to be whole.

Quantifying the energy production requires accurate metering at several locations. The volume and heat content of the biomethane that is injected and transported into the pipeline must be measured, the volume and heat content of the nonrenewable fuel at the electric generating facility, and then, of course, the amount of electricity generated by the power plant.

SBX12 now establishes, as I noted, a preference for electricity generation that provides more environmental benefits to the state. The fossil fuel consumption reduction, or displacing fossil fuel, reducing air pollution within the state, and reducing greenhouse gas emissions from electricity generation are spelled out in the statute.

So today the purpose of this Proposed Suspension is to reexamine our requirements in light of Senate Bill X12. For example, the current Eligibility Guidebook does not require biomethane displace fossil fuel consumption. It does not require biomethane use reduces air pollution. It does not establish a rigorous requirement for verifying claimed quantity of biomethane actually used by the power plant for RECs. It does not establish rigorous requirements to verify biomethane attributes are transferred to the power

plant. Also, the double counting issue that we're very concerned with.

During the suspension, we would like to evaluate these issues to ensure the intended benefits of the new statute are realized. We would like to ask ourselves, do the RPS requirements for the generating facilities using biomethane demonstrate that the environmental objectives are being met? Does our tracking and verification system have a rigorous enough system to ensure that the attributes are not being double-counted? And additionally, should RPS requirements ensure additionality that many parties have asked us about?

If the suspension is adopted, the conditions would be that the provisions in the current Guidebook for certification are suspended as of 5:00 p.m. today. The suspension would be in effect until the Energy Commission was to lift it. Facilities that are pre-certified as RPS eligible would remain so. Facilities that are certified as RPS eligible would not be affected, provided that they use biomethane under the requirements in the addition of the Guidebook that was in effect when they were certified; that their use of biomethane is limited to the amount and the sources procured under contracts specifically identified in

their approved Application For Certification; provided that the facility owners provide documentation of the biomethane procured before the suspension, including information from their supply contracts such as term length, start and end dates, and monthly gas deliveries; provided that no amendments to extend the contract term, increase the supply, or otherwise increase the amount or the availability of biomethane, no amendments will be accepted during the suspension, and such amendments would be subject to the eligibility requirements in place after the suspension is lifted.

Just to clarify, certification facilities must use biomethane that is produced and delivered on or before the date of the Application For Certification, not for future or prospective biomethane supplies. Complete applications for certification or pre-certification must be received before the effective date of the suspension and they will be processed under our current Guidebook.

Applications received after the effective date of the suspension will not be processed and will be returned to the Applicant. After the suspension is lifted, facilities will be subject to the requirements in place at that time.

Written comments were to have been received

by 5:00 p.m. last Friday, March 23rd. The final draft of the RPS Eligibility Guidebook 5th Edition is planned for public release early in April, a draft went out last fall. We do not anticipate any changes at this time to the biomethane requirement section.

We note that the Legislature may act to clarify eligibility conditions for facilities using pipeline biomethane. Also, the Energy Commission will notify interested stakeholders if we propose to take action on pipeline biomethane for the RPS. And such notifications will be posted on our website and sent to the renewable list server so we provide the list, it's a little bit missing there, it's www.energy.ca.gov/portfolio. You're free to sign up for the renewable list server if parties have not done so already. That is the end of my presentation.

In light of the noted shortcomings with the current Rules for Biomethane, staff is now proposing that the Energy Commission temporarily suspend the RPS certification of facilities using biomethane so that these issues can be carefully considered by both the Energy Commission and the Legislature. Do the Commissioners have any questions for staff?

COMMISSIONER PETERMAN: I think I'm going to reserve any questions and comments until after we hear

public comment. I will ask our IT Director to put up that last slide again where the address for participating in the proceeding can be shown, just so those on WebEx, or those that didn't catch it verbally can have it, as well. Thank you.

CHAIRMAN WEISENMILLER: Let's turn to comment by the affected parties, by all the parties. At this time, I'm going to go in order of public officials with public agencies first. So with that, Hugh Bower, Burbank, Pasadena.

MR. BOWER: I suppose this is what happens when you show up early for the hearing, first in line. I am Hugh Bower with Emanuels, Jones and Associates. We represent both Burbank and Pasadena. I don't think it will take me six minutes, but hopefully I can address both individually.

So Pasadena has taken a very progressive approach to greenhouse gas reduction and, in fact, Pasadena adopted the provisions of the United Nations Environmental Urban Accord. In 2009, the City Council adopted the revised RPS goals and actually set their own standard at 40 percent by 2020. Obviously, these exceed the provisions of SBX12. In order to meet these goals, the Council approved the number of renewable resource contracts, and these contract typically cost

more than nonrenewable resources. The contracts were authorized in good faith and consistent with the laws, rules and regulations applicable to RPS qualifying renewable resources in effect at the time.

Today, Pasadena is at 22.2 percent RPS, which does include biomethane, will increase 2.2 percent per year until 2020, reaching the 40 percent mark. Currently, biomethane is about six to eight percent of the total portfolio and is anticipated to arrive at 19 percent of the 40 percent by 2020. We have five contracts involving the consumption of biogas, it's been treated to natural gas pipeline quality, transported for the consumption in California power plants. These contracts were authorized with the specific intent of beating the Category 1 RPS requirements.

Pasadena has indicated to ratepayers that they are to expect a rate increase of 9.1 percent in order to meet the 33 percent standard and an additional 2.6 to get to their self-imposed 40 percent. With respect to the moratorium, we wanted to communicate that, depending on the length of the moratorium, Pasadena is concerned that they won't get their newest generator certified. Pasadena currently is using an older, less efficient power generation facility and is

seeking to replace it with a far more efficient combined cycle facility. It is our hope that any moratorium would not impact the ability to replace power generation facilities during the pendency of the moratorium.

If the Legislature fails to act and the moratorium stretches out indefinitely, Pasadena will be left with a contract for biomethane and won't be able to use the more efficient combined cycle facility. We are liking it to forcing someone to keep using a 1980's gas guzzler while you've got a Hybrid sitting in the driveway. So, with that, we hope you take our comments into consideration.

COMMISSIONER PETERMAN: Thanks. Commissioner Peterman here. I had a clarifying question. You mentioned that 19 percent of the 40 percent would be expected to come from this resource in 2020. Can you clarify if that means, then, half of the renewable target? Or one-fifth? You said it was 19 percent -- is it half of 40 percent? Or is it 19 percent of 40 percent?

MR. BOWER: I believe it's one-fifth, but I can get that confirmed and get that to you.

COMMISSIONER PETERMAN: Okay, yeah, I would appreciate that clarification.

MR. BOWER: Right. I don't think it's half, I think it's 20 percent of the 40 --

COMMISSIONER PETERMAN: Okay, appreciate that.

MR. BOWER: -- percent.

COMMISSIONER PETERMAN: Thank you.

MR. BOWER: Moving on to Burbank, similarly, Burbank shares the state's RPS goal and they actually adopted -- I believe they were the first City to adopt the 33 percent on their own in 2007. You should be in receipt of Burbank's letter regarding the proposed moratorium. As noted in the letter, Burbank will meet the goals, but needs some flexibility. Under the proposed moratorium, the flexibility is being considered to be suspended, or possibly eliminated. The fact of the matter is, from our perspective, biomethane is a renewable resource and we would urge that it should be continued to be counted as such. If biomethane is not permitted to be counted towards meeting the RPS Standard, it is Burbank's assertion that it is going to increase their ratepayer costs to 7 to 8 percent.

Suspending or banning or limiting the use of biomethane does not help the environment, or the people of the State of California. As noted in the letter

from Burbank Mayor Talamantes, if the moratorium does not move forward, signed contracts for biomethane executed prior to the date of the moratorium should be allowed to be considered for full certification under the fourth Guidebook rules. And interference with existing contracts should be avoided at all costs. I thank you.

CHAIRMAN WEISENMILLER: Thank you. Okay, City of Vernon, Carlos Fandino.

MR. FANDINO: Good morning. My name is Carlos Fandino, I'm the Director of Light and Power for the City of Vernon. In summary, Vernon strongly opposes the Proposed Suspension as it would have negative impacts on the current contracts Vernon has executed, as well as Vernon's ability to meet the goals of Renewable Portfolio Standard, RPS Program, included by Senate Bill SBX12, at a reasonable cost to our ratepayers. Changing the rules of engagement in the middle of the RPS compliance period jeopardizes Vernon's ability to meet the RPS requirements at a reasonable cost to the 55,000 jobs in Vernon.

Vernon has been engaged in securing biomethane since 2010 and handcuffing our City would jeopardize our rates at a volatile time. Vernon has had to aggressively raise rates in order to meet the

renewable goals and any further limitation imposed would only put further pressure on businesses not to only leave Vernon, but to leave California, as well. Vernon is a manufacturing hub in Los Angeles Area and home to many companies that provide goods and service all over the United States.

If the Commission is to consider suspension, a longer notice period should be given of the meeting at which the suspension would be considered in order to allow more time for input from affected entities. A suspension of any should only operate in relation to contracts executed after the date of suspension, allowing entities with existing contracts to apply for and receive precertification and certification under current rules. Thank you very much.

COMMISSIONER PETERMAN: A follow-up question. What share of Vernon's RPS target, both in the first compliance period, or by 2020, is expected from biomethane, or are you seeking to have from biomethane?

MR. FANDINO: Currently, all Bucket 1 is currently through biomethane.

COMMISSIONER PETERMAN: And can you give quantification about what the megawatt hours is for that?

MR. FANDINO: It's approximately 240,000

megawatt hours.

COMMISSIONER PETERMAN: Thank you very much.

CHAIRMAN WEISENMILLER: Thank you. Stephen Keene, Imperial Irrigation District.

MR. KEENE: Good morning. My name is Stephen Keene, I'm the Assistant Manager for Policy and Regulatory Affairs at IID. IID is the third largest publicly owned electric utility in California and serves approximately 145,000 retail customers. IID does not support the Proposed Suspension of the RPS Eligibility Guidelines related to biomethane. IID is on track to meet its RPS and greenhouse gas targets; IID is mindful, however, they must strive to meet those requirements without imposing severe hardships upon our customers, many of whom already struggle to pay their electric bills. The use of biomethane in IIDs resource portfolio, as it transitions to a higher percentage of renewable generation, has been an integral part of IID's resource planning to meet 33 percent. IID is a strong proponent of the development of renewable resources in the Imperial Valley. Toward this end, IID intends to rely on local renewable generation to meet its RPS requirements in an effort to promote economic development in the Imperial Valley.

The Imperial Valley is one of the most

economically impoverished regions in the country, with a large low income population, and chronic high unemployment. The development of renewable generation projects will bring new jobs to a region that desperately needs them. However, many of these renewable generation projects are still in the planning and development phase, and renewable energy from these projects would not be available in the immediate future. In the interim, IID must rely in part upon biomethane to meets its RPS targets.

In December of 2011, IID executed a ten-year contract for biomethane supplies. The contract was entered into in good faith reliance on the current rules. IID promptly applied for certification of all of its gas-fired facilities in relation to these biomethane supplies, including its El Centro Unit 3, which is undergoing a repowering at the present time. This repowering is desirable, as it will result in making an existing unit the most efficient in IID's fleet.

After the repowering is complete, the repowered facility will return to service in June of 2012. Throughout February and March, biomethane has been delivered to the repowered facility and test burns have been conducted and energy produced. Based on

those test burns, IID has already submitted an Application for Certification of their repowered facility. Specifically, on March 22nd, the repowered facility was scheduled for a 24-hour test burn, with a full amount of the biomethane contract used for the generation of energy. For these reasons, IID respectfully requests that the CEC not suspend the current biomethane regulations. If such a suspension does occur, IID urges the Commission to grandfather the existing biomethane contracts that have already been executed and process Applications for Certification that have already been submitted. Thank you.

COMMISSIONER PETERMAN: That was an intense buzzer.

CHAIRMAN WEISENMILLER: Do you have any questions?

COMMISSIONER PETERMAN: I do have a question or two. So just regarding the repowering situation you mentioned, I just wanted to confirm whether or not that facility was online now and utilizing biomethane.

MR. KEENE: It is online, we haven't accepted it yet for commercial operation until we complete our testing, but throughout the month of February and March, we've been conducting test burns using biomethane.

COMMISSIONER PETERMAN: Okay, so it's in the test phase, but not commercial operations yet.

MR. KEENE: Yes.

COMMISSIONER PETERMAN: Okay, and I want to ask you the same question I asked the City of Vernon, which is what is your expectation around this resource meeting your compliance, both in the first compliance period and 2020?

MR. KEENE: In the first compliance period, it's a very small portion of our portfolio of renewables, it's approximately one percent.

COMMISSIONER PETERMAN: And towards your resource plans for 2020?

MR. KEENE: I don't have that number handy right now, I can check it out and get an answer for you, Commissioner.

COMMISSIONER PETERMAN: Appreciate that. Thank you very much. Any other questions from the dais? Thank you.

MR. KEENE: Thank you.

CHAIRMAN WEISENMILLER: Tom Roth, SCPPA.

MR. ROTH: Good morning, ladies and gentlemen. Good morning, Commissioners, good morning staff. I'm here on behalf of SCPPA, otherwise known as the Southern California Public Power Authority, which

represents 11 municipalities in Southern California and an Irrigation District. In December of -- or, rather, in July of 2010, SCPPA approached me and asked me to work on behalf of its members to contract for pipeline biomethane as one of its sources of fuel for meeting RPS requirements. At this time, since having embarked on this particular venture in 2010, there are 11 contracts, four biogas, held by five publicly-owned utilities that are associated with SCPPA. These contracts consist approximately of 30,000 decatherms of natural gas consumption, or approximately 80 percent of the statewide consumption of biogas, is wrapped up in these contracts.

I would like to encourage and call upon the Commission to not act on the suspension for a couple of reasons having to do with what I consider to be myths about this business of biogas. The first myth I would like to bring forward is what I call the Gold Rush myth. Having served for 40 years as an Executive for oil and gas companies, primarily majors, I can tell you that, had those of us in the private sector taken 22 months to contract for such insignificant amounts of fuel, the highest grade I can imagine I would have given any of those participants would have been "Needs Improvement," and probably would have given that person

less, and I happen to be that person. But frankly, there was no Gold Rush. We started 20 some months ago, our task is completed, and I'd just like to encourage you not to use the Gold Rush reason as why we have to do this today. There are others, but I'd be happy to argue this point with anybody.

The second myth that I'd like to cover real quickly is the biomethane glut, there is apparently a fear that the streets will be awash in a tidal wave of biomethane molecules. I can tell you, 30,000 a day representing 80 percent of the state's consumption consists and represents something less than 1.5 percent of the state's total consumption of natural gas for electric purposes. To me, and I'd be happy to have a long conversation with anybody here that would like to talk about that, that's an inadequate reason and belies the facts. So with that, thank you for this time and for your consideration.

COMMISSIONER PETERMAN: Thank you. I have a couple follow-up questions if you don't mind. Regarding -- I have a couple follow-up questions.

MR. ROTH: I do not mind at all.

COMMISSIONER PETERMAN: Regarding the second point you raised about the glut, I just want to make sure I understood the statistic correctly. So is it

that current usage in the state is less than 1.5 percent of total consumption of natural gas?

MR. ROTH: No, 1.5 percent of the use of natural gas for electric power. The state's total consumption is somewhere between 5.5 and 6.0 BcF per day, we're talking about 30,000 a day, my calculator comes out at a whole point eight percent, but the state uses half of that gas for electric generation, so 1.6 percent.

COMMISSIONER PETERMAN: So do you have an estimate of what the potential gas available is, both in the nation that would be available to participate in this program?

MR. ROTH: Most folks who have studied this, including information that's available from the Department of Energy suggests that it's probably somewhere in the neighborhood of 50,000 decatherms a day, that's economically available -- that can be captured by pipelines that could bring it to market.

COMMISSIONER PETERMAN: And you said currently we're using how much in California, in terms of that --

MR. ROTH: By my estimate, we're at about 40,000. We're almost peaked.

COMMISSIONER PETERMAN: Okay. Also, you

mentioned that it took 22 months for you to negotiate your contract --

MR. ROTH: I'm not bragging.

COMMISSIONER PETERMAN: Oh, no. Sometimes in Government, we don't work the fastest either, so I can appreciate that. I would welcome your insight or comments about why the process takes a long time, what points in the process did you find particularly laborious?

MR. ROTH: You want me to answer that?

COMMISSIONER PETERMAN: Yes, please.

MR. ROTH: I'll try to do it --

COMMISSIONER PETERMAN: Appreciate it.

MR. ROTH: -- in less than 42 months.

COMMISSIONER PETERMAN: When it comes to questions, you don't get a timer on it, so you've got --

MR. ROTH: Well, fine. I'll do it quickly, I tend to answer things quickly. It varied with each vendor, but we consistently ran up against what I would call the -- what to me was a force majeure situation, but the sellers represented it as the inability of the facility to perform up to its expectations, whether they were engineering reports, and by a "facility," I'm not talking about a generating plant, I mean, you folks

approve these plants, you license them, and my clients spent hundreds of millions of dollars building them and they're all running, okay, so it's not the generating plants I'm talking about, I'm talking about the landfills, in particular. And so that was a big obstacle. The vendors wanted escape hatches in the event that what they were selling didn't match up to what they said they thought they had, and I'm glad you brought that up because there is a provision in the suspension which flies in the face of what we worked very hard to get. What the industry refers to as a "hedge." And what a hedge is, is nothing other than a form of insurance. And any prudent buyer would be sure, when he's faced with a situation where his supply is uncertain because a vendor isn't sure whether it's there or not, would take steps to make sure that he gets that supply somehow, and therefore we included what I call additional quantity provisions, and I know these are suspect for reasons I don't understand, they're there as a hedge, I would find it commercially incredible to remove these hedges which were fundamentally free to the buyer, should not be -- these were free options, you don't get this very often in business, something for nothing. That was the major -- the second problem we had was price and we just had to

beat them out of it, we just had to do all sorts of things I wouldn't even tell my sisters and brothers, my daughters and sons about, I'd just assume they not know it, but we did it. And some of them are probably here.

COMMISSIONER PETERMAN: You just have a lot of people in your family.

CHAIRMAN WEISENMILLER: You were on the Internet now, so it's hopeless.

MR. ROTH: Oh, my God. That's true, Robert.

COMMISSIONER PETERMAN: You were talking a little bit about some of the contracts that you engaged in, negotiated, are there conditions in those contracts to allow the utilities to not have to comply with the contracts if there is a change in the Regulations?

MR. ROTH: Yes, that's something we bargained very hard for initially, and initially we were unable to give it. As time moved on, and as things began to become cloudier, we put our feet fully in -- if you want to sell anything further, you're going to have to give us an out. All right? But these were not meant to be, you know, put in there to get out; the problem is this is the cheapest thing my clients can get to meet RPS goals, and anything over that redounds to the benefit -- and that's the wrong word -- of our ratepayers. So --

COMMISSIONER PETERMAN: Thank you, and I hear your comments, I just wanted to clarify what conditions there were present for breaking the contract, as necessary.

MR. ROTH: Okay, each contract is a little bit different, but there are provisions for outs, both sides, so….

COMMISSIONER PETERMAN: I really appreciate you taking the time.

CHAIRMAN WEISENMILLER: Just a follow-up. Are those provisions sort of a regulatory out? Or are they in the force majeure clauses?

MR. ROTH: Yes.

CHAIRMAN WEISENMILLER: Which one?

MR. ROTH: Both.

CHAIRMAN WEISENMILLER: Both, okay, fine. So there's explicit Reg out clauses.

MR. ROTH: Yeah.

CHAIRMAN WEISENMILLER: Okay. Thanks.

MR. ROTH: Thank you.

CHAIRMAN WEISENMILLER: Tim Tutt, SMUD.

MR. TUTT: Good morning, Commissioners. Good morning, staff, everybody in the room. I'm Tim Tutt from SMUD, and SMUD does not support the suspension of biomethane at this time. We feel that really, within

your 10-day window for doing these kinds of actions, on an important issue like this, we feel there really hasn't been enough time for stakeholders to understand the implications of the suspension and get that input to you. We want to bring to your attention that suspension actions like this have real business impacts. As an example, SMUD typically goes through occasional bond sales and we have to disclose this to the potential bond buyers as a risk to our situation. We reiterate some of the comments earlier that there has not been a real Gold Rush here. I mean, in SMUD's case, we do have a contract that we signed in December of 2011, but we started negotiating that contract long before and our Board actually approved it way back in 2010, there was no kind of attempt to get that contract in under some kind of door.

If you do adopt the suspension, we request that you modify it to avoid stranding these already signed contracts. This is a potential $8 to $10 million cost to SMUD's ratepayers. There is possible compliance issues for some of the utilities in the room, I know not really for SMUD because we do have a new wind development coming on line very soon, and new solar facilities coming on line very soon, and a new geothermal facility in the works, so we should be okay

in the first compliance period, but we certainly don't like the idea that this particular resource that we contracted for in good faith may not end up being part of our portfolio in the end.

So we suggest that you change the suspension to apply only to biomethane projects if you're going to adopt them, biomethane projects signed after today's date, rather than certification as of today's date. I think that's an easy thing for staff to do, you just have to look at biomethane contract signing date as you do your certifications.

Two other changes, quickly. We'd like to place an end date on the suspension, there's no guarantee of action and having an end date at least gives the market notice that there's something that's going to happen, and they might just put things on hold, rather than getting out of the business altogether, it disrupts the market less. And I think you should clearly exempt from the suspension biomethane and dedicated pipelines, as we've heard that your intention is, but it's not clear in the notice.

Biomethane has long been acknowledged to be a renewable fuel, it produces a displacement of natural gas on the fuel side, not the electricity side, so it clearly displaces natural gas. In fact, one year ago,

this Commission adopted the Bioenergy Action Plan 2011, and in that plan there is a statement that says that biomethane affords an effective way to increase renewable energy use and displace natural gas. I don't think anything has changed from today vs. one year ago.

The Bioenergy Action Plan also talked about State agencies coordinating actions to increase the use of biogas in the state, and in part this is because there is an Executive Order that Governor Schwarzenegger signed that indicated that 20 percent of the Renewable Portfolio Standard should come from biomass or biogas resources. I think the State is at about 2.4 percent today, or at least it was in 2010. SMUD is different, we've got a significant amount in our portfolio, but the state overall has a Executive Order indicating that additional biomethane should become part of the Renewable Portfolio Standard, initial biogas, or biomass resources. I'll leave it at that. Thank you.

COMMISSIONER PETERMAN: Mr. Tutt, I have a couple questions, but before I do, I would ask for staff to clarify the intent of the notice as it pertains to dedicated pipelines. Mr. Herrera.

MR. HERRERA: Good morning, Commissioner Peterman, Gabe Herrera with the Energy Commission's

Legal Office. The Notice indicates it applies only to biomethane, which in the Guidebook is defined as biomass that has been conditioned and injected into the natural gas pipeline system for delivery. The Notice did not apply to dedicated pipelines where you've got fuel flowing directly from the source of production to the power plant, or, for example, biogas that might be used on site to generate electricity, or biogas that might be transported directly from the production site, say, by truck or rail, to the power plant. So just limited to the biomethane delivered through the natural gas pipeline system.

COMMISSIONER PETERMAN: Thank you for that clarification. Mr. Tutt, you mention that a significant amount of SMUD's RPS compliance is expected to come from biomethane. Could you provide specific numbers?

MR. TUTT: Commissioner, in 2010, nine percent of our RPS energy came from biomethane. We do expect with the new contract that we have signed, but is not yet delivering gas, that by 2014-2015, that amount will increase to about 14 or 15 percent. And of course, we would look at other biomethane options as we got out towards 2020 in combination with any other resources that we may need to fulfill our RPS

obligations.

COMMISSIONER PETERMAN: If I'm correct, SMUD has a couple different types of biomethane resources; they procure dedicated biogas resources, the dedicated pipeline, the natural gas pipeline system, could you just speak to the couple different types of projects that you have?

MR. TUTT: Sure, Commissioner. We do have, as I have indicated, one biomethane contract from a Texas landfill, and that contract was signed back in 2009 or 2008, started delivering in 2009, so we've got gas coming under that contract for, I believe, 15 or 20 years. We also are producing biogas at the Sacramento County Wastewater Treatment Facility, and we had been -- we are currently taking that biogas and putting it into a dedicated pipeline and also burning it at our Cosumnes Combined Cycle Power Plant. And then there's the new contract, which isn't delivering yet, that I've told you about. We also, of course, have been active in helping local dairies develop their own biogas on-site use and have two or three of those projects in our portfolio, plus a couple of others that are being developed. You know, there is always questions and it's a tradeoff between burning that biogas on-site vs. trying to clean it up and putting it into a pipeline.

So, case-by-case, we would make a decision on which is the best action to pursue.

COMMISSIONER PETERMAN: And currently are those dairies using the electricity on-site -- the biogas on-site?

MR. TUTT: Those dairies are currently using the biogas on-site and providing electricity to us.

COMMISSIONER PETERMAN: And you propose a couple options, alternative options, the Commission could take in addition to the suspension proposed; and they all pertain to information in contracts. Would you be willing to submit to the Energy Commission all of your contracts for biomethane for review?

MR. TUTT: I am sure that we would be happy to do that. I guess it's probably above my pay scale to commit to that.

COMMISSIONER PETERMAN: Understandable, you're the one in front of me, though.

MR. HERRERA: You can go ahead and commit if you want.

MR. TUTT: I will certainly take that back.

COMMISSIONER PETERMAN: Fair enough. And the final question I'll ask you is, you mentioned the potential cost effects to the RPS, and I was wondering, then, since you brought that up, if you could speak to

your utilities and the various public utilities' roles in determining cost containment provisions in this new RPS.

MR. TUTT: Certainly. That's all kind of all to be worked out, I believe, as we go through the RPS Regulations. But SMUD, as a POU, did adopt an Enforcement Plan in December of last year and, in our Enforcement Plan, we did talk about our intent on cost containment and we basically suggested that, for us, that meant that there would be no increase in our ratepayers' rates, beyond the rate of inflation, unless we have identified and brought to bear other benefits to our ratepayers that would allow that increase to happen.

COMMISSIONER PETERMAN: So regardless of the Energy Commission's actions today, it is within your utility's discretion to determine cost limitations on the RPS, and cost impacts from the RPS?

MR. TUTT: I would like for it to end up being within our utility's discretion, but I will -- I'm not sure what's going to happen as we go through the regulatory process with the CEC.

COMMISSIONER PETERMAN: And I appreciate this is all the implementation of the RPS is being worked out in real time, I'm just referencing back to what the

legislation has, at least in terms of there is a role for your organization in determining that.

MR. TUTT: That is correct, the legislation allows us to adopt cost constraints consistent with what's happening with retail sellers in effect, or with what the law says for retail sellers, so how that consistency is interpreted and how our cost constraints that we've adopted get reflected or interpreted in the regulatory process is still in the future to determine.

COMMISSIONER PETERMAN: Great. Well, I appreciate your answering my questions. Anyone else?

CHAIRMAN WEISENMILLER: Yeah, I had one. In terms of the gas you're using at this point, I assume it's also part of your greenhouse gas strategy, so what sort of tracking system do you have to deal with the basic issues we've spelled out in our Order on that?

MR. TUTT: Well, yes, Commissioner, or Chairman. The biomethane we're using is part of our greenhouse gas strategy. We have a couple of staff that do mandatory reporting requirements for the ARB and it does take a significant amount of work to go through that. We also, of course, hire an independent verifier to verify that all the information in those reports is correct and that, if we don't have that, we actually risk our entire allocation potentially of

allowances under the cap-and-trade structure, we get a negative or adverse verification statement for those. So we're fairly careful at making sure that information is correct. Much of that happens in the contracting phase and in the information that we provide to your staff as we develop our contracts for biomethane and identify the links, there's access stations all the way along. We have a person who takes the biomethane reports that we get from our contracts and calculates the amount of biomethane that would mean in terms of kilowatt hours at Cosumnes and files monthly REC information that WREGIS and all the electricity RECs from our biomethane are tracked in WREGIS. We in the long run expect biomethane or similar resources to be a key strategy in our Board's goal to reduce our greenhouse gas emissions, it's still only 10 percent of our 1990 emissions. I mean, if we aren't able to use sort of dispatchable local power plants to achieve that goal, we're not sure that we can make it in the long run, so we're trying to find a way to do that in the long run. Biomethane right now is one way that we see. There probably are other ways as we look out further into the future, I'm not going to predict 20 years out, or 30 years out, but….

COMMISSIONER PETERMAN: Do you see a need for

improved verification system for tracking the biomethane resource and its environmental attributes?

MR. TUTT: I don't know that I can answer that question because I have not been deep in the details of the verification structures. I would say that, certainly, verification is clearly happening today and, to the extent that it can be improved upon in a cost-effective way, I think that would be reasonable. But I don't know what is needed to upgrade verification, I have not been in the details.

COMMISSIONER PETERMAN: Okay, I appreciate that. Thank you.

CHAIRMAN WEISENMILLER: Tony Braun.

MR. BRAUN: Good morning, Mr. Chairman, Commissioners. Tony Braun on behalf of the California Municipal Utilities Association. I don't want to reiterate many of the points that have already been mentioned by our members and, also, I think you'll hear today, we've submitted a letter previously to the Commission, indicated that we opposed the moratorium, and that, at a minimum, if there is a going to be a moratorium going forward, that the mechanisms to implement it honor the existing fuel purchases that our members have spent a lot of time and money on to make those happen in good faith reliance, and towards a

strategy of compliance with the 33 percent goals that are either adopted by their City Councils, or now as embodied by the Legislature.

I'm not an expert on biomethane, so what I wanted to do is -- and I think you're going to hear a lot about the mechanics of these deals -- I would note that, you know, over the last several years the emphasis on renewable procurement has been extraordinary, beyond anything that I've experienced in the 20 years of representing my clients on energy issues, and they don't sit still for regulatory development, they don't sit still as bills are negotiated over a multi-year timeframe. These people were acting in good faith as part of the stewardship of their utilities, to move forward with deals, and they did so in good faith reliance, thinking that they were promoting the policies of the State, not undermining the policies of the State. And I would hate to see that that type of implication or inference would come out of any of these discussions.

I want to talk a little bit about connecting the dots in the one minute and 20 seconds I've got left. I think that a critical thing that needs to happen if we're going to achieve RPS is to start connecting the dots much more thoroughly with respect

to the varied goals that we have, reliable system operation, meeting RPS, meeting the GHG mandates. These are thermal units that this biofuel is being run through, that are often in load centers that are located oftentimes in the LA Basin, they're baseload units. You can see any ISO study that talks about the system-wide implications of 33 percent, we're predicting lower capacity factors for the existing fleet, but still meeting the existing fleet to keep the lights on; it's not just a matter of ramping, although that is a concern, it's a matter of being able to meet the local needs of the system. Putting biofuel through these efficient plants does that, it meets the varied needs. It greens the peak, which I've heard quite a bit from many advocates in this room, has been a long time goal of California. It increases the use of the existing fleet and the capacity factor, which is expected to go down, therefore adding even more cost pressures on consumers in California to implement these goals.

Again, it does allow flexibility, it gets to the OTC problem that the L.A. Basin is going to have by helping to maintain the existing fleet as an economic resource. And it helps particularly with CMUA members that have GHG challenges because they're replacing --

it's a strategy for replacing their coal. I would add just in closing two items that have come up this morning. Regulatory outs are not free. Long times, there's usually lengthy negotiations associated with imposing those. You can imagine the negotiations of potential litigation that could ensue. The regulatory outs cost a lot of money.

The goal of the POUs is 33 percent compliance. We do have clear authority to establish cost limitations, but that's a second tier strategy, the first tier strategy is to get to 33 percent, and so I think we're really focused on that goal, not what are ways around the 33 percent obligation. Thank you.

COMMISSIONER PETERMAN: Thank you very much and I appreciate that. A couple questions. So can you speak to the total megawatt hours expected from biomethane, from your members in the first compliance period of 2020?

MR. BRAUN: No, I can't speak to that as a group, it's so varied. Some have none, many have none. Major utilities like SMUD -- it's always good to put in perspective as far as the load is concerned in California, L.A. is half of the POU load in California, SMUD is another half of the remaining half, so already we have the two largest utilities that are 75 percent

of the load that have a proactive biogas strategy. So they would drive the numbers, and obviously Pasadena, these are medium-sized utilities within the CMUA rubric. I can't give you a number, but it is certainly something we can look to provide to you.

COMMISSIONER PETERMAN: And we heard from the City of Vernon that they're expecting to meet 100 percent of their Bucket 1 requirement with biomethane. Are you aware of other public utilities that expect to meet the majority of their Bucket 1 compliance with this resource?

MR. BRAUN: I don't know if it's a majority, I do know that they have told me clearly that, as other than a Bucket 1 resource, it's difficult to justify from an economic basis. That may be driven by the fact that the Bucket 3 resources have become much less valuable since the passage of the law, but in any event, you know, certainly the strategy was attempting to utilize the existing fleet and also to run renewable fuel through that to meet Bucket 1 requirements. And I would say, you know, the prospect of building extensive lines out through the desert and other strategies, you know, as an alternative strategy to meet the Bucket 1 requirements, is very daunting for the POU community. Some of those major multi-billion dollar strategies are

very difficult for them to execute, you know, with a couple of exceptions. They come with a lot of pitfalls, whether it be siting, environmental disturbance of, you know, desert habitat, etc., we've all read the new stories. So doing something close to home is a much more palatable strategy for a community utility.

COMMISSIONER PETERMAN: Thank you. And in the comments that you filed, and a bit today when you spoke, you mentioned there's information in contracts that could be useful to the Commission. Can I get your commitment to work with the Energy Commission and all of your members as we work to clarify or address these rules, to get all that contract information we deem necessary to sort through some of these issues?

MR. BRAUN: Absolutely.

COMMISSIONER PETERMAN: Thank you.

CHAIRMAN WEISENMILLER: Thank you. Next speaker, Tim Carmichael.

MR. CARMICHAEL: Good morning, Commissioners. Tim Carmichael with the California Natural Gas Vehicle Coalition. I'm here today because I care about, and my members care about, biomethane as a transportation fuel and we're very concerned that the Proposed Suspension is going to harm the prospects for using biomethane as

a transportation fuel because it's going to harm the developers of biomethane projects today, the very same developers that are likely to be in place selling biomethane as a transportation fuel or developing it for sale as a transportation fuel. We're also concerned because we think this suspension, or Proposed Suspension, harms the prospects for biomethane development in the State, which seems to be, in all the conversations I've had around this issue, a common goal, and yet most people I talk to are very concerned that the suspension will harm those prospects, not help.

And it may well harm the overall RPS Program. And this is a concern for me, personally, as an environmental advocate, but also because of the ripple effect that I mentioned into the future for the transportation prospects for this fuel. There are a lot of financial interests at stake, and you've heard from a number of the municipal utilities, in the length of time that they've worked on some of these contracts, and you will hear from some of the developers and the length of time they have worked on developing projects to feed into the RPS, fully believing they were complying with California law and this agency's guidance. And, in fact, if you look at every other

document that this agency has put out in the last several years, you are champions for biomethane, you are champions for biomethane in the Renewable Portfolio Program. So it's just a very difficult and potentially hazardous shift that this agency is proposing to take. I'm personally frustrated because I've been engaging on this issue for six or eight months, and I feel like the agency has missed an opportunity to embrace some of the proposals that have been put forward, that would provide a reasonable transition for the industry and, by that, I mean the developers of these projects and the utilities that are buying the fuel, and provide the security to the opponents of biomethane, you know, those that have serious concerns about whether it's a Gold Rush scenario, or otherwise, that it somehow undercuts other renewables by putting some constraints on a transition period, you could provide those protections, those are proposals that have been put forward by my members and I don't understand yet why the CEC has not embraced that. And I believe, if you do, 90 percent of the opposition to this suspension goes away because it gives the industry a reasonable transition, some financial security, and it protects against the "worst case scenarios" that some of the opponents of biomethane have put out there.

My final thought is, Commissioner Peterman, you know, based on your questioning this morning, you're obviously concerned about the percentage of compliance that some of the utilities are intending to use biomethane for RPS compliance. And I appreciate that. And I personally am not at all supportive or enthusiastic about the scenarios where a utility is going to try and do a majority of their compliance with biomethane; but if you look at the data which I've got to believe this agency has access to, because it's been shared with us in meetings with legislative staff, if you look at the statewide scenario, we're talking about a very small fraction of RPS compliance, a very small fraction of total power supply. Even if all of the contracts are fulfilled in 2020, we're talking about a very small fraction. And it seems like we're taking potentially a big risk here with a wonderful program over, you know, a fight about a small percentage that every utility in the room will tell you they are pursuing because they think it's the most cost-effective way to comply and keep their rates down for their customers. And I think you're missing an opportunity here. Thank you very much.

COMMISSIONER PETERMAN: A couple questions. You mentioned you have a proposal that you think will

eliminate 90 percent of the opposition to what the Energy Commission is considering today. Would you like to be more explicit in what that proposal is, just for the benefit of all those in the room and on the phone?

MR. CARMICHAEL: The two key points, and, you know, these can be tweaked, but the Proposed Suspension throws into question contracts that have been placed for a while. And that, to me, is really silly, and it may not be the intention of the Agency, but there are a lot of very smart attorneys that have looked at your proposal and reached the same conclusion, it throws into question contracts that have been in place for a while. That, to me, should not even be a point of discussion. Even, I think, the most ardent opponents that we've encountered on this issue over the last six to eight months think that that's dangerous pool and there's no benefit to trying to fight that fight. So that's issue 1. Issue 2 is what is your transition strategy? This is not a small change, this is a huge change to what all the companies in this room, and others that I'm sure are listening in, believed were the rules, and what CEC and the State wanted them to do. To implement the suspension today with 10 days notice seems to me as precipitous. And my members have, you know, in various written statements, as well

as face-to-face meetings, suggested that, if you had a transition period this year, that required that gas was flowing by a certain date, you would acknowledge that a lot of these projects have been in development for a long time and, in fact, that's the reality for this fuel, and if you set a time, whatever your date is, you know, this year, a year from now, you couldn't start a project today and be compliant with that, you couldn't get gas flowing within a year if you haven't gone a long ways down the road to raise money to do your engineering, probably even started your construction. And so there are a lot of companies, I believe, that are out there with these projects in development that will be harmed seriously because of the timing of your implementation. And I believe by having such a transition, you know, gas flowing by a certain date, you protect against what some have characterized as a Gold Rush scenario because, like I said, you couldn't start today to try and get in under the wire, and get a project up and running this year, it's not physically possible.

COMMISSIONER PETERMAN: Thank you. You've expressed concern about the effect of the Proposed Suspension on contracts that have been in place for a while. What do you constitute as a while? Does that

include contracts that are signed today? Does that include contracts that were signed last week?

MR. CARMICHAEL: No, no, I'm talking about contracts that were signed last year, the year before that, the year before that. That's what I'm talking about.

COMMISSIONER PETERMAN: Thank you. And although the focus here today is on the RPS, and particular, since you are representing some of the interests and concerns of the transportation industry, I wondered if you could indulge me for a while and just talk specifically about to what extent is biomethane currently playing a role in the transportation sector? What are projections going forward, you know, a bit more information?

MR. CARMICHAEL: The role in the transportation sector today is very limited. Chuck White from Waste Management, I think, is going to make comments and can probably elaborate on this point, but Waste Management is probably the biggest user of biomethane in their vehicles today and it's because CEC helped them develop a project here in the state to capture the fuel for transportation purposes. As far as the potential for this fuel, it is -- and this is not my perspective -- it is my perspective, it's not

only my perspective -- talk to U.C. Davis, talk to U.C. Berkeley, talk to any of the energy labs, it is one of the best prospects for low carbon fuels, for heavy-duty transportation in this country, period. CalStart, I think, had an estimate a year or two ago that about 20 percent of heavy-duty transportation fuels in California could be met by biomethane in the near term, and that's this decade. That's, I think, an aggressive goal, but you're talking about a 90 percent reduction in greenhouse gasses compared to diesel. And if it could supply 20 percent of the heavy-duty transportation fuel needs, that would be a huge accomplishment for our state. It also has the potential to blend with fossil fuel natural gas, and you could play out scenarios where you get 25 percent greenhouse gas, 50 percent greenhouse gas benefit, and spread it across a greater percentage of the fleet.

COMMISSIONER PETERMAN: So what do you see as the barriers to the development of biomethane for transportation purposes?

MR. CARMICHAEL: There are a few and --

COMMISSIONER PETERMAN: Please.

MR. CARMICHAEL: -- let's start with the barriers to developing biomethane in the State of California, period. Whatever you want to use the fuel

for, there are barriers to developing biomethane in the state today. Probably the most significant barrier that needs to be addressed is how do you move the fuel around. Let's say you've got, whether it's a collection of dairies, you've got a waste water treatment plant, you've got an Ag waste stream, you've got a landfill, how do you move that fuel to where a good sized fleet or a number of fleets can use that fuel? Waste Management, as I mentioned, is using the fuel in their vehicles that serve as a specific landfill, that's a very limited market, if you will. So the transportation of the fuel is a big issue.

The resources to develop the projects is a big issue. And I implied, but didn't state directly, one of my concerns about the suspension and the ripple effects is, you'll put a damper on the venture capital money that is excited about this fuel and excited about other renewables in the state by saying, "Whoa," you know, the rules get changed in a flash, even though we thought this was a long term investment. So I'm worried about that.

And then there's the cost issue. Today, biomethane is significantly more expensive than fossil fuel natural gas, roughly four or five times more expensive. And so for the foreseeable future, you need

either some sort of incentive funding from public interests, or some sort of ability to monetize your carbon benefit, you know, in using that fuel in your vehicles.

COMMISSIONER PETERMAN: Thank you. That was very useful and helpful information. Any other questions from the dais? Thank you very much.

MR. CARMICHAEL: Thank you.

CHAIRMAN WEISENMILLER: Chuck White, Waste Management.

MR. WHITE: That you very much, Commissioners. Chuck White with Waste Management. I don't think I need to give testimony because Tim already addressed our issues, but I'll proceed anyways. Waste Management is the largest provider of solid waste recycling services in North America. We're really involved in renewable energy development. We've got about 50 million tons of organic waste that we handle principally in landfills now, but we want to move it out of landfills. We generate a lot of renewable energy for landfilled gas to onsite power, landfilled gas in dedicated pipelines, landfilled gas to LNG for transportation fuels such as our Altamont facility; we're now producing 13,000 gallons a day of the lowest carbon fuel commercially available in California, and

we distribute it in trucks to fuel our fleet statewide. We're also interested in getting landfilled gas into utility pipelines for distribution for RPS and transportation. However, as you know now, you can't put it in a pipeline in California. And we're also looking at pre-landfill diversion to anaerobic digestion and other technologies, and once we produce that methane, we'd like to be able to distribute it in pipelines.

In state right now, California is primarily using landfill gas to produce renewable energy onsite with engines and turbines, yet right now, that's really not very efficient and has emissions associated with it. Most of the Air Districts in California are looking very carefully at our emissions, South Coast, Bay Area, San Joaquin, are all putting measures together that are going to reduce our ability to generate power on-site using biogas and biomethane. South Coast Rule 1110.2 takes effect right now, this coming July, is going to make it virtually impossible for us to continue burning as on-site. And we may have to shut down our engines or try to put it into a pipeline, but now we can't do that because of the bans. And now, if you impose this moratorium, it's going to further put an imposition on how can we manage this

biomethane beneficially. By putting it into a pipeline, you can get a ten-fold reduction in the criteria pollutant emissions by burning that gas at a combined cycle natural gas plant, rather than on-site in engines and turbines. And you get about a 30 percent decrease in greenhouse gas emissions by taking that same gas you were burning on-site and putting it into a more efficient combined cycle natural gas plant.

We did submit a letter really focusing on two issues, don't impose a moratorium that affects California development of biomethane; that is absolutely the wrong message you need to send. Whatever you need to do to adjust it, don't impact the in-state California biomethane industry that is just trying to get developed. We've got huge hurdles that other people have mentioned, we've got a CPUC prohibition on pipeline gas, we'd like to get that lifted. If you put a moratorium on today, you're going to basically shut down in-state biomethane development, which takes 18 to 24 months to develop, and all those projects that we're looking at are going to go away. It's going to just shut down anything we want to do in-state. And we're only using one-half of our landfill biomethane beneficially right now in California, we'd like to develop more, but California just last

legislative session put a 75 percent goal of diverting waste from landfills. One of the ways you divert waste from landfills is organic waste that can be put into anaerobic digesters to produce methane, but now we won't have a place to be able to ship that biomethane except use it on-site. And this is your sister agency, well, sister department, the Resources Agency, that is going to be implementing this diversion, focusing on organic waste from landfills.

So we would just ask you to really consider, don't impose a moratorium that affects the in-state development of biomethane, it sends the wrong message at the wrong time, and we're trying to get this nascent industry developed here in California.

Our second point we put in our letter --

CHAIRMAN WEISENMILLER: Actually, you have to wrap up now.

MR. WHITE: Yes -- is a glide path -- existing out-of-state projects, we'd like to have some kind of glide path to allow them to be continued. I think Tim Tutt suggested allowing existing contracts, we'd like to see those being able to be continued in development. And then, finally, the last point is the applicability, it was really unclear in the resolution you're proposing on how it would affect dedicated

pipelines and on-site use of biogas or biomethane. Your, I think, attorney clarified that; we would like to see a provision clearly expressly stating that in the moratorium, which we hope you don't adopt, but if you do, make sure it doesn't affect these other sources of biogas, which we'd like to be able to continue, but we'd also like to be able to develop in-state resources for pipeline distribution. Thank you.

COMMISSIONER PETERMAN: Thank you. I will add, too, that we've silenced the noise of the buzzer, but we will be trying to keep track of time. And then I'll ask this question, as well, I'm sure we will have some producers of biogas giving public comment, and so I will ask in this question, but one of the issues that has come up as part of this process is what it means to have gas flowing from a biogas site, and I don't know if you can speak to this, about how challenging is it once you've identified a site, to then have the biogas flowing into the pipeline?

MR. WHITE: Well, if you go on to U.S. EPA's LMOP, which is the Landfill Methane Outreach Program, they've got over 500 projects nationwide, tracking the beneficial development of landfill gas. Only 26 of those projects are high Btu pipeline projects. The vast majority of projects have always been on-site

development of power, or nearby dedicated pipelines to adjacent industries. It's really not been much development in high Btu gas, it is very expensive to treat landfill gas to meet gas quality standards. Most states, however, in fact, all of them except California, do allow you to put it into a pipeline if you're able to clean the gas up to meet pipeline gas quality standards. As far as I know, California is the only state, for a whole variety of reasons, too much to go into now, that has decided that, you know, we don't want to allow landfill gas. That is the easiest, that is the lowest hanging fruit right now for biomethane, but with the diversion of waste from landfills, which is the State policy of California, we need to find ways to attract waste to be diverted from landfills, and one way to do that it is to produce a product from that diverted waste that people want. We thought biomethane is something that the people of the State of California would want from diverted waste from landfills, but if you adopt this moratorium, you're basically saying, no, it's not important enough. You're sending the wrong message at exactly the same time that other branches of the State of California are saying we want to divert more organic waste, we want to make it into useful products such as biomethane. So there's mixed messages

going on here and it is just very difficult to find the investors, certainly the money managers in Houston for waste management are going to look at this, "Why in the world would we want to develop a biomethane project in California with these kinds of messages going on? We'd rather use our capital someplace else that we think we can get a higher return on investment."

COMMISSIONER PETERMAN: Thank you very much. Anyone else have any comments or questions? Thank you.

CHAIRMAN WEISENMILLER: Okay, Jon Constantino.

MR. CONSTANTINO: Good morning. Jon Constantino with the Coalition for Renewable Natural Gas, and thank you for meeting with me earlier in the week and I appreciate the opportunity to talk about a couple issues. And there's been a lot of discussion today about what it would do to the existing processes and projects that are in place, so I'm not going to discuss that, and we also submitted written comments which discuss what the legal policy and process, why we think there should not be action today. But I'll limit my testimony to discussing, you know, taking the next step, what happens if we do adopt a moratorium today. We all know that's not the end of the process. The end of the process is we need legislative clarification on

some of these issues that have been brought up, and we think we have answers to those questions, but if you kind of walk through what happens, we're going to have a suspension, we're going to have a new RPS Eligibility Guideline which doesn't change the eligibility, we have legislation pending; if that legislation passes, we'll have a need for another RPS Guidebook provision, and all that uncertainty, all that sort of layers of levels of things happening, maybe possibly litigation if folks who have millions of dollars invested in projects, which in 10 days went from being viable to not viable, that’s a lot of uncertainty, that's a lot of activity to put on one industry at one time, that is moving forward.

As Kate's presentation showed, and I think it shows correctly, that when this process started to now, there's a ramp-up of projects; it takes a while to get here. And starting from 2004 to 2007 to now, we are two, four, six -- 16 projects -- we're just now getting this industry, which is low carbon. Obviously, we have to ensure that it's verified and there's mechanisms to do that, but we're just getting to the point where it's getting on its feet, and to take this action today would send not only the wrong message, but would severely undercut the direction and capital and

everything that is flowing into this market, which, as has been stated, is a policy decision state to produce low carbon and renewable fuels. And so our request is that we don't act today, we defer to the Legislature. We know there's Legislators on both sides of this issue. We know there are stakeholders here today and who aren't here today who would actively participate in legislation, even urgency legislation, to get this resolved as soon as we can. And we know the Administration also wants to see this clarified, so between the CEC wanting to get it clarified, stakeholders, the Legislators, I think we could not act today and still have a resolution in a very short period of time. And I guess that would be the ask, is to not send that signal out to the marketplace today. And --

CHAIRMAN WEISENMILLER: Okay, thank you.

MR. CONSTANTINO: -- I guess that's it. Yeah, thank you.

COMMISSIONER PETERMAN: A couple questions, but first is there any -- are there representatives from your client here who would also be giving public comment?

MR. CONSTANTINO: Yes.

COMMISSIONER PETERMAN: Okay, because I have

some technical questions about the biogas resource, but I'll save them for them. I'll ask you a couple questions, then, and if you want to defer to one of their comments, that's fine. In terms of the coalition that you represent, so just so we're clear, these are biogas producers?

MR. CONSTANTINO: Yes.

COMMISSIONER PETERMAN: Okay. How much of the gas, the biomethane that they're producing, what share of that is being sold to California for its RPS relative to other states or for other programs?

MR. CONSTANTINO: I don't have the exact numbers, I can get those to you, but a majority of the gas is coming to California.

COMMISSIONER PETERMAN: Okay. Is some of that gas being used for transportation purposes?

MR. CONSTANTINO: I'm not sure.

COMMISSIONER PETERMAN: Okay, your client can speak to that. And in some of your comments, you've mentioned maybe in person, or your filed comments, contracts that have been executed to sell biogas into the California market. Can you speak to how many contracts were signed and executed since the notice was released 10 days prior?

MR. CONSTANTINO: How many have been executed

since --

COMMISSIONER PETERMAN: Signed -- yes.

MR. CONSTANTINO: In 10 days, I don't know of any that have been signed in the last 10 days.

COMMISSIONER PETERMAN: Okay. Thanks, that's all. I appreciate it.

COMMISSIONER PETERMAN: Yeah, I wouldn’t mind if your client can go next just so we can continue with some of these questions. See whose card that is -- someone from the Coalition for Renewable Gas -- Natural Gas? Are they present? If they're not in the room, then we can do it later, that's fine.

CHAIRMAN WEISENMILLER: If not, then let's go on to Melissa Cortez-Roth from --

COMMISSIONER DOUGLAS: All right, we'll give the gentleman a minute to stand up.

MR. CAMPBELL: Sorry, Commissioner, I was trying to find out how many cubic feet we deliver per day in case you asked that question.

COMMISSIONER PETERMAN: But you know what, you can come back with that information, that would be terrific.

MR. CAMPBELL: Okay.

CHAIRMAN WEISENMILLER: Okay.

MR. CAMPBELL: What would you like me to

answer?

COMMISSIONER PETERMAN: Well, I guess give your comments, but the specific questions I have, and if you want to take a second to see if you can find that information --

CHAIRMAN WEISENMILLER: Will you start by identifying yourself for the record?

MR. CAMPBELL: Absolutely. My name is Todd Campbell, I'm the Vice President for Public Policy and Regulatory Affairs for Clean Energy and our subsidiary, Clean Energy Renewable Fuels.

COMMISSIONER PETERMAN: And my general questions pertain to how much biomethane you are currently, or have contracted currently, to sell to the California market and in terms of the overall biomethane production in sales that your member companies are doing, how much of that is dedicated to the California RPS Program, or intended for this market?

MR. CAMPBELL: Okay. Just to answer your first question, we're primarily a transportation fuel provider. We primarily fuel natural gas vehicles --

COMMISSIONER PETERMAN: Is that your company or the coalition?

MR. CAMPBELL: Clean Energy Renewable Fuels.

COMMISSIONER PETERMAN: Okay.

MR. CAMPBELL: And so, in terms of production for McCommas, we produce about 40,000 gasoline gallons per day, that's the number I know -- I was trying to get you the other number for cubic feet. But primarily about, I think about 60 to 70 percent of that is being delivered to SMUD right now. Our goal, our dream, is ultimately to get to the Low Carbon Fuel Standard, if we can get that out of the court system and be able to support that program. But up to now, we've used the Renewable Portfolio Standard to be able to gear up and be able to deliver our product to our customers, our core customers in the transportation sector.

COMMISSIONER PETERMAN: Thank you. Is there anyone from the Coalition of Renewable Natural Gas that is in the production of biomethane for electricity purposes here?

MR. CAMPBELL: The other thing I was going to say is we have another project in Michigan, in coordination with Republic, that delivers about -- I don't know if -- it's probably about 10,000 or 20,000 gasoline gallons per day, but those are our two main projects.

COMMISSIONER PETERMAN: Mr. Campbell, you can either take the opportunity now to give additional

comments, or you can come back, as you wish.

MR. CAMPBELL: Can I comment right now?

COMMISSIONER PETERMAN: Sure, we can start your clock when you start talking.

MR. CAMPBELL: Great. So, Commissioners, thank you. Over the past two years, our company, whose core business is fueling natural gas vehicles, has made an enormous investment of resources and capital into building two biomethane production facilities that have signed contracts to sell biomethane to California buyers. These contracts are indispensable to the project's viability and both may be severely and negatively impacted by the proposed Commission's suspension.

There have been a lot of talk whether projects like ours support the state's goals with the RPS Program, but here are some facts: $95 million. That is how much our company has raised or committed to spend on biomethane projects that will directly be impacted by the Proposed Suspension. Millions of dollars have been spent on manufactured goods produced right here in California for our projects, 200,000 metric tons, and that's the estimated annual reduction in greenhouse gas emissions that we will achieve once our plants are full at capacity, solely via a

displacement of fossil fuel natural gas; 250,000 metric tons, that's the estimated greenhouse gas emission reductions achieved during 2011 from capture of migratory methane at our project in Texas, made possible solely by our multi-million dollar investment in landfill gas collection systems, which has resulted in a quintupling of biomethane produced by the facility since our acquisition: 1) that's the number of low carbon fuels that can be used for an 18-wheeler and provide up to 90 percent reduction in greenhouse gasses today. That fuel is biomethane.

All of the successes we've had over the past three years of building a renewable energy business here in California is largely attributable to our participation in the California RPS Program. While we plan to provide the majority of our fuel to the vehicle fuel market, the stability and long term incentives of the California RPS Program have been indispensible to building financially viable production facilities. As a California-based company that strongly support AB 32, the Low Carbon Fuel Standard, the No on Prop. 23 Campaign, and the 33 percent goal of the RPS, we urge the Commission not to shut the door on our industry and help us break the barriers that we currently face to facilitate in-state production of biomethane. We

believe that capturing methane from organic waste and turning it into a multi-use energy resource is one of the single greatest near term opportunities we have in building more sustainable communities and reducing greenhouse gasses. We are very surprised that the Energy Commission would, through this action risk destroying what we have worked so hard on building under this existing rule. We propose a reasonable transitioned approach in our written comments. We urge you to support that approach today. At a bare minimum, please postpone this decision until a more thorough and independent analysis can be done on the impact of biomethane on the California RPS Program. If a suspension is truly necessary, then the suspension should not apply to any contract signed before today. Let's all have an opportunity to see just how significant the volume of biomethane that is contracted for under existing contracts, rather than speculating or debating. The Energy Commission and the Legislature have multiple near-time opportunities to act to ensure additionality and verification of all biomethane that is used for RPS compliance; taking an action that will wipe out millions of dollars in investment, cost California jobs, and set back the RPS without adequate information is completely problematic for us.

And I just want to say on a personal note, as a former Mayor of Burbank who adopted that 33 percent Renewable Portfolio Standard when we didn't have to, and perhaps more significantly had cut off the Intermountain Power Project that provides 50 percent of our power from coal sources, this is a critical renewable that we use to help us achieve these goals, it's something that really surprises me as a former government official, that suddenly it seems like it might be a bad word.

The other thing is that is discouraging for me on the suspension is now, on the business side, companies that have done and gone the extra mile to support the very goals that California sets, you know, AB 32, LCFS, RPS, I mean, we were there for the RPS change. To find that suddenly we're not able to, or possibly we may not be able to qualify is discouraging. And also this company, Clean Energy, stood up with member Fuentes to try to promote in-state biomethane production two years ago with an Assembly Bill that unfortunately did not succeed. So we are an industry that is very nascent, at your mercy, and really need your help to find a way to deliver these renewables, make sure the industry is healthy, and find a way to get into the California market -- we desperately want

to -- we're a California-based company. In fact, 90 percent of our employees for our biomethane projects are based here in California. All the engineers, the designers, the traders, everybody, are based in Seal Beach. And all our architectural firms are all based in California. So with that, I think it's extremely reasonable to ask the Commission, if anything, if we're going to have a suspense, or if you're going to put a suspension --

COMMISSIONER PETERMAN: I'm going to have to ask you to wrap up, we're blinking here.

MR. CAMPBELL: -- we would ask that all current contracts and pre-certified contracts be allowed to move forward. The Sock Hills Trail Project that we've done, we've done this two years ago, so a project that started two years ago, and what Chuck White has mentioned with regards to how many projects are out there? He's right. Only 26 out of 500 identified. It's very hard to make sure that there's a facility, a landfill facility that has a connection to the pipeline system, most of the time they don't have that and you have to work with the utilities and spend maybe $2, $4, $6 million just to get a pipeline extension to the facility. That takes a lot of time, a lot of negotiating time, you can't just turn these

projects on. So the argument that there's a big Gold Rush, I'm really telling you, that is not true. And what I would further impress upon you is, don't harm the companies that support you day in and day out for years, want to help you succeed -- we're one of them. We're begging for you to help us.

CHAIRMAN WEISENMILLER: Okay, thank you.

COMMISSIONER PETERMAN: Well, first, I appreciate you wanting us to succeed --

MR. CAMPBELL: Always.

COMMISSIONER PETERMAN: Second, I have heard that there can be a time disconnect between the signing and execution of a contract and the actual injection of the gas into the pipeline, or delivery, or when the gas could start flowing. Can you speak to the reason for that disconnect?

MR. CAMPBELL: Sure. I mean, you have to go through certain proofs for a utility to want to even consider your project. You have to show that you have the ability to deliver gas to their system. You have to be able to ensure that you're going to be able to meet a contract by the certain gas that you say in your contract that you're going to be able to deliver on a daily basis. Furthermore, you want to make sure that, before you enter into a contract, that you actually

have a project that works. I mean, we look at projects all over the country, we've looked at a number -- we have two. And the reason being for that is sometimes people estimate that biogas production from a certain landfill, for example one in Virginia that we were looking at, doesn't have it, it does not pan out economically and therefore you have to turn those types of applications down.

COMMISSIONER PETERMAN: So are there some situations in your projects where, for a new project, you are then diverting gas that was being utilized for a different reason for a new project, or a new contract with the utility?

MR. CAMPBELL: No. If we don't, for example, if the pipe blows in another direction and we can't get that gas, we get penalized. You know, the gas has to flow in the right direction, or if the pipeline goes down, we don't get paid, I mean, we get docked. And we don't deliver at any other location.

COMMISSIONER PETERMAN: So then, with the projects you -- the gas you're selling to California, is it all flowing through pipelines that are flowing in the direction of California?

MR. CAMPBELL: We have -- we purchase through intermediaries, contracts to flow that gas to

California. So we can show per any kind of guideline how we get from A to B. And, for example, if we're -- you know, I'm the policy hack on this, okay, so --

COMMISSIONER PETERMAN: Fair enough.

MR. CAMPBELL: -- so don't take me for gospel, but we've turned down a number of projects that we cannot prove that we can get to California.

COMMISSIONER PETERMAN: Okay --

MR. CAMPBELL: We also have, remember, we are a natural gas transportation fueling company that wants to get into the Low Carbon Fuel Standard, and in order to do that, I have to show -- I have to demonstrate to the Air Resources Board and under the RPS to the Energy Commission, how I get that gas to California. And we've turned down good projects to do that.

COMMISSIONER PETERMAN: So you do believe there's physical delivery of the biogas that you are selling to California utilities to those facilities?

MR. CAMPBELL: As best as one can in a world of molecules and electrons, I mean, you know, we've operated under the same premises the industry has, we sell our gas under contract, we pay for the actual transfer of that gas for delivery, and that's industry standard practice.

COMMISSIONER PETERMAN: So there's a

financial and contractual pathway, but not necessarily a physical?

MR. CAMPBELL: It's possible -- it's not impossible.

COMMISSIONER PETERMAN: Okay.

MR. CAMPBELL: But, you know, if you're going to say I have 100 percent control over a molecule, I do not. I just -- I wish I had because we wouldn't be here, for one, Commissioner. But I think the important thing here is that we're being able to create the technology necessary to get to the digesters, to develop the biomethane industry here in the State of California, and we certainly would like to work with this agency and other Legislators to make sure that in-state biomethane production can happen, and this is the industry that is making it happen.

COMMISSIONER PETERMAN: Okay --

MR. CAMPBELL: If you take us out, and especially if you take out dairy in the State of California, and other Ag products, that's a major problem for us. Major problem for us. And there's -- think of it from an investor's standpoint, if suddenly California decides they're going to suspend the rules today, who in their right mind on Wall Street is going to invest in California? Who is going to invest in

biomethane projects? Or, when we pick it up again in four to six months, someone is going to say, "You know what? They suspended us six months ago, but we're going to try it." They don't do that. It took a lot of time, a lot of care, to convince someone to actually invest in a company, even like Clean Energy Renewable Fuels, where you had the Board of Directors decide this is the right thing to do, "Let's help California out. Let's not just be number two, let's be number one in this industry. And let's hopefully get to the Sanitation plants and the Ag-based facilities." We have two equipment manufacturers, a subsidiary, IMW in North Star, that work on trying to create patents, equipment to accelerate the ability to harness biomethane from smaller amounts of waste --

COMMISSIONER PETERMAN: Yeah, so I'll clarify that the suspension that we're considering today pertains only to the RPS and not to the use of biomethane for any other program in the State, or the State. And one final question for you --

MR. CAMPBELL: Well, can I build on that, though? Can I --

COMMISSIONER PETERMAN: Are you willing to share with the Energy Commission all your contracts related to biomethane as we have questions we're trying

to further understand and investigate this issue?

MR. CAMPBELL: Well, Commissioner, let me just say that, first, we wish there was Low Carbon Fuel Standards in the Court System, so unfortunately, we're not able to really use that vehicle to support our biomethane, so it's not really true that there are other options, per se, for us. Second, in terms of sharing contracts, I'm more than happy to share whatever we have permitted that my clients also are willing to do that. I mean, and I think that, you know, I'm speaking out of turn here, but we're not trying to hide the ball here. What we're trying to do is help an industry that produces 90 percent lower carbon emissions, and is otherwise flared and combusted and creates air pollution, into something that is positive and productive. So, you know, we want -- and we also made it very clear, you know, the big frustrating thing for us is, we've been meeting for five or six months now, we've been at the table with the people that are concerned about this, we're not the roadblocks, we're happy to look at a suspension, if not a moratorium later on in the process, and we would like to have a glide path that preserves our investments, that would be fair. And hopefully we'll prevail on the Low Carbon Fuel Standard, but to be able to just cut us

off, for example, our project in Michigan which we've been doing for over two years now, is very unfair to us.

COMMISSIONER PETERMAN: Well, thank you for your comments. Appreciate it.

MR. CAMPBELL: Thank you, Commissioner.

CHAIRMAN WEISENMILLER: Actually, I guess there's another member of his coalition here, Landfill Energy Systems, it looks like Jay Hopper.

MR. HOPPER: Thank you. My name is Jay Hopper, I'm with Landfill Energy Systems. We have an office in Temecula, California.

COMMISSIONER PETERMAN: Mr. Hopper, would you speak more into the mic? I'm sorry. I can barely hear you, so I'm not sure everyone on the Webcast can.

MR. HOPPER: Is that better?

COMMISSIONER PETERMAN: Yes, please. Thank you.

MR. HOPPER: Thanks. Landfill Energy Systems develops energy projects on landfills in 15 states. We've been doing that for 30 years, we are the oldest, and I know we're the largest, other than Waste Management owns the landfills, we have projects on Republic Landfills, Waste Connections, Waste Management, all the majors, and a lot of landfills that

are located on County Landfills, which are the predominant ones across the country. We do all three types of projects, we do electric on-site, we do medium Btu where we pipe it to a customer's boilers, and we have two IBTU projects in the U.S.

I just wanted to talk -- a couple things, one is the length of time it takes to do any of these projects, there's the time it takes to negotiate with the County, which is generally years, we're just completing three years of negotiations with the county in Ohio for a project that we're going to build, then at six months to 12 months to order equipment, then it's about 18 months to build the project, and I'm ignoring in that financing and all the other things that go around that. So we negotiated a contract with SMUD in 2010 to sell them IBTU gas, they didn't want to take delivery until January 1, 2014, which is when the gas will start to flow. We've been moving for three years on following up on that commitment.

One of the things that I'd like to mention is the complexity of when you do a IBTU project vs. another project. In each project, we look at what's best for the facility, and in order to do an IBTU project, you have to have a certain amount of gas. We have one of the smaller ones in the country at Oklahoma

City at about 2,000 SCFM of landfill gas. Anything less than that is pretty uneconomical, so you look for a landfill that's bigger than that. You also have to have a location that can interconnect to a pipeline fairly easily. You can't afford to build a lot of miles of pipeline to get to a pipeline to interconnect to. And then you have to deal with the pipeline, which is always concerned about the quality of the gas and the fact that it has to 100 percent comply with their specs, so when you're dealing with a pipeline that's never taken landfill gas before, they're very concerned that you're going to have one mistake, and they can't afford one mistake. So, in our case, we show them years of data from our other projects, to show that there's never a mistake, and that the system works. But that process, and one project in Pennsylvania, which is going to Connecticut, that project took over five years to get the pipeline to approve the interconnect. So there are a number of things that take years and years in order to get these projects, so the 10-day moratorium is not a Gold Rush at all, "Let's do five projects and get that under the deadline," it doesn't work that way. And these projects are tens of millions of dollars.

COMMISSIONER PETERMAN: Thank you for that,

just a couple questions. First of all, thank you for being here and appreciate your comments. I especially appreciated your discussion of some of the reasons why it takes a long time to develop a project. So I think you've heard today, then in the comments that have been filed, there have been some requests for us to grandfather contracts that have been executed or signed by the end of today, into the certification process. But it seemed to me, based on what you said, that there can be a long time between signing and executing those contracts, and having them actually provide power to the State of California.

MR. HOPPER: Yes, there can be.

COMMISSIONER PETERMAN: And there can be. And there can also be a fair bit of uncertainty between the contract signing and that ability to deliver that power. Or you mentioned other factors that come into play, perhaps.

MR. HOPPER: It's the chicken and egg, you have to have the contract in order to do the financing to build the project.

COMMISSIONER PETERMAN: Okay, so the contract comes before the financing and the interconnection and all those other things?

MR. HOPPER: Correct.

COMMISSIONER PETERMAN: So it's an early stage action. Okay. Thank you, I appreciate that.

CHAIRMAN WEISENMILLER: Thanks. Charles Helget, Republic Service.

MR. HELGET: Members of the Commission, I'm Chuck Helget. I represent Republic Services, Inc. And Republic Services appreciates this opportunity to provide comments on the Renewable Portfolio Standard proceedings and the proposal to suspend the RPS eligibility for biomethane. While we understand the need to update the RPS Guidelines for biomethane, particularly since the passage of A.B. X12, we believe it is very important for the CEC to understand also the full breadth of the magnitude of the consequences of taking short term actions that will negatively impact legitimate and quality biomethane projects that are currently being developed under the RPS guidelines established by the Commission.

Republic is a leader in renewable energy from landfill gas generated at our landfills. Republic has developed a multi-pronged landfill gas strategy that will result in the conversion of many of our landfills from a system of landfill gas flaring to one of renewable energy production, primarily due to California's RPS. A key component of the strategy

focuses on high Btu projects that will remove landfill gas from flares, treat landfill gas to pipeline standards, and injection biomethane in to the natural gas pipeline system for us as renewable fuel. While most of these projects are in other states, we would actively pursue similar projects at our California landfills if impediments to pipeline injection were removed. Our experience with biomethane projects in other states will, in fact, allow Republic Services to be more prepared and to more rapidly pursue biomethane projects at our California landfills, should those impediments to pipeline injection be removed.

As we have often pointed out, California's RPS policies have been a prime motivation for the development of these renewable energy projects. The existing determinations and rulings by the CEC have enabled biomethane producers to achieve a level of success over the past few years that is unprecedented. The Proposed Suspension of biomethane eligibility will in effect freeze biomethane development nationally and will most likely help the development of many of our projects that have contracts in place, and tens of millions of dollars invested. Republic has seven projects that are in advanced stages of development, many of those projects will be delivering biomethane to

the natural gas pipeline before the end of this year, and more in 2013. These projects will not be RPS eligible under the proposed moratorium, simply because they will not be delivering gas on the date that the moratorium is approved by the Commission.

A case in point is Republic's Sock Trail project in Michigan. The project is additional. Will it redirect methane that is currently flared or planning to be flared, records and documentation of gas flow will be maintained, and there will be no double-counting. The project has been developed over the past two years. Contracts were signed in November of 2010, and we have invested, along with our developer, over $2 million in infrastructure, permitting, and associated fees. This project will be injecting gas into the pipeline in June and July of 2012, but will not move forward under the proposed moratorium. What we'll be left with is likely a legal tangle as we try to unwind contracts.

Further, this Sock Trail project is the type of project that --

CHAIRMAN WEISENMILLER: Could you wrap it up now?

MR. HELGET: -- our long term strategy. Therefore we would request that the CEC reconsider the

specified conditions of suspension and modify these conditions so as to allow projects that have contracted or are under construction to proceed under the current RPS Rules.

COMMISSIONER PETERMAN: Thank you. Appreciate your comments. I was going to ask you a couple questions about double-counting, additionality, but you touched on those already. You mentioned one of the seven projects has a gas delivery, or injection date, of June/July of 2012. What about the other six?

MR. HELGET: Because of the -- again, I need to plead the fact that I'm a policy flack, instead of a technical guy --

COMMISSIONER PETERMAN: Fair enough.

MR. HELGET: -- but those projects, again, are in various stages of development, so it's very hard to predict exact dates of when and if they will even be producing gasoline, or producing biomethane.

COMMISSIONER PETERMAN: Okay.

MR. HELGET: We have, I think, at least one or two that would be producing gas into the pipeline before the end of the year, other than the Sock Trail, and some early in 2013.

COMMISSIONER PETERMAN: Okay. And I'm sure you're aware that one of the reasons, I believe, for

the Hayden Act in California was concerns about vinyl chloride. Can you speak to your landfill projects nationwide about, 1) do you see this as a concern? And 2) do you do anything to treat it before you inject it into the pipeline for expected delivery to California?

MR. HELGET: One of the complications of doing these types of projects nationally is the fact that we do have to treat the gas to pipeline standards, and of course vinyl chloride is one of the major concerns nationally. We have not found that to be a major issue, we can treat it to pipeline standards, vinyl chloride typically, but each landfill is different because the type of waste that have gone into that landfill are different, and so each project requires you do a different analysis and perhaps do different types of treating.

COMMISSIONER PETERMAN: Okay, I'm just trying to get a sense of perhaps some of the environmental quality of particular gas from the different landfills. And then, finally, or as you wish, can you speak to the projects that you currently have -- and you mentioned that this proposed action would freeze biomethane development nationally, so kind of following up on that comment of yours, to what extent are you currently selling your landfill gas to places outside of

California?

MR. HELGET: Our landfill gas in California?

COMMISSIONER PETERMAN: Outside of California, or just generally, because you mentioned that this action would freeze nationally development, so I'm trying to get a sense of -- is it your perspective that all the biogas being developed in the nation is being directed to California?

MR. HELGET: Typically right now, our projects, landfill gas to energy projects nationally, we're generally generating power at the site with turbines or reciprocating engines. The project, the Sock Trail Project, is really our first project where we would be contemplating putting gas into the natural gas plant that's coming to California, presumably.

COMMISSIONER PETERMAN: Thank you. Appreciate it. While I have such an esteemed guest here, it's good to ask some of these technical questions, and we've gotten a lot of information from you already, but appreciate some of these clarifications for the record. Thank you.

MR. HELGET: You're welcome.

CHAIRMAN WEISENMILLER: Thanks. Okay, so Melissa Cortez-Roth, California Wind Energy Association.

MS. CORTEZ-ROTH: Thank you. Melissa Cortez-Roth, I'm here today for the California Wind Energy Association. And CALWEA does support the suspension, the Proposed Suspension. We think that it will give the Legislature the time that it needs to apply the same scrutiny to out-of-state biomethane resources, as it did to out-of-state renewable generation when it adopted the 33 percent RPS.

Tremendous wind resources in neighboring states were largely put off limits in the California market under the new RPS Standards and those were for reasons that the wind industry understood and both supported, but we do believe that those same standards, in terms of verification and tracking and providing benefits to California should be applied to out-of-state biomethane resources so that in-state and directly interconnected projects are not competing against old landfill gas investments in places as far away as Oklahoma and Pennsylvania. So, again, we do support the suspension.

COMMISSIONER PETERMAN: Thank you. Just since you're an active player in the California renewable market, I'm just wondering what role do you see for biomethane in the RPS? And do you see it as a resource that can help firm some of the wind generation

that we're currently contracting for?

MS. CORTEZ-ROTH: You now, I'm really not prepared to answer those questions today. I would have to go back and talk with some of our membership before we can comment on some of those things. I apologize for that.

COMMISSIONER PETERMAN: Fair enough. Well, I look forward to your comments in the future on that. Thank you.

CHIARMAN WEISENMILLER: Okay, I was going to -- Mike Carroll.

MR. CARROLL: Good afternoon. My name is Mike Carroll, I'm an attorney with Latham & Watkins, and I'm here on behalf of a coalition that is currently being formed, we were recently retained. The full membership of that coalition is yet to be determined, that effort is being coordinated by Element Markets.

We submitted extensive written comments last Friday. I realize that you haven't had a lot of time to review those -- good, good.

CHAIRMAN WEISENMILLER: You should assume we've read them, please.

MR. CARROLL: I assumed you had them and that you'd looked at them. I realize that you haven't had a lot of time to process them, and obviously this isn't

an ideal dialogue for resolving the sorts of issues that we raise here, although I've been very impressed with the questions and answers that have taken place today. I will say, while our clients share many of the concerns that have been expressed today, save for the last speaker, my perspective on this is somewhat different, and so while I don't necessarily expect my comments to be welcomed, perhaps by the staff, at least they'll represent a change of pace and ask that you accept them in that spirit.

We did identify at least six major legal defects in the staff proposal, and I'm just going to summarize those briefly. First, the Proposed Suspension, we believe, is beyond the scope of the Commission's jurisdiction. The Legislature very specifically set forth the criteria for eligible renewable resources in the Public Utilities Code, and charged the Commission with applying those criteria. The Proposed Suspension, we believe, impermissibly goes beyond applying the criteria established by the Legislature to actually altering those criteria, and therefore represents a usurpation of the role of the Legislature. Second, because we believe the Commission is acting outside the scope of the authority granted to it by the Legislature, the otherwise applicable

exemption from the Administrative Procedures Act, we don't believe, is applicable to the action as currently proposed. The Proposed Suspension, assuming it is authorized at all, amounts to a rulemaking and cannot be enacted until the EAP's requirements are met. Third, and related to that, we don't believe that the 10-day notice provision found in Public Utilities Code Section 25747 applies to this particular action, and that the broader 30-day notice provision applies. Fourth, we believe the Proposed Suspension is a discretionary action subject to California Environmental Quality Act; fifth, we believe that the Proposed Suspension would result in discrimination against out-of-state biomass sellers in violation of the Dormant Commerce Clause. As we've heard today, there isn't really activity with the in-state generators, and therefore expanding it to cover in-state activity that is basically non-existent, we don't think, provides any coverage on Dormant Commerce Clause claim. Sixth, we think that the Commission's proposal is arbitrary and capricious in light of the record that's been created, including the comments that were provided today.

I'm not going to repeat -- in our written comments, we also identified many of the policy issues,

I'm not going to repeat those here, I had intended to summarize those, but they've been already stated by others and in a more eloquent way than I can. I will simply conclude by stating that, you know, this isn't necessarily the forum to debate these issues, we hope that we don’t end up in another forum where debate and resolution of these issues would be more appropriate, we think there is certainly a way to get there, you've heard many suggestions today along those lines. What we would ask is that you not take action today to suspend this, but to have further stakeholder dialogue because, as has been said, and we concur, we think that many if not all of the issues on both sides of this debate can be resolved through more carefully crafted proposal that addresses the concerns that have been expressed about biomethane, but at the same time protects the substantial interests that many of the companies in this room, including my clients, have made in an attempt to help California meet its renewable energy goals. Thank you very much.

COMMISSIONER PETERMAN: Thank you. And just for the record, can you say again who all your clients are that are interested in this matter?

MR. CARROLL: Yes, currently it would be Element Markets, LLC and some subsidiaries, wholly

owned subsidiaries of Element Markets.

COMMISSIONER PETERMAN: Thank you. I have no further questions.

MR. CARROLL: Thank you.

CHAIRMAN WEISENMILLER: We're going to take one more comment, so that will take us to about 12:30, we'll then break for about an hour lunch, and come back. So Nick Lapis, Californians Against Waste.

MR. LAPIS: Good afternoon, Commissioners. Nick Lapis with Californians Against Waste. We're a 34-year-old environmental organization focusing on waste reduction and recycling policy here in California. I'm going to keep my comments a little bit different than everybody else's, and I really want to focus on the standalone in-state anaerobic digestion projects, which are slightly different than the landfill projects.

On the out-of-state landfill projects, we understand your concern, there is some legitimacy to the issues being raised and the issues being raised are not insurmountable, but we do understand why you have those concerns. But on the in-state organic waste digestion projects, which we have been long supporters of, as has this agency, as has this agency's sister agencies, none of these issues are inherently present.

So staff identified three main criteria in S.B. X12 that they're worried these projects would violate. The first one was in-state production. Again, if we're talking about in-state digester gas production, then the in-state part is clear. The second one was reduce air pollution. These projects divert food waste and other organic materials from landfills which are significant sources of non-methane organic compounds and other criteria pollutants. And in general, these projects are done as pollution reduction in the State of California, and that's why we support them, because they reduce pollution from landfills. And then the third criteria that was listed was greenhouse gas reduction. I think this is one where we not only get the direct greenhouse gas reduction of avoiding fossil fuel emissions, we get significant upstream and downstream benefits. According to the Climate Action Reserve, if we were to divert all of our currently landfilled food to digesters, we would avoid about three million tons a year of greenhouse gas emissions from landfills in California.

In addition to that, the California Air Resources Board has identified that the compost that's produced from the digestate, if applied, will reduce about another 3.5 million tons in the Ag sector in

California, so this is in addition to the avoided fossil emissions, we have three million in fugitive landfill emissions, and 3.5 million in Ag emissions.

Currently, 98 percent of food waste is landfilled in this country. The criteria pollutants and greenhouse gasses being released in California are significant from the source and, unless we develop an infrastructure to handle these materials outside of landfills, we're talking about not only not getting these benefits, but having significant greenhouse gas and criteria pollutant emissions.

We look forward to talking with you and the Legislature on this issue, but as you're making this decision today, I would suggest you don't throw out the baby with the bathwater in terms of the in-state digesters; they don't have the same concerns that you have with out-of-state landfill gas injection projects. Thank you.

COMMISSIONER PETERMAN: Thank you. So you do see the suspension as proposed as having an impact on in-state, as well as out-of-state resources?

MR. LAPIS: I definitely believe that in-state digesters would be included. Right now, most of the digestion industry seems to be going in the way of either on-site electricity generation, or producing low

carbon fuels, or net metering.

COMMISSIONER PETERMAN: Okay.

MR. LAPIS: But there is a significant opportunity for digester gas to be injected and to be used at RPS eligible power plants in California.

COMMISSIONER PETERMAN: Thank you very much.

MR. LAPIS: Thank you.

CHAIRMAN WEISENMILLER: I'm going to correct my statement. I have one gentleman who can't be here this afternoon, so I was going to ask him to come forth now. Lenny Goldberg from TURN.

MR. GOLDBERG: Thank you very much for the consideration. I could not spend the afternoon. I'm speaking on behalf of the Utility Reform Network, which represents IOU ratepayers, small ratepayers, residential ratepayers, and we are in support of your moratorium of the suspension for a number of reasons. We have been very involved in the RPS considerations, the complexities of Bucket 1, Bucket 2, and Bucket 3, we are very focused on trying to provide the maximum amount as we discuss RPS of the deliverable resources to California that develop the renewable energy industry. We don't think that this is a small issue, although I want to correct some references; people refer to opponents of biomethane, we are very strong

supporters of the development of biomethane as part of the RPS, we think it has tremendous potential, all those reasons that were stated with regard to shaping the load for wind and other renewables, are all there for biomethane. That said, we opposed substantially the TREC proposals -- some of the TREC proposals and I want to make a parallel between what you're doing today, which is a positive one, and what was done at the Public Utilities Commission, in which the PUC said, you know, "we are going to suspend the signing of contracts for tradable renewable energy credits outside of the PUC." They put a moratorium and a suspension on that and then developed some criteria that followed along with S.B. 1X2.

There are issues, as has been stated by the staff, and we'll just repeat them, additionality, do we know what we're getting? There are issues of potential double-counting, there are issues of having standards -- many of the reasons that were provided in the staff report, that we care about, all of these apply to non-biomethane, they apply to wind, they apply to solar, they apply to questions of what falls in to what Bucket, and so we think the reason your decision was appropriate is because there is not that kind of verification, there's not that kind of detail. We do

have problems with understanding what is additional, what are the greenhouse gas contributions. I don't need to repeat your reasons for the suspension, but other than to say we support it and see a real parallel with what happened at the Public Utilities Commission when the TREC decision was held, there was a suspension of that. You are pretty much doing the same thing, until we can know what really is going on out there, and that will not discourage biomethane. I think it's very well understood that it's a valuable resource that's needed in the State of California.

COMMISSIONER PETERMAN: Thank you. Just a question you can answer as you wish. One of TURNS objectives, I believe, appropriate to say, is to keep electricity affordable for ratepayers, and the issue has been brought up today by various parties that this is a lower cost compliance option, or a resource available for the RPS. Can you speak to, acknowledging that there is that interest in keeping things affordable, why you're still in support of the suspension?

MR. GOLDBERG: We don't, as I said, we see biomethane as a very valuable resource, there is right now a feed-in tariff so that wastewater treatment centers, wastewater facilities, and others, can get a

feed-in tariff as they sell in to the grid, and we've worked on what those numbers really are and how costly that would be. So that the development of biomethane resources for ratepayers is a very positive development; at the same time, we have been very concerned about ways in which non-deliverable resources can game the system, whether, you know, I think that your staff report has basically identified a number of areas that have not been satisfied with regard to S.B. X12, with regard to the requirements of the various buckets in the RPS. So we want really true integrity of the RPS, is what we seek, lowest costs, we worked extensively on the cost reduction elements that were in the RPS bill, and we do see biomethane as very positive. That said, there are all kinds of verification and reality vs. on paper contracts that we think are of major concern.

COMMISSIONER PETERMAN: Thank you. That was all my questions. Anyone else?

MR. GOLDBERG: Thank you for indulging.

CHAIRMAN WEISENMILLER: Okay, is there anyone else who can't be here this afternoon? Of course, I was going to say, having said that -- don't be here this afternoon.

MS. BAUTISTA: I was already packing up

because I thought you were headed to lunch, so I appreciate --

COMMISSIONER PETERMAN: We hear all the public comment, so please.

MS. BAUTISTA: Thank you very much. My name is Nidia Bautista, I'm Policy Director at the Coalition for Clean Air. We are a statewide nonprofit focused on clean air for California. And we've been a strong supporter of the Renewable Energy Standard and specifically of the recent 33 percent standard here in California, Senate Bill X12. We support these policies out of concern for reducing air pollution, preventing climate change, and protecting public health. As such, we do have a preference for non-combustion renewable energy, so we are particularly appreciative of the additional environmental factors included in the new standard, which establishes a preference for electricity generation that provides more environmental benefits to the state, including reducing air pollution, displacing in-state fossil fuel combustion, and helping the state meet its greenhouse gas reduction goals.

California policies such as the RPS provide much needed impetus and certainty to help the private sector transition to the clean energy economy, and we

recognize that the S.B. X12 doesn't specifically mention biomethane for detailed analysis, as it does in other situations. However, the additional preferences in S.B. X12 do have impacts on biomethane considering the existing legal requirements and utility preferences regarding pipeline biomethane.

To that end, we support a thorough exploration of the issues surrounding the eligibility of biomethane for the state's RPS, so the additional clarity and certainty can be provided to all stakeholders. Quite frankly, we don't envy the position you're in today, we really wish that a lot of this had been addressed through the bill because I think that would have resulted in a much better trusting and environment that could result in -- obviously we would have avoided this whole situation. But we are grateful to the CEC in the fact that you had this dialogue and discussion at the September workshop. Admittedly, we were a little surprised by the announcement about the Proposed Suspension as a result, but again, we recognize the weight of this decision and we want to make sure that's it done in a judicious manner, so as to avoid unintended consequences of paralyzing the private markets to respond positively. Considering the diverse perspectives, and let me just

share, we've had numerous conversations with proponents from both sides of the discussion around whether or not to suspend biomethane. We do believe, you know, we understand there are current efforts through the legislative arena, and we hope that a lot of these same folks continue to engage here so that we have statutory changes to provide that additional clarity that we all seek. We understand that, on the one hand, there are some opposing the suspension who have committed to find a reasonable way out of relying upon out-of-state biomethane to fulfill the RPS, and on the other hand, we've understood from legislative leadership that they also want to ensure that complementary policies can and should be constructed to support biomethane, for example, A.B. 118 and the Low Carbon Fuel Standards; though we recognize there are some current challenges, particularly with the Low Carbon Fuel Standard.

We would like to say that we want to assure that biomethane remains a viable low carbon fuel source because it is -- in many cases the alternative is we flare it, or it's put into the atmosphere, and this is bad for air quality. But we do hope, again, that these parties can engage throughout the legislative process to provide resolution on these issues.

Now, should the agency move forward with the

suspension, we do believe that a chronology of necessary benchmarks would be helpful, just so that all stakeholders are clear in terms of the progress as to a final determination on the issue. Again, thank you very much for your time.

COMMISSIONER PETERMAN: Thank you.

CHAIRMAN WEISENMILLER: No questions? Okay, so we will now be in recess until, oh, for roughly an hour, so until a quarter of.

(Recess at 12:40 p.m)

(Reconvene at 1:56 p.m.)

CHAIRMAN WEISENMILLER: First, the next speaker will be Jeremy Weinstein.

MR. WEINSTEIN: Hello, my name is Jeremy Weinstein and I'm appearing here as a California citizen and not on behalf of anybody else, or any organization. I submitted comments before and I am going to read from part of the comments that I've submitted.

Some biomethane opponents claim environmental and ratepayer goals, but they seem to be more concerned here about creating transmission construction worker jobs. These are not green jobs, they simply increase the cost of green resources to Californians. Transmission construction worker jobs is not specified

as a goal in the Public Utilities Code Section 399.11(B), which sets forth the goals of the RPS. But more importantly, the policy objectives expressed by opponents of out-of-state biomethane to increase the construction of local transmission facilities, rather than use cheaper and already available out-of-state fuel for in-state renewable resources, not only needlessly increase the cost of renewable energy to ratepayers, they also put the health of Californians at risk and no discernible benefit to ratepayers.

A number of studies have linked living near high voltage transmission lines to childhood acute lymphocytic leukemia. A connection between childhood leukemia and living near high voltage transmission lines has been confirmed to varying degrees by official federal and official California government reports, although the medical community is not unanimous. I didn't know about these studies when I moved my family into an area of South Walnut Creek, close to twin 230 KV lines in 1994, when my daughter, Simone, was five-years-old. I asked my daughter, Simone, for her permission to bring this matter to your attention, and she gave it to me. In fact, I didn't know about these studies until 2004, after Simone was diagnosed with Acute Lymphocytic Leukemia, the very form of cancer

linked by these studies to living near these high voltage lines. I'm extremely happy to say that, after her ordeal, which included a stroke caused by chemotherapy medication, which I'm still traumatized by day to day, although he is fine, Simone is fine, and thriving as an art major, finishing her senior year at Whittier College. I wouldn't wish having a child go through leukemia on my worst enemy, if I had a worst enemy. I recognize that there are societal tradeoffs; cancer risks suffered directly by individuals are abundant as the cost of creating goods and services that benefits society as a whole. But I hope I can convince the Commission that it should not take any steps that would increase the incidence of individual childhood leukemia patients when there is no actual benefit to society. Creating a few transmission construction jobs that are otherwise unnecessary by erecting artificial barriers to existing renewable resources, which barriers are not required by the statute, is not a societal benefit, it is, rather, a very expensive but inefficient transfer payment to some construction workers for a year or two, with a follow-on generations long negative risk of increased childhood leukemia that would fall disproportionately on some families. Rather than weighing the need for

more renewable resources against environmental impact, since the resources are already available but for proposed artificial limits on existing resources, so new ones could be built in California to create transmission construction worker jobs, we can instead simply weigh -- make work legislation against environmental impact. How much added danger and risk should individual members of society --

CHAIRMAN WEISENMILLER: Could you wrap things up? I mean, particularly since you've written -- filed the comments.

MR. WEINSTEIN: Yeah, almost done.

CHAIRMAN WEISENMILLER: Okay.

MR. WEINSTEIN: How much added danger should individual members of society tolerate for make work jobs? Tearing up and refilling paved roads has been not a typical use of Federal stimulus funds in recent years, but we should not have workers dig potholes in functioning roads in order to increase work for pothole fillers because it is wasteful for some families, and some families driving on the road will disproportionately bear the cost indirectly arising from this wastefulness. I think if ratepayers were fully informed and given the choice between paying extra money on their electricity bill to create

construction jobs to build assets that are only made necessary by artificially restricting the use of available out-of-state renewable resources, that increase the risk of childhood leukemia, or of obtaining the RPS benefit, renewable energy from out of state, without having to pay that extra money on their electricity bill, most ratepayers would choose the latter. Thank you very much for the opportunity to speak to you.

CHAIRMAN WEISENMILLER: Thank you.

MR. WEINSTEIN: Any questions?

COMMISSIONER PETERMAN: No questions, but thank you.

CHAIRMAN WEISENMILLER: Michele Wong, Clean World Partners.

MS. WONG: Hi. I'm Michele Wong, I'm the CEO of Clean World Partners. I'd like to start by thanking the Commission for your support. Clean World Partners is a provider of integrated anaerobic digestion systems. Our technologies were originally developed by Dr. Ruihong Zhang at U.C. Davis, whose research was largely funded by CEC's PIER Program. Since acquiring the license from U.C. Davis to commercialize these technologies, CWP has received funding from the CEC to conduct feasibility analysis and predevelopment work of

our Sacramento Biorefinery I Project, which will be located at the South County Sacramento Area Transfer Station. CWP is funding the construction of the facility and we will begin operations in June. On Friday, we received notification from the CEC's Alternative and Renewable Fuel and Vehicle Technology Program that we've been proposed for a grant award under the Biofuels Production Facility Solicitation, PON 601, for significant scale-up of that facility, which will produce CNG for regional vehicle fleets. We're looking forward to working with the CEC staff to implement this project.

Last week, we began operations on our first AD facility at American River Packaging in Sacramento. This is the first digester in the state to process high solid food and paper waste. When it reaches operating capacity, it will be producing 37 percent of the electricity used in American River Packaging's manufacturing facility.

Based on California laws and policies implemented, CWP and companies like ours have made significant investments to commercialize AD biogas technologies. The industry is just taking off and has momentum. CWP has seven additional projects currently under development, four of which will go online in

2012. As a company, we've spent millions of dollars in private capital, and created new jobs in the design, development and construction of these facilities. We're currently securing capital and financing required to complete these additional projects. An action such as the suspension of biogas from RPS would raise serious questions in the investment community. To continue the momentum, the biogas industry needs to stay on a level playing field with the other renewables.

Clean World Partners shares the Commission's concern about out-of-state biogas use, however, we need to continue to work together to get AD produced natural gas into the pipeline so that it can be delivered to our users. For example, CWP is developing a project in the Central Valley with an egg producer. We've designed a digester project that will digest 240 tons per day of chicken manure and produce 1.5 million standard cubic feet of RNG. This is the cleanest carbon fuel available. There is no use on-site for this amount of fuel. Unless we can inject the gas into the pipeline for delivery to customers, the project isn't feasible. We're working with GTI and other industry experts to overcome the challenges of AD biogas injection. But these efforts will be stalled if

there is uncertainty about the future of biogas eligibility for RPS. CWP does not oppose eliminating the use of out-of-state biogas by California utilities for RPS, however, as you consider the options you have available, we strongly urge you to protect California jobs by protecting the use of biogas technologies to meet the state's environmental goals. Thanks again for your support and for allowing us time for our comments.

COMMISSIONER PETERMAN: Thank you for your comments. I guess I would just add in response to your comments that, personally, myself and I think staff, based on the notice, have concerns about all biomethane, regardless of the location. Thank you.

MS. WONG: Okay.

CHAIRMAN WEISENMILLER: Kevin Best. Real Energy.

MR. BEST: Good afternoon. So I'm Kevin Best of Real Energy, we're in Napa, California. I also represent Ros Roca from Stuttgart, Germany. Real Energy has developed, built, owned, and operated more on-site renewable and combustion-based distributed power facilities than any other independent power producer in North America. Ros Roca is our biogas development partner for the production and upgrade of biogas. They've built over 100 plants now with

conversion technologies, including mechanical, biological, anaerobic digestion, and municipal solid waste, food waste, grease, and manures to produce and inject biogas all over the world. We have the world's largest 120,000 ton per year food waste anaerobic digestion plant that is located in a landfill. We'd like to do the same in California.

Our permitted projects and projects in pre-development in California include wastewater treatment plants, municipal waste transfer stations, landfills, and on farm facilities. Our electric customers include these facilities, as well as our distributed generation customers, which are primarily high-rise office and hotel facilities in the urban core, that are expecting our biogas deliveries through the existing natural gas infrastructure. So this is a little different than the utility sale, but our DG facilities can produce a lot of renewable power in the urban core.

In San Francisco, Orange County, in San Diego, we have several directed biogas developments to provide between a megawatt and four and a half megawatts at each of these facilities, this is renewable energy using directed biogas into combined heat and power plants, on the roof, and in the basement of these office buildings. They want to achieve LEED

Platinum status. We're also serving these constrained downtown grids and we have community choice aggregators as off-takers, as well. So when we combine and digest organic slurry from our municipal solid waste transfer station hosts, and we combine that with our energy crops that are grown on our wastewater treatment plant lands, these are fertilized lands, fertilized with biosolids from the wastewater treatment plant, they're watered with wastewater treatment plant recycled water, and then we bring this precious gas through the existing infrastructure to our urban customers. We can deliver a lot of renewable energy on the roof of a small office building, several megawatts as opposed to solar, which would just give you a few kilowatts. So we attract investment for this business model for major reinsurance groups, pension funds, and the world's largest infrastructure investors. We've had to put these investment groups on notice just as a partner, pertaining to this over reaction to self evident environmental benefits and metering and verification questions, this now has become a disclosure item from a public securities point of view, for all of us trying to deploy hundreds of millions of dollars here into private renewable energy capital in California, our company alone will lose $36 million of Federal dollars

that were headed to California under the 1603 program that requires commissioning by the end of 2013, this moratorium would of course delay that; and others in this room will lose hundreds of millions. I'm afraid that the notion of a moratorium has effectively shut most of this capital down. So, in conclusion, this is devastating to energy developers that can easily help you figure out how to meter and verify this commodity, and the climate action reserve that can easily help you understand how we earn carbon credits in exchange for our obvious environmental benefits. Thank you.

CHAIRMAN WEISENMILLER: Thank you. Paul Sousa, Western United Dairymen.

MR. SOUSA: Good afternoon, Commissioners. Thank you for the opportunity to speak here today. My name is Paul Sousa, I'm an Environmental Specialist with Western United Dairymen, we are the largest dairy producer trade association in the State of California. We have also submitted written comments and I'm going to summarize those here today.

Western United Dairymen administer the dairy power production program for the California Energy Commission and we got 18 digesters built on California dairies, all producing on-site electrical power. Western United Dairymen supports the process that

you're trying to do here, but requests keeping eligibility open for in-state biomethane until the changes can be adopted. Western United Dairymen is concerned with the proposed suspension. Dairy digesters needs options for their biogas use, including pipeline injection, which is one of the cleanest options, actually, for dairies in using their biogas. The suspension would cause chaos among dairy farmers, digester developers, and financers looking to develop these types of projects. It takes away certainly and clarity in the future of what they're trying to do.

Western United Dairymen respectfully requests that the Commission work to develop biogas pipeline injection RPS criteria without suspending the current process. Thank you.

CHAIRMAN WEISENMILLER: Thank you. Michael Boccadoro.

MR. BOCCADORO: Thank you. Michael Boccadoro with the Dolphin Group, and I'm offering my comments today on behalf of the Agricultural Energy Consumers Association. We work with a number of dairy and wastewater digester proponents. I want to be very clear with my comments upfront, that I'm speaking only to the interests of in-state projects, and AEC went on record at the previous workshop, but we share some of

the concerns that the Commission has with how the RPS has been broken, if you will, by some of the efforts by out-of-state biogas developers to bring product into California.

Let me also state that, while we can support a suspension of some biomethane products going forward, we can't support the one that is before the Commission today, not by any stretch of the imagination. We're asking the Commission to take a step back, we don't see the urgency in acting today, we are asking for a couple of week time period so that we can find a way to address the legitimate concerns of in-state projects.

I want to reiterate some of the concerns that you've heard from some of the previous folks. We've been working diligently in California for the last two years to remove barriers to digester development in California. The Secretary Ross of California Department of Food and Agriculture is leading a State and Federal task force with this very goal in mind. The Energy Commission has been participating in that process. We find it concerning that we're now here at the Energy Commission asking you to not move forward with a Proposal that will wipe out all the good work that has been done. We are gaining some momentum, my phone is ringing off the hook with in-state companies

looking to develop in-state projects on California dairies, and the California wastewater agencies. The proposed ban on all projects will do great harm to this momentum.

I want to address the three goals that your staff outlined. We can meet all those goals with in-state programs that were identified in the RPS. We displace in-state fossil fuel use, we provide significant in-state environmental benefits, and I would argue that if you pay close attention to the letter that was sent to you from the San Joaquin Valley Air Pollution Control District, it is the proposed suspension of all projects, including in-state dairy biogas projects that will actually exacerbate environmental quality in the San Joaquin Valley and impact public health because we will have no choice but to move to electrical generation, and that will have a significant impact on NO_x increases in the San Joaquin Valley.

I want to also point out that to provide significant greenhouse gas benefits, there is a protocol, the dairy industry is one of the few in the state that has a protocol for quantifying the greenhouse gas benefits, and a fourth goal, not an official goal of the RPS -- and I recognize I'm running

out of time if you want to indulge me for another moment -- not an official, but that's creation of green jobs here in California, it's not official, but the Brown Administration has made it perfectly clear, we lose all of that -- in-state projects will become collateral damage. We have real projects today that are getting prepared to inject biomethane. Some of those have 1603 funding, as someone previously stated. This suspension goes and impacts those projects, that money is lost, period, because the timeframe is the end of 2013. It will also have a chilling effect on electrical energy projects. The message that gets sent is that we can't trust California Regulators to provide a level playing field for in-state projects. We've been struggling with that, projects that I'm involved with are looking at financing costs in excess of 16 percent because of the perceived risk, most of it regulatory in the state. If this suspension moves forward without some consideration for in-state projects, it's going to do tremendous damage to the momentum that's there. Thank you.

CHAIRMAN WEISENMILLER: Okay, thank you. John White.

MR. WHITE: Thank you, Mr. Chairman, members. I'm John White with the Center for Energy Efficiency

and Renewable Technologies. As we've tried to come up to speed on this issue, finding it sort of astonishing and surprising what we're faced with here, I first of all want to commend your attention to written comments that we filed, you've taken a lot of testimony today, some that's gone on quite long, and I'll try to be brief and just try to hit the highlights.

First of all, it's clear to me that the Commission had no idea what it was doing when it created this loophole for originally circumstances of a very different nature than what we have today. I think it's also fair to say that it's probably just as well that this debate didn't emerge during the RPS because it would probably have taken another year to get a bill. But, clearly, if you look through the prism of what we've been through in the RPS, there's parts of this story that just don't fit. A couple things are very clear to us that all these technologies, all this use of this product, are not all created equal in terms of their environmental benefits, in terms of their market benefits, and in terms of their impact on the RPS. And I think I would commend your attention -- solve Mr. Boccadoro's problem, okay, this is not what we need to be doing is casting a pall of uncertainty over a dedicated biomethane project in-state that

they're actually using the stuff with advanced technologies, there's got to be another way to fix that in terms of definition, such as by maybe carving out projects that are generation projects, even if they go under the pipeline for a brief moment. I think we know that there's a difference.

The other thing that I'd say is that you're late in fixing this. And now we're dealing with all these people whose pipeline dreams have turned into entitlements. We hear a lot about protect our contracts, protect the deals that we did, these deals were going on well below the radar screen, and now we're just finding out about the scale of them, and I think a couple questions need to be answered: is this in fact -- are these projects all incremental additional methane that's being captured? It doesn't matter if it's being shifted to a different pipeline, that's not new capture, that means it's not incremental, that means it's not new, that means it's Bucket 4, except that we don't have Bucket 4. Okay? But if you compare these to the RECs that we have spent a lot of time debating and negotiating, which this Commission has put in place so a very significant tracking and verification mechanism, these don't all compare well to those. We clearly with RECs have

incremental, new, not being sold twice, verified, not double-counted; we don't have anything remotely like this here and you're relying on voluntary compliance to even see what the contracts are. And one example, in the case of a REC, you don't get to split off part of the greenhouse gas benefit and sell it, you know, again, all -- a REC by definition has all of the environmental attributes associated with it, that's not the case here. The case of the City of Los Angeles, at least one deal, the City gave back the greenhouse gas credits, and I would point out the City of Los Angeles, particularly amusing to me because of the fact that we were working with the Department of Sanitation trying to get DWP to buy some biomethane from Hyperion Wastewater Plant, and instead they're doing these other deals with folks in Texas, okay? Now, it may be fine to do these deals and provide incremental benefit, however, I don't think these all fit into that category. So, you know, I don't know what you're to do at this point. Commissioner Peterman, I'm very sympathetic to all the volumes of material -- we even got some lawsuit threats this morning, I'm always amused when we have big business law firms threaten to use CEQA and that always tells us something else is going on. And so there's a lot of money being made.

If these transactions are worth counting, they're worth counting and treating the same as other similar transactions. I would point out you can't buy RECs from beyond the Western grid, and yet in this case we've got people from Texas and Pennsylvania. We also can't count them as Bucket 1 if they don't displace anything in California, all right? So, I mean, the whole point of the Buckets was to differentiate -- not between in-state and out-of-state, but between the different functions, the different things that happen. So, for example, if you're only getting an incremental amount that isn't coming here, and you want to somehow count that the same as a brand new renewable resource that's on the Western Grid and directly interconnected to California, it just doesn't make sense.

Now, I will say to my friends in the municipal utility community, this is an area where you put a lot of time and energy to protect yourselves from compliance, I respect that, we have good relations with the Munis, but I would judge the Munis by their overall performance and the trajectory of their compliance. You know, it's one thing if this is topping off the tank and being sure that there's adequate compliance, and another thing for us to be your whole compliance strategy and you're not buying or building anything,

that can't be what we intended with the law. So I appreciate you letting me run over a little bit, there's a lot to consider here. I would really strongly -- you know, we are working to encourage and incentivize on-site generation of ultra-clean technologies, we're working on a feed-in tariff, working on legislation, that's an important part of the Commission's mission, but you can't ascribe all of the benefits of this particular group of technologies to all of the projects because it just doesn't add up. So thank you for your attention and I'm happy if you have any questions.

CHAIRMAN WEISENMILLER: Thank you.

COMMISSIONER PETERMAN: No, I was going to ask you, but I think you've touched upon it, what potential role you can see for biomethane going forward in the RPS.

MR. WHITE: Well, first of all, let's recognize that the methane has different benefits and different value depending on where it comes from and depending on how it's used. Okay, landfills are harder to put a pipeline, landfill gas is harder to put in a pipeline than, say, dairy gas or wastewater treatment gas, because there's more crud in it, and we need to clean that more, to keep the vinyl chloride and other

stuff like that out. I would defer to -- I don't know a lot about the pipeline specification, I do know the variability of the Btus is a unique challenge in terms of putting it in the pipeline system. In terms of on-site biomethane conversion and use with dairies, wastewater treatment plants, and landfills using advanced technologies, we think there is the potential for 500 or 1,000 megawatts of those kinds of resources if we get the price and the market straight, and if we develop the technologies. I think the role of the sort of capture and into the pipeline, but it doesn't get to California resource, I'm not sure that's something that ought to be the responsibility of our electricity customers, it's certainly worth doing, and from an environmental standpoint should be regulated, we shouldn't be allowing flaring, in my opinion, I'm hoping there are other alternatives, but I think these technologies are not all the same in terms of their benefits, in terms of their contributions, and in terms of their effect on the environment, and so I think, to the extent that we want to encourage them, we want to encourage the ones with the most benefit in terms of reduced impact on air pollution in a place like the Central Valley, and the ones that also will help displace conventional fossil fuels in California.

COMMISSIONER PETERMAN: Thank you very much. I don't have any further questions.

CHAIRMAN WEISENMILLER: Thanks. Okay, Tamara Rasberry from SoCal Gas.

MS. RASBERRY: Good afternoon. Thank you, Commissioners. Tamara Rasberry on behalf of the Southern California Gas Companies. Today, Southern California Gas Company is very interested in helping to advance the State's goals in biogas, and is looking to enable the biogas producers to help condition their gas to meet the quality required to meet pipeline safety requirements -- sorry, pipeline safety standards. We believe that the action today will have a reverse effect on the business opportunities that are available in the state, that Southern California Gas Company is interested in exploring.

If you've reviewed our comments, I just wanted to summarize some points in the comments that we filed on Friday. We would like to point out that in-state biomethane provides at least three of the RPS benefits noted in the California Public Utility Code Section 399.11, 1) displacing fossil fuel consumption within the state. Currently, Southern California Gas Company and San Diego Gas & Electric has a project in Point Loma with the Point Loma Wastewater Treatment

Program in San Diego, and right now we're injecting about 550,000 cubic feet per day of conditioned biogas into the SDG&E Gas Distribution System. There is potential for biogas production and injection in SoCal Gas' service territory, we believe there is approximately 105 million standard cubic feet per day in wastewater treatment facilities, dairies, livestock, and food green waste processing. One of the other goals in RPS is to meet the state's climate change goals by reducing emissions of greenhouse gasses associated with electric generation. SoCal Gas estimates that one renewable natural gas injection project that digests 411 tons of diverted food waste per day can create annual emission reductions of approximately 56,250 metric tons of CO_2 equivalent. This is the equivalent of approximately 11,000 passenger vehicles off the road. And the third goal of meeting the State's need for a diversified balanced energy generation portfolio, Southern California Gas Company estimates that the amount of renewable natural gas that can be produced by 2020 economic projects is approximately 30 million cubic feet per day. If all of this renewable natural gas were injected into the utility pipeline network, and directed to an RPS certified generation facility, it would provide enough

fuel to generate approximately 100 megawatts of renewable power.

There are a number of in-state injection projects in various states of development, you've heard that from the other public comments. And we believe that the suspension of the RPS qualification for the use of the biomethane produced by these projects could preclude the financing of these projects and essentially stall this rapidly developing renewable energy source. Because of this, we respectfully ask the CEC to focus -- to carve out in-state projects when voting on the moratorium today. Thank you.

CHAIRMAN WEISENMILLER: Thank you. No questions? Valerie Winn, PG&E.

MS. WINN: Good afternoon, Chair, Commissioners. Valerie Winn on behalf of PG&E. And I'd like to talk to you today about our concerns about the proposed suspension that PG&E is opposed to. First, as you've heard from many parties today, there's a lot of concern about the uncertainty that this suspension will create in the marketplace, you know, a marketplace that California has really helped develop over the last several years with its consistent policy since 2007, about the eligibility of this resource for RPS. And, you know, we're now at that point where it's

taken the market a while to develop, but we're now seeing, as you hear about all of these pending projects, that that stable and consistent marketplace is now showing the benefit, that we're now seeing the benefits of that stable and consistent market.

Our other concern with the proposed open-ended suspension is the concern about how it would affect existing contracts. The suspension notice included a limitation that could be interpreted to impair some of our existing contracts. I know everyone has probably negotiated their contracts in a number of different ways with different provisions, but PG&E has a biomethane contract that allows for a maximum volume of daily deliveries. Well, as the industry has been developing, we probably have not gotten those maximum daily deliveries over the last three or four years this contract has been in place -- it could happen, it's a 10-year contract, but to limit our ability to count biomethane based on what they've actually been able to historically deliver would impair the contract, and that's something that concerns us.

Lastly, you know, I know Tamara mentioned the few of the benefits of using pipeline biomethane at existing facilities, but we haven't talked about too much some of the other benefits of not having to build

other power plants of any type in the state, but being able to use existing facilities to burn biomethane. We don't have to build new transmission lines, we don't have to worry about how to integrate more as available renewable energy because using biomethane at dispatchable resources actually adds reliability benefits to the system.

So for those and a number of the other topics we noted in our comment letter, we ask that you not act on this proposed suspension today. Thank you. I'm happy to answer any questions.

CHAIRMAN WEISENMILLER: Thanks. Anyone else in the room who has comments? So let's go to the phone. Shannon Eddy?

MS. EDDY: Great, thanks. Can you hear me?

CHAIRMAN WEISENMILLER: Yes.

MS. EDDY: Oh, wonderful, all right. This is Shannon Eddy, I'm with the Large Scale Solar Association. LSA supports the Proposed Suspension and we hope that the CEC will consider going even further in its biomethane eligibility policies. You've heard a lot today about ensuring a level playing field for all renewables, and the Proposed Suspension actually begins to allow for that. Without the suspension, biomethane enjoys eligibility that the other renewable resources

could only dream about right now. We do support the use of biomethane in the State's RPS; to the extent we know definitively that the biomethane is actually reaching the plants that are using the gas for the generation receiving RPS credits, currently it appears the only way to do that is via a dedicated pipeline, which there are few. In stark contrast, the bulk of the proposed and existing contracts purchase biomethane from across the country and as far away as states like Pennsylvania and Oklahoma. There really is no national tracking system for pipeline biomethane right now, and given the physical flow of the pipeline system, it's unlikely, if not impossible that the landfill gas from the eastern part of the country can ever deliver biomethane in California. Many of the sources of the pipeline biomethane don't displace fossil fuels within the natural gas supply basins that serve the California market, and so without this physical displacement, there's really no reduction in the amount of fossil fuel being used by California utilities, which is of course one of the main reasons that we have the RPS.

Some of the pipeline biomethane transactions right now are sourced from landfills with preexisting methane capture facilities, and that means that these deals are not stimulating any new methane capture, new

investment, or incremental environmental benefits. As we step back and look at this, the biomethane contracts appear possibly to be suited for something like AB 32 compliance, but even that would take some work, but certainly not for the RPS, and most definitely not in the RPS' Bucket 1 category.

There is one thing that is absolutely clear, the California RPS does not allow solar or wind contracts, or even solar and wind RECs from Pennsylvania, or Oklahoma, or Texas in the RPS. And it's entirely inappropriate to have different standards for biomethane. So for this reason, we strongly support the suspension of a first step in remedying this situation, and we encourage the CEC to actually consider phasing out the RPS eligibility of the biomethane facilities that cannot demonstrate any actual benefits to or within the California RPS. Thanks. And I'm available for questions.

CHAIRMAN WEISENMILLER: Thank you. Any questions. No questions, thanks again. Frank Mazanec of BioFuels Energy.

MR. MAZANEC: Yes, thank you, Commissioners. I'm Frank Mazanec, Managing Director with BioFuels Energy. BioFuels Energy is a project developer in San Diego, and as was mentioned just a little bit ago, we

are one of the very few companies in the State, I believe, that is actually injecting biogas from the City of San Diego's wastewater facility, Point Loma Wastewater Facility.

Distribution system that meets Rule 30 requirements, this $45 million project results in the directed biogas being sent to the University of California at San Diego, and the City of San Diego's Water Treatment facility at another location, where it is fueling a very efficient 2.8 and 1.4 megawatt fuel cell project. We are presently injecting the gas into the pipeline, not a project that is planned in the future, and this proposed referendum will absolutely pull the rug out from under us in terms of being able to monetize what is now being referred to as the Bucket 1 requirements, and will have a significant impact of probably one of the few projects that we're actually doing what we've been encouraged to do for the last three of four years.

Furthermore, we are developing a project also in the State of Washington, so we have both in-state and out-of-state projects. The initial plan -- I haven't talked about jobs or heard jobs or commerce talked about -- initial plan was to configure that Washington project very similar to that which is being

done in San Diego. The result of that would be the bringing of out-of-state biogas into California, and the building of additional fuel cell projects, or other energy generation projects, by private sector, to be able to sell those renewable energy credits and energy into California, creating jobs and commerce in California. If, in fact, this referendum goes through, we've actually -- we will have to divert the project from a California resource to a Washington resource, and we'll proceed with a landfill gas to energy project. We would encourage you in the strongest terms not to proceed with the suspension. And if for any reason you're so inclined to do so, I would certainly hope you would make a distinction between in-state and out-of-state resources.

Furthermore, I know there has been some discussion in regards to a timeframe and when it should be applicable. We actually are waiting for the Energy Commission to issue its new handbook to get classified as RPS eligible, so the distinction between whether you've already applied for that, or put all our contracts in place and the project is already built. Again, in closing, I feel like I could go on for a long time on a lot of different aspects, this makes no sense to me, I'll be honest with you, in regards to the in-

state resource. I know others have testified to that effect, but from a very simple man's perspective, it's just two and two doesn't equal four. Why you would have this type of impact on an in-state resource, that is providing all the environmental benefits, exactly what the state is trying to do, is absolutely beyond me. Anyway, thank you very much for your time and the opportunity to present my thoughts.

COMMISSIONER PETERMAN: Thank you for your comments, sir.

CHAIRMAN WEISENMILLER: Okay, Laura Wisling, Union of Concerned Scientists.

MS. WISLING: Okay, thank you. Good afternoon, my name is Laura Wisling and I'm a Senior Energy Analyst with the Union of Concerned Scientists. We are here today to provide comments in support of the temporary biomethane suspension. As several commenters have already stated, there's not a standardized system for tracking the injection of out-of-state biomethane, a standard which is required for all other RPS eligible transactions to ensure the integrity of the program. And as mentioned by CEC staff, there's also uncertainty about how the use of out-of-state biomethane would require as one of the three product content categories established for the RPS in S.B. 2X, based on the

language in the statute and the values that it provides to California ratepayers and the environment. As many people have already said today, this policy uncertainty is bad for the renewable energy market, in general, and will not simply disappear by ignoring the situation, and continuing to certify in-state natural gas facilities as RPS generators, simply because there's a lot of interest in using this fuel. One of the primary purposes of the RPS program is to reduce California's in-state combustion of fossil fuels, thereby reducing air pollution and greenhouse gas emissions. The Legislature establishes strong preference for directly delivered renewable energy resources in S.B. 2X because these resources can displace the in-state combustion of fossil fuels. Out-of-state biomethane, which is injected into a pipeline somewhere in the United States, may never make its way to California, does not displace the generation of fossil fuels inside California. If these facilities are already capturing methane and injecting it into pipelines, signing RPS contracts will not displace additional fossil fuels or reduce greenhouse gases anywhere in the country. Load serving entities that plan to comply in large part by contracting for out-of-state biomethane, which we've heard from this morning, and in its place burn natural

gas for the RPS, will fail to achieve the central purpose of the RPS Program.

Biomethane is currently considered eligible as a RPS resource and UCS supports this, but how out-of-state biomethane fits into the three product content categories is not at all clear. This considerable uncertainty is in and of itself a strong justification for suspending additional certifications at this time so that the CEC and the Legislature can finally provide some clarity on this issue. California's RPS program is the largest in the country and it's extremely important that we get these rules right. And the stakes are high, there's no limit on Bucket 1 resource transactions, therefore, a utility could satisfy 100 percent of its RPS compliance requirements with Bucket 1 resources. We should not push this issue down the road any further and simply deal with it later. We've heard from several utilities today that out-of-state biomethane will not play a large role in meeting the requirements for the first compliance period, so we believe that resolving the uncertainty now rather than later is justified and necessary. Thanks.

CHAIRMAN WEISENMILLER: Thank you. Questions? No questions. Any other speakers on the phone? Okay, thank you. Commissioner Peterman, do you

want to lead off on a discussion?

COMMISSIONER PETERMAN: Sure. I've got lots of notes here and a lot of comments, but I'll offer at least my set of comments for now and then welcome hearing the perspectives from my fellow Commissioners.

First of all, thank you to everyone who filed comments, as well as presented comments on the record here today. Next to me, I've got a binder that is literally about 10 to 12 inches high, full of the many comments. And I think at last count, I saw that there were like 60, but I think even others have come since that point. I also appreciate the numerous conversations I've had with many of the stakeholders on these issues over the last number of months.

So it was roughly six months ago that we held a workshop in this room on this subject, and at that workshop and in the time since, I have learned a great deal about biomethane and the role it can play in the Renewable Portfolios of our many utilities in the state. My meetings with utilities, developers, marketers, environmental groups, ratepayer advocates, and others, have led me to believe that 1) biomethane has a role to play in our Renewable Portfolio Standards program, 2) this is a resource that currently provides utilities a low cost option to meet the RPS targets,

and 3) utilization of the natural gas pipeline system infrastructure is an efficient way to transport this resource.

I can also appreciate how Commissioners before me clarified in 2006 biomethane's eligibility for the RPS program, but where I do find deficiencies in the Commission's current eligibility rules for biomethane is in how we verify and track the resources and its associated environmental attributes. My conversations with staff and stakeholders have also informed me of the numerous ways the current rules can be abused and lead to fraud. The lack of a robust verification system and process for this fuel source, that program administrators and stakeholders can put a high level of faith in, could potentially jeopardize the integrity of the State's RPS Program.

It appears that I am not the only one who feels this way. Many party comments submitted in recent days, including those for and against a suspension suggest the need for a universal tracking system. And we are all aware that there are discussions in the Legislature also that include serious consideration of implementing a tracking system, as well as differentiating the value of biomethane resources. I am not certain if these are

the right solutions, but there appears to be agreement that there is a problem to solve.

Despite there being general agreement for the need for a robust verification process, I appreciate that some parties feel that the current deficiencies of the program do not warrant a temporary suspension. But representing an agency responsible for implementing the RPS and ensuring that it is carried out as intended by the Statute, and in the manner expected by the public, and being aware of the shortcomings of our current rules, I would feel irresponsible for waiting for a blatant violation of rules before acting.

In recent years, we've already had a couple of energy-related incentive programs that required suspension and reform after learning costly lessons. I do not want to see that occur with this program that is fundamental to our energy and environmental goals. I have listened very carefully to the testimony today. And I continue to believe that we need to move forward with a suspension. I expect and hope the Legislature to take action quickly and for the CEC and other responsible agencies to commence action to address these deficiencies.

I also take seriously the economic impact the suspension may have on businesses that have stepped up

to participate in the State's RPS. And the testimony today has raised concerns in my mind about the economic impact of the suspension on those who have already devoted significant resources in reliance on our existing guidebook towards developing biomethane as a viable option to achieving RPS goals. In light of that, I have some proposed suggested changes to the Notice as presented, and I would like to offer them up now, ask staff to consider whether they're possible, I'm not the lawyer here on the panel, and then turn to my fellow Commissioners to see what additional comments they may have, and then just discuss what the process is for discussing some of these suggestions.

So first, I would suggest consideration of suspension of new applications today, but I also would suggest that we defer voting on elements of the suspension dealing with Applications for Certification and Pre-Certification of those power plants that have executed biomethane supply contracts for biomethane that is not yet flowing in the pipeline. With respect to these applications, I'd like to direct staff to gather information on the status of these projects, consider additional options, and that we bring this item back in the very near future. Again, my suggestion would refer to applications that we have

already received by the end of today. So, that's my initial suggestion. I'd like staff to take a second and our attorneys to think about, feasibly, 1) is that something that we can vote on, what the process would be for that today, and in the mean time, I'll turn to my fellow Commissioners to start getting some of their initial reactions to the comments and my suggestion, as well.

COMMISSIONER DOUGLAS: Can I ask, Commissioner Peterman, that you repeat the two points that you just gave?

COMMISSIONER PETERMAN: Sure. So I'm suggesting somewhat of a bifurcation of the Order as proposed, initially. And the first is that taking up a vote today on the suspension of the receipt of new applications for biomethane facilities for the RPS, but then deferring our vote and discussion effectively on the particular aspect of how we would deal with applications that have already arrived at the Commission, and specifically dealing with Applications for Certification and Pre-Cert of these plants that have executed biomethane supply contracts, but where the biomethane is not yet flowing in the pipeline. I think we've heard information today that suggests there's some information in contracts that might be

valuable for us to review before making a final determination on applications we've received to date, in terms of under what rules they will be considered.

COMMISSIONER DOUGLAS: Thank you, Commissioner. Let me just ask because, you know, I have not been the lead on renewables during the entire trajectory of this issue, how big the universe is of applications that we have received, but in which the gas has not been flowing. Does staff have a sense of that?

MR. KOOTSTRA: Currently, we have about six plants that have applied for Pre-Certification where gas is not flowing, and I believe an additional upwards of eight new biomethane sources have been identified for existing certified facilities, or facilities applying for certification, though those eight sources are being sent to multiple facilities, some upwards of five or six or more.

COMMISSIONER DOUGLAS: All right, thank you. That's helpful. You know, I'll just make some high level comments at this point. I found myself agreeing with, I think, virtually every word, if not every word and every emphasis of what Commissioner Peterman said, probably with some of my own spin on it, as well. I think biomethane is a tremendously important renewable

resource, and I see a lot of faces and have seen a lot of familiar faces in the room over the course of the day, and this is an important industry; we need to develop it for renewable energy goals, we need to develop it for our clean transportation and low carbon fuels goals. So I think biomethane is important. I think that when we look at meeting our Renewable Portfolio Standard of 33 percent, and then, of course, more than 33 percent, because we're starting to think about and talk about 33 percent as a floor, not a ceiling, and think about next steps even as we gear up to meet the current requirement. The prospect of having new efficient power plants helping support and integrate that renewable energy using renewable biogas is a very welcome prospect, frankly.

So I think it's an important industry and we want to encourage it and, of course, in many programs at the Energy Commission, we do encourage it. And the AB 118 program came up more than once, and that's been one area that's been important and an area of great and continuing high priority by the Commission. You know, at the same time, it's quite clear, both from what people have said today and from some -- many of the letters that have come in on this item, that biomethane is not currently being treated in the same way as other

renewable resources are. I don't necessarily advocate for a reflexive "treat them all the same and in exactly the same way" reaction, and at the same time, I think that we should take a look at the criteria in the RPS bill and ask ourselves what are the different attributes these different types of biomethane projects are and how they fit in, how they help us meet our goals, and we certainly need better tracking and verification, and we certainly -- I guess I really hope that we can work with the industry quickly, you know, not waiting for legislative action, but starting immediately on some of the questions of just how is biomethane counted and tracked currently. Commissioner Peterman has asked a couple speakers, well, can we see contracts and so on, and I would go beyond that and ask staff and ask the industry to help us understand how biomethane is counted, with whom is it contracted, are there instances or might there be, where the GHG attribute is separated from the RPS attribute and potentially double-counted, you know, how do we think about additionality in this context. And I think there are a lot of questions that come to mind for me, that we need to work on. So, the overwhelming concern I hear from the room is like, yes, we'll work on these questions, but we're concerned about investors and

we're concerned about uncertainty, and so I hear that. I hope that Commissioner Peterman's suggestion, which I would support, helps reduce that uncertainty to some degree, but you know, we've got a commitment at the Energy Commission, a really longstanding one, to promoting this industry, so it would be my hope and expectation that that would continue. Those are my thoughts right now. I'd love to hear Commissioner Peterman's thoughts and the Chair's.

COMMISSIONER PETERMAN: I'll just interject one thing here. I think the suggestion I'm proposing will not alleviate everyone's concerns and issues and points raised about market impacts. I think it will allow an opportunity to consider facilities that may be delivering power from biomethane to the state in the near term, but it's something that I'd like to explore, and I would like to thank you, Commissioner Douglas, also for mentioning the context of transportation and some of the other State goals and, indeed, we are not the only agency that has or can or will think about or with the need to think about some of the environmental attributes and ability to track biomethane. And indeed, this relates to activities at the PUC, at the Air Resources Board, CalRecycle, etc., potentially. So I would look forward to also working with our sister

agencies about having -- developing something that would be beneficial to various parties in the State, and that would be useful for all the different programs in which one would consider using biomethane. So I'll stop there for now.

CHAIRMAN WEISENMILLER: Yeah, I wanted to thank everyone who filed written comments. I mean, certainly there was a lot of food for thought in those, and certainly also to thank Commissioner Peterman for her leadership on this. When I think she signed up for the Renewables Committee, I'm not sure she realized some of the issues she would have to help us straighten out, or at least the controversies or complexities thereof. And I certainly want to appreciate the staff for their hard work. You know, obviously Kate and Gabe, you know, are sort of sitting at the table, but have been working long hours on this, and have a small village behind them, of people who have been supporting them in this activity. So certainly we want to thank everyone for helping us come to grips with this. And I think the things I wanted to make clear was, 1) certainly I support the use of biomethane, you know, I voted for the Bioenergy Action Plan, you know, a couple years ago, I certainly voted for that part of the IEPR, so in terms of -- and obviously when I came back to

public service, my focus was on how do we deal with climate change, how do we get jobs in the state, how do we have the right business climate to get the investment dollars we need to move forward into the next century with a clean energy system. So, having said that, you know, a very strong supporter, but I'm also concerned about the integrity of the programs, you know, that certainly being deemed RPS means something, it certainly affects asking our public to pay more for these, and a return for the benefit. So we really really have to make sure that the benefits are there and we're delivering those benefits. And that means that, you know, we need to be -- you know, the basic question, is this really a new project? Or are we just diverting an existing flow to potentially a market where the payments are higher? You know, are there really incremental environmental benefits, I guess, is what I'm saying fundamentally. And also, the double-counting or traded issues there. The tracking and verification, again, I think we have to always be sensitive to what parts of our program are we least comfortable with, or that we really need to have rigorous tracking and verification. I remember at one point there was this obscure petroleum entitlement program where, depending upon whether you had new oil,

old oil, or what vintage, you got to pay a different price. And early on, one of the questions was to try to figure, well, where was the cheating most likely? I mean, obviously the Federal Government was not going to really audit every single oil transaction in the U.S., but could at best try to figure out which of those transactions could be most troublesome from gaming and trying to focus on those. And then I'm afraid thinking about our renewable program, in general, this is the area of probably the most concern, you know, on double-counting, I mean, some of the examples, certainly John White's example about splitting off the greenhouse gas attributes from the renewable attributes, you know, again, that's sort of double selling of stuff. And so -- and certainly trying to make sure that we all know that gas traders can be very creative, but trying to make sure that that gas molecule, which we know is not quite winding to California, but that somehow green molecule is not being sold three or four different times, but just once, and we're paying for it once. And so, we really have to get the tracking and verification, we have to make sure the benefits are there, and you know, I mean, obviously one of the differences is, again, this is broader than WECC, and certainly we have in the electricity space, if it were

outside this country, the project would have to demonstrate they meet the environmental standards of California. So, again, there's a whole bunch of differences here, nuances, that I think we're just forced to put a pause on this program until we get it right.

Now, I mean, when we look at the statistics the staff started out with, you know, we were talking about one project a year for a while, and now when you look at the most recent year, we're in double digits, you know, I guess, so the next question is how much more is it going to grow and we want to make sure that -- we would like to see hundreds of projects next year, but we want to make sure they're real projects. And so I think we really have to pause, we have to suspend today, to basically say no more applications until we're sure that the program is right. And I think, as we go forward, certainly we -- I think this Administration and the Legislature and the stakeholders all need to work together to try to sort out some of the details. We have tools, our tools are limited, certainly there is a broader menu of tools that the Legislature could consider, and at the same time, I certainly concur with Commissioner Peterman that, as we go forward and try to sort out what's been certified,

what's been pre-certified, that we want to make sure we're doing that right, too. And I don't want to rush to judgment on that, although we have to move pretty quickly, so we're suspending, we're going to examine what's in that queue, and certainly we will need your help in that. You know, one of my first gas assignments, I got to review all the gas contracts associated with the Midland Co-Gen project, which is the largest Co-Gen project in the world, the gas contracts are roughly my height, so I don't want to deluge Gabe with tons of contracts, but we need to know the contract terms of the projects affected, and we need the staff to come up with that list, and we will need you to have an independent verification of what's there in that so that we can quickly come to grips with our next step. But, certainly we appreciate everyone's interest in this issue and your assistance on helping us get it right. So, again, I really thank you for coming up with an approach here which I think, while painful, we have to do it at this time.

COMMISSIONER PETERMAN: Thank you, Chair, for your comments. And I think you explained where we want to be going forward very eloquently. I think it's a good time now to check in with RPS staff and attorney regarding my suggestion. Tell me how we -- if we can

proceed and we'll take it from there.

MR. HERRERA: So, Commissioners, I think we need to be careful here. If what you have proposed is essentially removing certain of the proposed elements of the suspension so that the current Guidebook rules are in effect, that doesn't need to get re-noticed; I'm assuming that's the path you want to take and I think what we need to do is actually go through the Conditions of Suspension to make sure that if there were any provisions in there that we need to strike, so that the Commission can move forward on this, on the proposed resolution, that we do that now, that way it's clear.

And, first of all, based on what I've heard and comments that were made earlier, one clarification that I think we need to make to the resolution is that the suspension will not affect the RPS eligibility requirements for power plants that utilize biogas, that is produced on the side of production, or that is delivered to the power plant via a dedicated pipeline, or is delivered to the power plant via truck or rail.

COMMISSIONER PETERMAN: I'm going to ask you to pause. I, with all these papers, seem to have misplaced my actual copy of the most recent Order. Can I get one? Because I want to walk through this at the

same time. You would think it would be in this, but it's not. Okay, all right.

MR. HERRERA: So I offer that up just as a point of clarification. A couple of the commenters suggested that we needed to clarify that point.

COMMISSIONER PETERMAN: Can you articulate why this is not a change of the current Guidebook or Regs?

MR. HERRERA: So portions of the suspension, what has been proposed, we are treating that as a substantive change to the Guidebook, and we needed to notice it for at least 10 days. If the Commission were to move forward with the suspension as proposed, it would be fine. Since we're taking some modifications from the dais, I think we just need to be careful that what we're doing is essentially moving forward with some of the proposed suspension terms and conditions, and other terms and conditions we're not accepting right now, which means the default is that it fall back to the current guidebook. If you were to propose additional changes upon those that have already been noticed, arguably that might require an additional notice, and so I think I would like to characterize this as kind of a clarification to this proposed resolution, as well as removing certain elements so

that what the Commission is approving is essentially some of the terms that are in the current Guidebook. Maybe we can do that just by going through --

COMMISSIONER PETERMAN: Let's walk through and maybe read it altogether without what we're proposing to exclude.

MR. HERRERA: Right, so I'm looking at the Conditions of Suspension in the Proposed Resolution. Condition 1 can remain as is.

COMMISSIONER PETERMAN: I want a minute -- everyone is wrestling with papers to pull them up. Oh, I've got it.

MR. LEVY: Commissioners, for the public's convenience, there are more copies at the back table at the entrance to the hearing room.

MR. HERRERA: So no change to Condition 1, no change to Condition 2, no change to Condition 3, 3A, 3B, 3C, 3D there's a slight modification and that would be that we would strike the last sentence in D and I'm talking about the sentence that reads, "No such amendment will be considered by the Energy Commission during the suspension and will be subject to the requirements in place when the Commission lifts the suspension." Number 4, we would modify it so that it only reads, "Power plants that have been pre-certified

for the RPS by the Energy Commission will remain pre-certified." All remaining text in that condition would be stricken. And aside from the change I read earlier, just to clarify biogas that's delivered via the dedicated pipeline, or via truck or railcar, that's just a clarification, so we would add a sentence to that effect. So the reason I'm proposing to strike those provisions in 3D and 4 is because it sounds like what you're directing staff to do is to go back and get some additional information concerning these applications that have been submitted with respect to biomethane that is already under contract, but perhaps is not flowing. And so staff would go back to the Applicants, we would gather additional information, and then we would report back to you to inform you of what we've learned, and informing you might help clarify some of these conditions. If we feel that we need to modify these terms based on what we find, we will have the option, I guess, to propose some minor changes to the Suspension Order.

COMMISSIONER PETERMAN: So in that context, then, we would issue a notice for a future meeting to consider --

MR. HERRERA: Right.

COMMISSIONER PETERMAN: -- like a new Order

with additional provisions.

MR. HERRERA: Right. So I think the Order would be, if what we're merely doing is clarifying what we're doing, then we would just indicate it's merely clarification; if the clarification goes beyond that and requires some modification to the terms of this suspension, then we would provide that notice in a subsequent notice.

COMMISSIONER PETERMAN: So just to confirm, were you suggesting, then, eliminating Conditions 5 and 6?

MR. HERRERA: Oh, I'm sorry. Five and six would remain as is.

COMMISSIONER PETERMAN: Okay. Give me one second to read through this, if you don't mind. Question, Mr. Herrera.

MR. HERRERA: Yes.

COMMISSIONER PETERMAN: Regarding Condition 5, I do have a question on the second page of that, the last line basically in that condition, whether -- "…considering the information requesting that you seek from the contracts…," whether that should be stricken, as well?

MR. HERRERA: Yes, that's a good catch. Thanks, Commissioner.

COMMISSIONER PETERMAN: That's why I have patience with this, we just want to read as we're doing this in real time. Please talk into the microphone?

CHAIRMAN WEISENMILLER: So sorry. So looking at five and just parsing through the last couple sentences, it says, "In addition, the application shall demonstrate that it is being produced and injected into the pipeline on or before the date of the Application for Certification." And so, probably the question is whether we want to -- whether we want to take out the "injected" part there?

COMMISSIONER PETERMAN: Right. Just clarifying production and injection and whether we should -- injection seems like it should be stricken, but I'm not 100 percent sure about the production.

CHAIRMAN WEISENMILLER: Well, again, I did -- we may ultimately conclude that, but I'm not sure that we want to make that decision today.

COMMISSIONER PETERMAN: All the -- everything that I'm recommending striking currently is more a deferral to a future time to consider, and not a negative statement on those conditions.

MR. HERRERA: Right, that's my understanding.

CHAIRMAN WEISENMILLER: Okay. And let me ask one last question, and again more to Commissioner

Peterman. So if you go into six, it says, "Applications that -- submit incomplete application -- not giving an opportunity to complete after the suspension takes place," and again, I'm not proposing we decide one way or another on that today, but I would propose that we, again, remove that.

COMMISSIONER PETERMAN: I would be supportive of that, as phrased.

CHAIRMAN WEISENMILLER: But basically that sentence will not -- Applicants that submit -- or will not be given an opportunity? And I guess you get to the prior sentence talks about will be returned to the Applicant. Again, we might when we finally vote on it, we might do that, but at least I think --

COMMISSIONER PETERMAN: I think that is a good point. We see someone choosing to walk to the dais, so I'm assuming, Mr. Tutt, that you have a clarifying suggestion?

MR. TUTT: Yes, Commissioners. I'm just wondering, in light of all the strike-outs, looking at the first sentence of 3C, which says to ensure that amount of biomethane is not increased after this suspension, that seems in conflict with some of the decisions that you're deferring until later.

MR. HERRERA: Well, just in response to that

point, number three does talk about facilities that are already certified, and my understanding of what was being proposed here was taking a look at Applications for Certification that are pending, and Applications for Pre-Certification, and not wanting to take any action on those until we get some more information. Again, number three was intended to apply to facilities that have already been certified, and the idea behind 3C was to gather information on the biomethane sources.

COMMISSIONER PETERMAN: That is -- how you explained it is what I'm recommending and that's my understanding, as well. Yes, Mr. Tutt? Make it walk fast.

MR. HERRERA: It wouldn't affect, for example, situations where you have a pending Application for Certification that has been submitted by today, or an Application for Pre-Certification that has been submitted today, and then staff evaluating how the biomethane has been contracted for that particular facility.

MR. TUTT: I don't have any objection to providing information about the biomethane that is currently being provided under the contracts, I just had been under the impression as we had talked about striking things out that there was a potential that

amendments to these contracts could be considered because you're deferring the actual suspension of those now; and the first sentence of C indicates to me that those amendments would not be considered.

COMMISSIONER PETERMAN: Thank you.

CHAIRMAN WEISENMILLER: Mr. Herrera, we were going to give you the last word on that issue.

COMMISSIONER PETERMAN: Yeah, and I'm sorry, we're not -- we're absolutely clarifying questions, but we're not going to open this again for opening up public comment because this is the dais, the Lead asking for direction.

MR. WHITE: Just a comment, I didn't quite follow what you did with five, so I'm just asking, did you strike "is being produced and injected?"

MR. HERRERA: Yeah, so that whole sentence that starts off "In addition, Applicants for RPS certification shall demonstrate…."

MR. WHITE: That whole entire sentence is struck?

MR. HERRERA: Yeah.

MR. WHITE: Okay, I got it.

COMMISSIONER PETERMAN: Yeah and --

MR. HERRERA: And action on that is being deferred, right?

COMMISSIONER PETERMAN: It's deferred, yeah, and what I will ask is, after we go through proposed strikeouts, to have Mr. Herrera read through his mark-up, as well, for all of us.

MR. WHITE: And one other minor clarifying, if I may?

COMMISSIONER PETERMAN: Last one, please, sir.

MR. WHITE: The on-site generation of electricity using biogas can be used both on-site and it can be put into the grid, and it's not affected by this. Is that correct?

COMMISSIONER PETERMAN: If it is put on -- I'll let the --

MR. HERRERA: So my caveat there, clarification, was that if the biomethane is produced on the site where it's being combusted to generate electricity --

MR. WHITE: Yes, that electricity can go anywhere and be used.

MR. HERRERA: -- that electricity can go anywhere, right.

MR. WHITE: Thank you.

MR. HERRERA: Do you want me to go ahead and read through the entire --

COMMISSIONER PETERMAN: Right, if you think that my requests have been captured in the strike-out.

MR. HERRERA: I think it would be helpful. So, "Conditions of Suspension: 1) The Suspension will suspend provisions in the Renewables Portfolio Standard Eligibility Guidebook, Fourth Edition, that allow power plants to be certified as RPS eligible if the power plant uses biomethane to generate electricity; 2) the suspension will take effect at 5:00 P.M., Pacific Daylight Time on March 28th, 2012, and will remain in effect until the Energy Commission takes subsequent action to lift the suspension; 3) power plants that are already certified as RPS eligible by the Energy Commission will remain RPS eligible and may continue to use biomethane procured under contracts with sources that were specifically identified in the power plants' approved Application for RPS Certification, and subject to the following limitations: a) the biomethane is used in accordance with the requirements of the addition of the Renewable Portfolio Standard Eligibility Guidebook, under which the power plant was certified for the RPS, b) the power plants' use of biomethane is limited to the biomethane procured under contracts with sources that were specifically identified in the power plants' approved Application

for RPS Certification, c) to ensure that the amount and availability of biomethane supplied to a RPS certified power plant is not increased after the suspension takes effect, power plant operator shall provide Energy Commission adequate documentation of the biomethane supplied to the power plant prior to the effective date of the suspension. This documentation shall include, but not be limited to, information on the term length of the biomethane supply contracts, the start and end dates of the supply contracts, and the therms of biomethane delivered monthly under the supply contracts, and d) any extension of a biomethane contract term, increase in biomethane supply, or other change in the supply contract that increases the amount or availability of biomethane supplied to the RPS certified power plant will be require an amendment to the power plants' RPS Certification; 4) power plants that have been pre-certified for the RPS by the Energy Commission will remain pre-certified; 5) complete applications for RPS certification and RPS pre-certification for power plants seeking to use biomethane, that are received by the Energy Commission prior to the effective date of the suspension, will be processed in accordance with the Renewables Portfolio Standard Eligibility Guidebook, Fourth Edition. To be

complete applications for RPS certification shall include the information and documentation specified in the Renewables Portfolio Standard Eligibility Guidebook, Fourth Edition. This information and documentation was summarized in the March 16th, 2012 Public Notice of the Proposed Suspension; 6) complete applications for RPS certification and pre-certification must be either hand-delivered to the Energy Commission by no later than 5:00 P.M. on the date the suspension is adopted by the Energy Commission, or must be sent to the Energy Commission by mail and post-marked no later than the date the suspension is adopted by the Energy Commission. Notwithstanding anything to the contrary in the Renewables Portfolio Standard Eligibility Guidebook, Fourth Edition, any Application for RPS certification or Pre-Certification that is incomplete, or received by the Energy Commission after 5:00 P.M. on the date the suspension is adopted by the Energy Commission, will not be processed by the Energy Commission and will be returned to the Applicant. Applicants that submit incomplete applications will not be given an opportunity to complete their applications after the suspension takes effect, therefore, Applicants are advised to take special care to complete their

Applications for RPS Certification or Pre-Certification before submitting the applications to the Energy Commission; 7) the suspension will not affect the RPS eligibility requirements of power plants that utilize biogas that is produced on the site of production, or that is delivered to the power plant via a dedicated pipeline, or is delivered to the power plant via truck or railcar."

COMMISSIONER PETERMAN: Thank you. A question about Condition 6 and the reference is to "incomplete applications" in the latter part of that paragraph, considering the further, or the other comments or changes, would that need to be stricken, as well?

MR. HERRERA: So perhaps the "incomplete" portion should be stricken, but the part about "received after today," I think that needs to remain in. Is that --

COMMISSIONER PETERMAN: I would agree.

MR. HERRERA: Okay. So then, the sentence that includes that language would read -- this is in number six -- "Notwithstanding anything to the contrary in the Renewables Portfolio Standard Eligibility Guidebook, Fourth Edition, an Application for RPS Certification or Pre-Certification that is received by

the Energy Commission after 5:00 P.M. on the day of the suspension is adopted by the Energy Commission, will not be processed by the Energy Commission and will be returned to the Applicant."

COMMISSIONER PETERMAN: Is there any language needed to speak of the fact that we will be picking up some issues at a later date? Or would that be in the next notice?

MR. HERRERA: No, I think it would be a good idea to add a statement to that effect, that you're directing staff to collect additional data, and that you've directed us to report back within a certain period of time.

COMMISSIONER PETERMAN: Do we need to specify that period of time?

MR. HERRERA: I don't think we need to specify it, we should probably indicate, I mean, at this point if staff doesn't know exactly what information it needs, I think staff needs some discretion to be able to put together Data Requests and send that out. So I think this Resolution should leave that open in terms of the information that we need.

COMMISSIONER PETERMAN: I would like that Data Request sent as soon as possible, considering the need to get the data, etc., and then move forward on

these issues. I don't want this to be an indefinite deferral of addressing these issues. I'd like to take them up within the next month or two.

MR. HERREREA: Understood.

COMMISSIONER PETERMAN: Or the soonest Business Meeting we can.

MR. HERRERA: So, thinking about number eight, "Commission staff is directed to contact Applicants to gather needed information to verify biomethane supplies and contracting arrangements necessary to inform the Commission as to whether any additional requirements are needed on pre-certification."

COMMISSIONER PETERMAN: Yes.

MR. HERRERA: Something to that effect?

COMMISSIONER PETERMAN: Yes, I think so. Sir, you had a quick clarifying comment?

MR. LESLIE: Yes. My name is John Leslie, I'm appearing on behalf of Shell Energy North America, and a clarifying question with respect to 3 and 3B, there's a reference to "sources that were specifically identified in the power plant's approved application." Based on the discussion among the Commissioners, I thought that the reference to sources that were specifically identified was going to be removed.

CHAIRMAN WEISENMILLER: No, I think basically -- assuming that there were additional sources that have filed for either certification or pre-certification, then that would be captured below. But the notion wasn't to leave three open for -- anyway, we're trying to suspend right now, a particular pause, but not have additional applications rolling into the process.

MR. LESLIE: No, I understand this is not an issue of additional applications for additional generation facilities, this is the issue of where a biogas production facility might need to be replaced during the course of the contract with some other biogas production facility in order to meet the contract quantities under the specific contract. That's a subject of the application and the certification. So, to eliminate this language, sources that were specifically identified in the power plants' approved application, and just leave that out, I think, would better reflect the intent here.

MR. HERRERA: Commissioner, can I offer a counterpoint there? So right now the process under the Fourth Edition of the RPS Eligibility Guidebook is for Applicants to identify the biomethane source; in fact, you know, the producer needs to sign an attestation

that identifies where the biomethane is coming from, where it's being produced. Applications that have been submitted for certification and pre-certification should have included those attestations, those forms that identified that, for this particular power plant, certain biomethane sources have been identified. I mean, I don't think we can remove that here, I don't think that was your intent. It seems like it opens it up. I mean, again, the Commission certifies power plants, not biomethane sources, so we need to connect the biomethane source to the particular power plant's Certification or Pre-Certification Application.

COMMISSIONER PETERMAN: Thank you for your comment, but I don't recommend that change. Thank you for that explanation, Mr. Herrera.

MR. LEVY: Commissioners, just so the record is clear about the deferral, would the Commission like to add another clause, a number nine or something, after Mr. Herrera's suggestion regarding the Data Request indicating that you intend to defer consideration of the status of pending applications until an upcoming meeting? Yes? Something like --

COMMISSIONER PETERMAN: Yes, I'll speak into the mic, yes.

MR. LEVY: "The Commission defers

consideration of the status of pending Applications for Certification or Pre-Certification until an upcoming meeting which will be separately noticed." Is that accurate?

COMMISSIONER PETERMAN: I'm fine with that if that's fine with the attorney.

MR. HERRERA: Thanks. That's the other attorney.

COMMISSIONER PETERMAN: I'd like to give Mr. Herrera one more time to read through -- you don't have to audibly read through -- but read through your mark-up to see if there's anything additional that you see needs to be addressed before we consider a motion.

MR. HERRERA: (Pause) Yeah, I think I'm okay with all those changes. Thank you, Commissioner Peterman. And I don't think there are any additional changes that are necessary.

COMMISSIONER PETERMAN: Okay. I think all the changes -- I don't believe the Commissioners need it read again, although I will offer to have one more reading of it all the way through if your voice can handle that, Mr. Herrera, just so everyone knows where we've ended up. And I also expect this will be posted going forward?

COMMISSIONER DOUGLAS: Can I just suggest

that Mr. Herrera either just read the parts that changed, or that you could consider moving what he read plus Mr. Levy's suggestion, if you wanted to do that. But if you'd like to make sure everybody has the changes down, then maybe he could just read the parts that changed.

COMMISSIONER PETERMAN: I think reading parts that changed is fine, I mean, no one is going to capture the entire thing necessarily writing it down now, and there will be a final posted at some point. Okay. Can you read the changes?

MR. HERRERA: Oh, yes.

COMMISSIONER PETERMAN: Please. Thank you.

MR. HERRERA: So Condition of Suspension 3D, the modified language is "any extension of a biomethane contract term, increasing in biomethane supply, or other change in the supply contract that increases the amount or availability of biomethane supplied to the RPS certified power plant, will require an amendment to the power plant's RPS Certification; 4) power plants that have been pre-certified for the RPS by the Energy Commission will remain pre-certified; 5) complete applications for RPS Certification and RPS Pre-Certification for power plants seeking to use biomethane, that are received by the Energy Commission

prior to the effective date of the suspension, will be processed in accordance with the Renewables Portfolio Standard Eligibility Guidebook, Fourth Edition. To be complete, Applications for RPS Certification shall include the information and documentation specified in the Renewables Portfolio Standard Eligibility Guidebook, Fourth Edition. This information and documentation was summarized in the March 16th, 2012 Public Notice of the Proposed Suspension; 6) the sentence that reads starting, "Notwithstanding anything to the contrary in the Renewables Portfolio Standard Eligibility Guidebook, Fourth Edition, any Applications for RPS Certification or Pre-Certification that is received by the Energy Commission after 5:00 P.M. on the day the suspension is adopted by the Energy Commission will not be processed by the Energy Commission and will be returned to the Applicant; 7) the suspension will not affect the RPS eligibility requirements of power plants that utilize biogas that is produced on the site of production, or that is delivered via a dedicated pipeline, or is delivered to the power plant via a truck or a railcar; 8) Commission staff is directed to gather additional information from applicants that have submitted Applications for RPS Certification and Pre-Certification, to verify the

quantities and the amount of biomethane supplied, and the terms under which those biomethane supplies are provided. Staff is directed to report back on this information to the Energy Commission; 9) the Commission defers consideration of the status of the pending Applications for RPS Certification and Pre-Certification until an upcoming meeting when it will be separately noticed." How's that?

COMMISSIONER PETERMAN: Thank you. Then I am prepared to make a motion. I'm thinking how to phrase this motion. Can our Chief Counsel give me some guidance on how to frame this motion?

MR. LEVY: I move that we adopt the resolution as recited by Counsel Herrera.

COMMISSIONER PETERMAN: I move that we adopt the resolution as recited by Counselor Herrera.

COMMISSIONER DOUGLAS: Second.

CHAIRMAN WEISENMILLER: All those in favor?

(Ayes.) This motion passes unanimously. Again, thanks for everyone's participation and help on this one.

COMMISSIONER PETERMAN: Thank you.

COMMISSIONER DOUGLAS: I'd like to join you, Chair Weisenmiller, in thanking Commissioner Peterman for her leadership on this issue.

COMMISSIONER PETERMAN: There's plenty of work to be done going forward and we look forward to working with all of you on it.

CHAIRMAN WEISENMILLER: The next item is Item 4, Chief Counsel's Report.

MR. LEVY: I have no report today.

CHAIRMAN WEISENMILLER: Item 5, Executive Director's Report.

MR. OGLESBY: Nothing to add.

CHAIRMAN WEISENMILLER: Item 6, Public Advisor Report.

MS. JENNINGS: No report.

CHAIRMAN WEISENMILLER: Okay. Item 7, any public comment? This meeting is adjourned. And thank you.

(Whereupon, at 3:32 p.m., the business meeting was adjourned.)

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