

BEFORE THE  
CALIFORNIA ENERGY COMMISSION

California Energy Commission <b>DOCKETED</b> <b>12-OIR-02</b>
TN 71879 AUG 23 2013

In the Matter of, )  
 ) Docket No. 12-OIR-02  
Proposed Amendments to the )  
Geothermal Grant and Loan )  
Program Regulations )

**Proposed Amendments to the Geothermal  
Grant and Loan Program Regulations**

CALIFORNIA ENERGY COMMISSION

HEARING ROOM A

1516 NINTH STREET

SACRAMENTO, CALIFORNIA

WEDNESDAY, JUNE 23, 2012

1:30 P.M.

Commission Staff Present:

Cheryl Closson, Project Manager  
Rizaldo Aldas, Team Lead, Renewable Energy Research &  
Development  
John Hingtgen, Research & Development  
Robin Mayer, Attorney

Also Present (\*on phone/WebEx):

Dale Merrick, Canby community in Modoc County  
Elaine Lebrilla, SMUD (Sacramento Municipal Utility  
District)  
Elise Brown, UC Davis California Geothermal Energy  
Collaborative

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P R O C E E D I N G S

JANUARY 23, 2013 1:30 p.m.

MR. ALDAS: Good afternoon, again. My name is Rizaldo Aldas. I'm the lead for the Renewable Energy & Advanced Generation that includes the Geothermal. And we are here for the Pre-Rulemaking Workshop on Proposed Revisions to the Geothermal Grant and Loan Program Regulations. I have to say that to make sure we're in the right meeting.

Before we continue, I would like to address a few protocols relating to matters of housekeeping items. First of all, the bathroom is on this side of the building. This is for our on-site participants. We have a snack bar upstairs. And then, in case of emergency, and when you hear the alarm, first off, the exit doors are towards to the left side and there's another to the right side of me in the room. We ask that on-site participants proceed through the door and follow the staff all the way to the park across the street - it might be cold. You might bring your jacket and umbrella - until we're told that it's safe to return.

The California Energy Commission's Geothermal Grant and Loan Program was created by Assembly Bill 1905. This has been in operation since 1981. And one of the goals here, one of the major goals, is to develop a

1 portfolio of near to long-term geothermal research and  
2 development projects in California. Most of you will  
3 probably recognize this as the GRDA program. G-R-D-A,  
4 which stands for the Geothermal Resource Development  
5 Account. This is the account for the revenue that is paid  
6 to the state from geothermal production royalties on  
7 federal resources in California. And the Energy  
8 Commission is authorized to use 30 percent of that fund  
9 each fiscal year in the form of grants or loans to  
10 qualifying applicants.

11 Over the years, we have seen some changes on the  
12 statute that established this program. For instance, in  
13 1992, the authorizing statute allowed the Program to  
14 include financial assistance to private entities for  
15 geothermal research and development and commercialization  
16 projects. The program was designed to promote geothermal  
17 energy development by extending assistance and technical  
18 assistance and financial assistance to all jurisdictions.

19 So, in short, the regulations are overdue for a  
20 new program. It's now over 30 years old and in need of  
21 updating to better reflect the changes and the Energy  
22 Commission's goals to streamline related processes.

23 I would like to point out that we are not  
24 changing the statute here. We are just changing the - or  
25 proposing to change or update the regulations. And so we

1 are conducting this rulemaking workshop with the hope of  
2 enlisting the input of stakeholders on the proposed  
3 regulation changes. This is just one of the first steps  
4 in the process and we're doing this in advance of the  
5 formal rulemaking process through the Office of  
6 Administrative Law.

7           There will be several steps along the way. For  
8 instance, once we have considered comments of today's  
9 Workshop. We will submit the proposed regulatory changes  
10 for formal review and public comment in accordance with  
11 established proceedings to include 45-day comment period,  
12 adoption at the Energy Commission Business Meeting here  
13 and then approval is needed by OAL.

14           Now, if all goes well, we are hoping to have  
15 these changes effective October 1. Again, that is if all  
16 goes well. But we are trying to get an earlier effective  
17 date, if possible. And, I would like to mention that, we  
18 will not release a solicitation until this rulemaking  
19 change is approved. So I think having an earlier  
20 effective date might also help us release those  
21 solicitations early.

22           And, so, as go through this rulemaking process,  
23 we will benefit a lot from your participation, comments  
24 and suggestions just as we usually do in the workshops.  
25 So, please, let us know what your thoughts are on these

1 changes.

2 With that, thank you, and I will turn this over  
3 to Cheryl.

4 MS. CLOSSON: Thank you, Rizaldo. I'm Cheryl  
5 Closson with the Resources Group in the Research and  
6 Development Division. And I just wanted to give a little  
7 brief discussion about the purpose of the Workshop and  
8 look at our existing statute as well.

9 When the regulations were established in the  
10 early 1980s, when the program was first authorized, the  
11 focus was actually on local jurisdictions and grants and  
12 loans were exclusive to local jurisdiction. In 1992, that  
13 actually was extended to private entities. However, the  
14 regulations that had been previously promulgated did not  
15 get changed. And so we have now a 30-year old regulation  
16 that needs some updating and also some additional clarity  
17 to provide clarity of the statutory provisions.

18 But, first of all, the program itself is  
19 actually authorized through the Public Resources Code and  
20 this is Public Resources Code 3800-3827. And I've only  
21 taken some excerpts of portions here that would apply to  
22 us. And, basically, I wanted to just show what the  
23 overall purpose of the establishment of the allocation of  
24 revenues and the purpose of our geothermal program.

25 And, it's basically to reduce our dependence on

1 fossil fuels. So we're still - 30 years ago that was an  
2 emphasis and we're still looking at that today. We're  
3 also looking to stimulate the development of geothermal  
4 resources. And another purpose would be to mitigate any  
5 adverse impacts from development of geothermal. And then,  
6 as was the original intent of the program, to provide  
7 financial assistance to cities, counties, local  
8 jurisdictions to help them with any public services or  
9 needs associated with the development. And, finally, to  
10 maintain productivity of renewable resources and help with  
11 investments and such.

12           So our regulations refer back to the statute in  
13 many places. The statute itself is pretty self-  
14 regulating. It has a lot of detail and we utilize that so  
15 we're not duplicating that statute when we do our  
16 regulations. So, basically, in the regulations we refer  
17 back to the 3807 Section on what defines a local  
18 jurisdiction and also what defines a private entity.

19           I also put in here that there was a definition  
20 for award repayment or what they call program  
21 reimbursement because the statute gives the authority for  
22 both grants and loans. And, in the prior regulations, or  
23 the existing regulations, there was also a category called  
24 Contingent Award and that was something where it would  
25 have been a loan but if you didn't achieve sufficient

1 revenue savings or revenue then it became a grant.

2           We also have authority under the statute to ask  
3 for royalty payment and such. So it gives us a lot of  
4 authority to do different things. And then 30 percent of  
5 the revenues that are received from the state go to our  
6 program and we're able to give out grants and loans. The  
7 statute provides that any loan that's made cannot exceed  
8 80 percent of the cost for the local jurisdiction. So,  
9 basically, any grants or loans or actually, any loans, to  
10 a local jurisdiction - what they would only need to  
11 provide 20 percent.

12           And the statute actually allows us - or allows a  
13 repayment within 20 years. And then this also allows us -  
14 this gives us parameters for setting interest rates. And  
15 one of the major elements that was added in 1992 was  
16 Section 3822(g). And this is the directive on what's  
17 required by private entities for receiving an award. And  
18 first they need to provide a 50 percent match, as opposed  
19 to a 20 percent match. They need to demonstrate that  
20 there's tangible benefits to a local jurisdiction and they  
21 also need to get approval of the loan - for the grant or  
22 loan from the city, county or Indian reservation where the  
23 project is located.

24           So those are the statutory requirements and so  
25 we are - one of the changes that we're making in the

1 proposed rulemaking is to clarify what constitutes  
2 approval from the city or county.

3           And then, finally, one of the things with the  
4 statute in Section 3823 it's very - it has 11 different  
5 items that are allowed - or the purposes for which awards  
6 can be made. And it's actually very broad and there's  
7 different Items such as research and development projects,  
8 local regional planning, mitigation measures, collecting  
9 baseline data. So those are actually identified in  
10 Section 3823. And so you go through a - we've got - so  
11 all those 11 items.

12           So our next discussion will be from our Staff  
13 Counsel, Robin Mayer, and she's going to talk a little  
14 about the rulemaking process itself. And then, after  
15 that, we'll go through the proposed changes section-by-  
16 section. Thank you.

17           MS. MAYER: Thanks, Cheryl. I'm Robin Mayer.  
18 Staff Counsel for the amendment to the GRDA regs. And I  
19 just want to talk - this graphic is from the Office of  
20 Administrative Law and it's kind of big for this  
21 application but I just wanted to show it to you. It's  
22 available on the Office of Administrative Law's website.  
23 In a nice kind of user-friendly way it shows the process  
24 of rulemaking.

25           I'm just going to get hit on a couple of points.

1 That the overall thrust is that we are now in the informal  
2 stage of rulemaking so it's a great opportunity for  
3 stakeholders. Because right now, we're drafting the  
4 amendments and changes are very easy to make. Once we  
5 enter formal rulemaking it becomes more difficult to make  
6 the changes. So the best thing from the state's point -  
7 from our point of view if you're a stakeholder is to give  
8 us your input now. And, Cheryl, I think, very generously,  
9 has provided a draft of what we're up to so that you can  
10 comment on specifically on the amendment that we're  
11 thinking about.

12 So let's go back a little bit and just start off  
13 with what is a statute and what is a regulation? A  
14 statute is what the legislature makes. The legislature  
15 can make laws, those are statutes. Cheryl just touched on  
16 the key ones that are relevant to our rulemaking here.  
17 They're in the Public Resources Code, of Division 3,  
18 Chapter 6 and the Sections that are active are 3800, 3805-  
19 3810 and 3820-27. They're available on our website and  
20 they're also available along with all the other California  
21 codes if you Google California codes, you get a very  
22 convenient website that pulls up the different codes.

23 What do agencies do? Agencies make regulations  
24 under statutory authority. What does that mean? Well,  
25 the regulations are law, equally law. But they're under

1 the directive of the legislature; I'm going back to high  
2 school civics. I think of the statute almost like an  
3 umbrella that covers the regulations and the agency cannot  
4 go outside that umbrella. So you have to have the  
5 authority delegated by the legislature.

6 The regulations we're discussing today are Title  
7 20, Sections 1660-1665. And the primary reason we're  
8 amending them is to streamline the process. It really  
9 should be easier for everyone - stakeholders, staff, the  
10 Commission in general to execute these grants and loans in  
11 the future and that is the goal. There's also some  
12 clarifications and some updates just to the 21<sup>st</sup> century.  
13 But we're really working toward that goal of just making  
14 it a simpler, clearer process.

15 What is informal rulemaking? That is the  
16 process that we're in now. As I just said this is a great  
17 time to get input from stakeholders and interested  
18 persons. Staff proposes to regulations and gather input,  
19 often at workshops, and work on the draft. With the goal  
20 and opportunities to get input.

21 Once enter formal rulemaking, that's our next  
22 stage. What is formal rulemaking? And you can see,  
23 actually here, it talks about preliminary activities on  
24 the OAL graphic. And these are the kinds of documents  
25 that we'll be prepping to pass the actual regulations

1 we're going to amend. The initial statement of reasons of  
2 why we're making these amendments and the Notice of  
3 Proposed Rulemaking.

4 So what begins the formal process is the  
5 publication of a Notice of Proposed Rulemaking in the  
6 California Regulatory Notice Register. What does that  
7 mean to you? That means it starts the 45-day formal  
8 comment period in which we take written comments. There  
9 will also be a public hearing at the end of it to consider  
10 adoption of the regulations. We would take comments at  
11 that hearing as well under our regulations. It's to make  
12 sure that the public is aware of what we're doing, all  
13 these Notices, the Initial Statement of Reasons, the  
14 Regulations - they're posted to the website and that is  
15 when the window is open for formal comment.

16 At the end of that period, we have a couple of  
17 choices. And that is do we need to make more changes?  
18 Does it resolve those comments? If the changes are not  
19 substantial or they're technical, you know completely  
20 based without legal impact, we can go ahead and make those  
21 changes. Much more likely is that there will be some kind  
22 of substantial change, some change in the content. You  
23 can even do punctuation that may have a legal effect and  
24 then we would have to have another comment period to air  
25 those changes to the draft. And that would be a 15-day

1 comment period. And we would notify the public through  
2 various means, primarily posting to the websites but also  
3 by doing a mailing as is required by the government code  
4 and regulations.

5           Once we are done, we proceed to adoption. And  
6 the Commission would adopt the regulations at a Business  
7 Meeting. We're hoping for May. I'm sorry, we're hoping  
8 for June. I didn't mean to give the staff a heart attack.

9           [LAUGHTER]

10           MS. MAYER: Hoping for June adoption because in  
11 order to have these regulations be law by October 1 we  
12 need to submit to the Office of Administrative Law for its  
13 review in July.

14           So during that adoption that is kind of the last  
15 possible chance to weigh in, during the Business Meeting  
16 for that. After that, as I said, the rulemaking record is  
17 closed. I don't know why it's not going to the next -

18           Okay. I'm not going to go into detail about OAL  
19 review but it's just to let you know that OAL does a great  
20 job of looking at regulations. They do it for every  
21 single agency in the state. It's a tremendous task and  
22 they're looking under certain standards of the government  
23 code. Things like authority. Do we have authority to  
24 make these amendments? Are they consistent with other  
25 laws? Are they clear? And are they necessary? Those

1 being the key ones. I think clarity is one of my absolute  
2 favorite standards because we know this material but this  
3 will - just the fact that something isn't clear comes more  
4 often from the outside. So stakeholders are really  
5 invaluable for providing that kind of insight. This isn't  
6 clear of what it's supposed to do. Can you redraft it so  
7 that it is more clear? So very important. OAL has 30  
8 working days to review the regs and then according to the  
9 new quarterly deadline as long as they get them by the end  
10 of August the regulations will become law on October 1.

11 Any questions? Okay.

12 MS. CLOSSON: Okay. I'm back. I'm Cheryl.  
13 We'll move on to talking about the regulations themselves.  
14 The changes - And I would like to invite discussion as  
15 we're going through things so please for those in the room  
16 please chime in. It would be helpful if you - if we can  
17 get a mic over to you so that we can have their - (off  
18 mic) - on our records so that we can capture comments  
19 fully. Also, anyone online I encourage you to raise your  
20 hand and our host will flag it and let us know so that we  
21 can respond to your comment.

22 Thank you, Cody. And I'd like to thank our  
23 assistants. We've got Cody Schindler and Sherry Burton  
24 (phonetic) here running our system. So, thank you very  
25 much. And our other staff here as well is Shawn Histen

1 (phonetic) taking notes for us. And we've got Amanda  
2 Stein, our other staff counsel. So, thank you.

3 So, moving ahead. So, first of all, our main  
4 changes. And there's a lot of cross out in this - and it  
5 looks drastic but hopefully we'll be able to go through  
6 this.

7 First of all, we're eliminating the Commissioner  
8 Committee that's referenced in this - in the regulations.  
9 And we're doing that because the Committee no longer  
10 exists. It is assigned in the regulations, "Certain  
11 approval and action authority" and so the Committee is no  
12 longer in existence. And because it's no longer in  
13 existence, if we kept the language as it is we'd have to  
14 go back to the full Commission for all of those  
15 activities. And it would make time to do a solicitation  
16 so onerous for everyone. So that's one of our major  
17 elements.

18 We're also recommending deleting the Technical  
19 Advisory Committee, which is - it's established in the  
20 regulation to include other state agencies and industry  
21 representatives. However, we believe that we can  
22 adequately address the Technical Advisory Committee  
23 through our solicitation process, in our Program  
24 Opportunity Notice. And, so, having it in regulation  
25 would, potentially, restrict us if we could not get the

1 appropriate people that we would need for any reason. We  
2 usually request that the Division of Oil and Gas in  
3 geothermal resources help us. If they were not able to  
4 provide assistance or if we couldn't get any industry reps  
5 without any concept of interest with any of the projects  
6 then we out be out of compliance with the regulation, if  
7 we didn't have them.

8           So we're also eliminating the Contingent Award.  
9 And that was kind of the element that I spoke of earlier  
10 that had - you've got a Contingent Award and then if your  
11 project wasn't successful it was turned into a grant. We,  
12 at this point, would prefer to just stay with grants and  
13 loans. I think there's a lot more certainty there and -  
14 so that's one of our items to recommend.

15           We're also recommending eliminating the three  
16 project categories and the requirements for distribution  
17 of awards funds by category. Currently, the regulations  
18 have three categories. One is Resource Development. One  
19 is Planning. One is Mitigation. And there's a  
20 requirement that requires that we give out our award money  
21 such that 25 percent goes to - of the award money goes to  
22 each category and then the final 25 percent can be  
23 distributed amongst the other categories how we decide.  
24 But the problem is if we don't get planning projects in  
25 any solicitation or if we don't get any one of the

1 categories then it would limit us, actually, by  
2 restricting the amount of money that we could give out if  
3 we didn't have the appropriate projects. So we propose to  
4 eliminate that.

5 We also propose to eliminate the pre-application  
6 requirement. If it seems - it adds at least 45 days to  
7 the solicitation process. It becomes a bit onerous, I  
8 think. You're got - you're going through the process  
9 twice. So, hopefully, we could also address it if we  
10 found the need to do pre-applications we could include it  
11 as a part of the solicitation as opposed to having it  
12 mandated in the regulation.

13 We're also recommending eliminating Appendix A,  
14 the Scoring Criteria. Appendix A is based on the three  
15 criteria - or project categories and so it's limiting.  
16 We're doing away with the project categories so Appendix A  
17 really doesn't fit anymore with our proposed changes.

18 We are also adding clarification for what  
19 constitutes local agency approval of the grants for  
20 private entities; grants and loans.

21 And then, lastly, we've got several updates to  
22 the regulatory provisions. Like adding email delivery and  
23 also just structurally changing up the regulation.

24 So, first off, right up front, the title of the  
25 regulation, as you can see it was focused on local

1 jurisdictions. So we're proposing to take out "for Local  
2 Jurisdiction" since it now pertains to both private  
3 entities as well as local jurisdictions.

4 And then in the purpose, we've basically - these  
5 are, kind of, construction clean up items in how the  
6 language is presented because the procedures and criteria  
7 apply to everyone and this just seemed like a more  
8 straightforward presentation of the language.

9 Robin, do you have any additional comments on --  
10 ?

11 MS. MAYER: Yeah. The reason - just the last  
12 line there for technical - kind of a technical fix, the  
13 regulations are under this entire chapter and the Section  
14 numbers, you know, may change as the legislature changes  
15 the statutes. So that's just a clarification there on  
16 that last strikeout.

17 And, I'm sorry - and, generally, you'll see at  
18 the bottom of every reg you'll see "Authority cited" and  
19 references. What that means is the Authority is the  
20 statute that allows us - that gives us the power to  
21 rulemake, essentially. And the references are the  
22 different sections of the law that we're interpreting  
23 making specific or implementing. These are really updates  
24 on - to reflect what we're about to do, which is a pretty  
25 major streamlining of the regulations.

1 MS. CLOSSON: Thanks, Robin.

2 Okay. And our next item we're looking at the  
3 definitions that were established in the regulations.  
4 And, again, as I mentioned earlier we're doing away with  
5 the Committee because it no longer exists. So we're  
6 striking that out. And, again, proposing to do away with  
7 the Contingent Award. It's something that we would - I  
8 think there's greater certainty if you're getting a grant  
9 or a loan and so we would propose to remove the Contingent  
10 Award.

11 And we've modified the "Eligible Applicant"  
12 definition to cite the correct Section and also to include  
13 the "Private Entity" definition that's provided in the  
14 Public Resources Code. And then also with "Eligible  
15 activity" we've just kind of restructured that so that it  
16 refers directly back to the activity listed in Public  
17 Resources Code 3822 - excuse me, 23. And so that it means  
18 "an activity that fulfills one or more of the purposes  
19 listed." And then we also proposed to eliminate the  
20 acronym "GRDA" because it actually isn't used anywhere in  
21 the regulation.

22 And then also, as I mentioned earlier, we would  
23 remove the definitions for "Mitigation project", "Planning  
24 project" and "Resource development project" because we  
25 would propose to do away with those three categories.

1 And, also, deleting the "Technical Advisory Committee."  
2 Just something that we would be able to do as a function  
3 of the solicitation and the Program Opportunity Notice.  
4 So, the intent is still to have advisory committee input  
5 and to develop that but not to restrict ourselves by  
6 having it mandated a certain way in the regulation.

7           And then we've added "Funding cycle" to the  
8 definitions. This was actually a definition that was in a  
9 later section of the regulation and we just moved it,  
10 basically, to be within the definitions.

11           MS. MAYER: I just wanted add a point. That the  
12 "Technical Advisory Committee" - because there are so  
13 many different kinds of projects that can be proposed in a  
14 given cycle or a given application we might not be able to  
15 get different expertise. So I think removing this from  
16 the regulation the idea to promote the flexibility to  
17 consult whatever experts are relevant to the particular  
18 project.

19           MS. CLOSSON: Yes. Very good. Thank you,  
20 Robin.

21           Then our next section is Section 1662, "Types of  
22 Financial Assistance". We've eliminated the "contingent  
23 award provision" and much of the Section addressed  
24 elements relating to the "contingent award" so that's the  
25 main reason why you're seeing a lot of that lined out.

1           And, again, going back to the - continuing in  
2 that Section where we deleted requirements for the  
3 Committee and as it pertains to the "contingent award."

4           In Section 1663 we've got terms for loan  
5 payments. Here we've introduced, as opposed to "The  
6 Committee shall recommend" we've got staff that we're  
7 proposing to actually conduct the work that we would then  
8 - that the Committee would have done and then - we would  
9 take that to the full Commission for approval.

10           So here we've got, basically, staff would  
11 publish the Program Opportunity Notice and include it in  
12 the Program Opportunity Notice would be the interest rate  
13 that we would be using and we would develop that in  
14 accordance with the provisions of Public Resources Code.

15           And, going back to in (a)(1) and (2) we were  
16 removing (2) because it refers to the "Contingent Award"  
17 and we're taking (1) and we're making it just part of  
18 Section (a) so it won't be broken out into subsections.  
19 So, more of a structural change.

20           And, continuing in "Terms of Loan Payment",  
21 again we replaced the Committee with Staff and Staff would  
22 recommend to the Energy Commission for approval the  
23 repayment terms for each loan. And (2) the old regulation  
24 or the existing regulations had the loan terms limited at  
25 six years. The statute actually allows loan terms up to

1 20 years. The regulations and brought them into  
2 consistency with the statute, largely in part because of  
3 the economy. And it's very hard to pay back a loan in six  
4 years. And the statute does give us that added length so  
5 we figured we'd go with that.

6 Do we have any - any comments or -- ? No?

7 Okay. We'll move ahead.

8 MS. BROWN: Thank you. My sympathies. I've  
9 been through the rulemaking process myself and you're  
10 doing a great job. So in terms of the last point you had,  
11 removing the eight percent - you said in the last slide  
12 that there was a maximum loan would be eight percent of  
13 the loan and now this repayment - I'm sorry. The interest  
14 rate would be determined in the PLN.

15 MS. CLOSSON: Okay.

16 MS. BROWN: Do you expect it to go above eight  
17 percent or how will the CEC determine the percentage?

18 MS. CLOSSON: The regulation or rather, excuse  
19 me, the statute has language that identifies -- Yes,  
20 please.

21 MS. MAYER: So the statute is 3822(f)(2) says  
22 that the Commission shall theoretically set interest rates  
23 on the loans to existing financial markets at rates not  
24 lower than the Pooled Money Investment Account. The  
25 Pooled Money Investment Account is a California created

1 account and I looked it up not that long ago and I think  
2 it was one percent. Obviously, given the times we're  
3 under interest rates are going to tend to be low. So,  
4 they can reflect - for example, at the high end of a prime  
5 rate. Something like that. It varies on the existing  
6 financial market.

7 MS. BROWN: Okay. I just wondered. That's  
8 great news. But I wonder if it might make sense to say  
9 that "it will not exceed 8 percent." It should put a  
10 limit on it, of eight percent. To give people some sort  
11 of - or maybe, I don't know if there's a change of  
12 language in there about how it's set but that might make  
13 people less nervous.

14 MS. CLOSSON: Okay. Thank you. I think that's  
15 great input. Thank you.

16 Okay. So we have a comment to provide - to  
17 maybe keep in language to maybe show that the loan would  
18 not exceed eight percent or possibly include language on  
19 how the interest rate would be established. Okay. Very  
20 good. Thank you.

21 Okay. Going back to 1663(b) the, as I said,  
22 we've proposed to change the repayment term from six years  
23 to 20 years consistent with the existing statute. And  
24 then the other items on (2) that refers to "Contingent  
25 Awards" so we would delete that and then we'd move (1)

1 into Section (b) and delete the subsections there. So  
2 it's a structural change. And, in Section (c) again staff  
3 as opposed to the Committee shall recommend to the Energy  
4 Commission for approval of the principal of each loan.  
5 And then we've tried to clarify here that the 80 percent  
6 for the project cost is for local jurisdictions and then  
7 the loan should not exceed 50 percent of the project cost  
8 for private entities. And that's consistent with the  
9 statutory provision.

10 And, again, another structural change where  
11 we're bringing (1) into (c) and deleting (2) because it  
12 refers to Contingent Awards. Section (d) again staff as  
13 opposed to Committee shall recommend to the Energy  
14 Commission the number of installments. And this, in  
15 general, is done in part of our contract development. So  
16 when we prepare our contracts with the awardees then the  
17 payment conditions would be established in that agreement.  
18 And then we would also, as part of our Program Opportunity  
19 Notice, publish what our estimates of what - or projected  
20 items would be.

21 And then Funding Cycle, 1664 Section (a) was the  
22 definition that we moved into the definition section so  
23 we're deleting that. Section (b) gives - we're, again,  
24 replacing the Committee with staff. And then we've  
25 updated this notification kind of Section by saying that

1 we would be publishing, as opposed to mailing, a Program  
2 Opportunity Notice and we would publish it to the website  
3 and provide electronic notification. And then also  
4 provide actual hardcopy mailings to people upon request.  
5 So that's more updating for current modes of  
6 communication.

7 Yes?

8 MS. BROWN: If I'm reading that for the first  
9 time, I would be worried if I was only on the listserv.  
10 The way you explained it made sense. So if you were to  
11 just read the legalese there it sounds like you'll be  
12 notified via listserve or via mailing notice. So is there  
13 another way to phrase that?

14 MS. CLOSSON: Okay.

15 MS. BROWN: Just to clarify that if you're on a  
16 listserve you will be notified? I think it's just  
17 changing the words around.

18 MS. CLOSSON: All right. Okay. Very good.  
19 Thank you.

20 MS. MAYER: Also to put in a plug here, if  
21 you're not on a listserve to get on a listserve. And if  
22 you're under the government code anyone who requests a  
23 hardcopy by mail you can get it but the problem is with  
24 those lists is that they age and we're entitled to kind of  
25 take out addresses that are more than a year old. So the

1 listserve is a little more - a little simpler, reliable  
2 but certainly if you want a hardcopy we're happy to mail  
3 it to you.

4 MS. BROWN: Yeah. I'm just saying that if the  
5 way it reads right now - it looks like they have a choice.  
6 If they do it by mail or by listserve. If, in fact, it  
7 will be done by listserve it would be 'and' mail if  
8 requested.

9 MS. MAYER: Yeah. That's a good edit. Thank  
10 you.

11 MS. CLOSSON: So. Changing 'or' after listserve  
12 to 'and', so it would read to all interested persons "via  
13 appropriate Energy Commission listserves and by mailing  
14 notice." Okay. Perfect.

15 Okay. Next section. Again, we've - because  
16 we're proposing to delete the pre-application element we  
17 would delete Section (c) because that addresses pre-  
18 applications and the requirement to have them 45 days -  
19 have them due no earlier than 45 days after the Program  
20 Opportunity Notice and such. So that would be deleted.

21 And Section 1665, the Application and Rewards  
22 Procedures. Everything, essentially, becomes an  
23 application as opposed to a pre-application and an  
24 application. And these are clarifications to say what  
25 would be - that the application would be required in the

1 format that we define in the Program Opportunity Notice  
2 and that the elements would include but not be limited to  
3 the following: And so the first one would be just the  
4 cover page and then we've added some kind of contact  
5 information to update what would be required to include  
6 email addresses and internet websites, if any were  
7 available.

8           And then continuing on to the application  
9 requirements, again on the budget to clarify on the  
10 project what would be required at a minimum. And instead  
11 of just personnel services we broke that out a little more  
12 clearly to look at direct labor versus indirect costs and  
13 then also to include equipment materials and any other  
14 construction expenses. On the project narrative we  
15 basically left the existing regulation language pretty  
16 much the same with just a few edits for structure and  
17 clarity and just grammatical changes.

18           And continuing on the items for the application,  
19 we've taken the - we're requesting - we've adding details  
20 to the work statement requirement and, also, took language  
21 from another section below to have the documents or  
22 tangible products that are to be submitted as part of the  
23 award to be described in the work statement as well.

24           Then, again, we're removing Section (b) because  
25 of the pre-applications and the subsections below that.

1 And because everything now is an application we've changed  
2 - we've taken out the specifics for the final application.

3 And, again, we've kept a lot of the same  
4 language from the existing regs and just updated them a  
5 little bit to include - to be more specific and to make  
6 sure that we get sufficient information on each project  
7 and the purpose and the benefits for what's to be  
8 developed as part of the project. And in old Section (3)  
9 what would now be 7 we've tried to clarify that for local  
10 jurisdiction applicants they require the resolution from  
11 the local jurisdiction's governing body and that's  
12 consistent with the existing statutory requirement. So  
13 it's not a change in the requirements. It's just that  
14 we've tried to be more clear on who that applies to.

15 And then Section (8) is a newly added section  
16 and this is our Section that is attempting to clarify what  
17 would be required from private entity applicants when they  
18 - in order to comply with the statutory requirements for  
19 getting the approvals from local jurisdiction for the use  
20 of your grant in their area. So, basically, the statute -  
21 one second - the statute in Section 3822(g) says that any  
22 loan or grant made to a private entity under the Section  
23 shall be matched by at least an equal investment by the  
24 recipient, provide tangible benefits to the local  
25 jurisdiction and be approved by the city, county or Indian

1 reservation within which the project is to be located.

2           So Section (8) here in our regulations is meant  
3 to clarify what would be an adequate demonstration of that  
4 approval. So we're saying that it could be a resolution  
5 but it could also be a letter from a planning or zoning or  
6 land-use office saying that they're aware of your project  
7 and they are okay with having that -

8           Sir? Okay. Yes.

9           MR. MERRICK: Would that be for the application?  
10 So say it's been on the solicitation, there's a two-month  
11 window. You say, "Wow. Okay. Here's a great opportunity  
12 you need to get." I live in Canby, California.

13           MS. CLOSSON: Okay.

14           MR. MERRICK: So it's Modoc County, teetering on  
15 the edge of bankruptcy and so they don't have meetings  
16 that often anymore because they can't afford them. And so  
17 what that means to me is that I might not be able to get -  
18 the wheels of government move slowly.

19           MS. CLOSSON: Yes.

20           MR. MERRICK: I might be able to get it  
21 beforehand. Or would it be something that I could get  
22 after awarded, just to make sure that I could go ahead  
23 with it? I mean is there a timing in there of sorts?

24           MS. CLOSSON: You make a very good point. And  
25 we were talking about that this morning as we were

1 revisiting everything. And so we've got this in here for  
2 the application but there is no timing aspect in the  
3 statute so we may need to add a caveat in here that maybe  
4 says "if awarded this would be necessary" and you would  
5 likely need to have it by the time the agreement is  
6 signed. But you make a very good point and we will revise  
7 this Section to clarify that.

8 MR. MERRICK: Having done several of these  
9 projects I should be to tell if -- you think you have  
10 enough time and don't - (off mic)

11 MS. CLOSSON: Excellent. Very good. Thank you,  
12 sir.

13 MS. MAYER: May I ask, since you have the  
14 experience with this, do you think a letter from the land  
15 use office - we deliberately offered that option in hopes  
16 that it might be a little easier than trying to get a  
17 resolution, for example. But what I look at the  
18 legislative history of the - this provision. The county -  
19 is legitimately concerned about what is going on. And most  
20 of that is from land use people. So that is why we  
21 offered the land use option. Do you think that would be  
22 truly easier or -- ?

23 MR. MERRICK: (Off mic.)

24 Sorry. Let her give you the mic.

25 MR. MERRICK: We have a good relationship with

1 the county. Everybody knows what they're doing. It's all  
2 private property. And so I don't know that we'd have any  
3 problem but it's just when you get to a meeting - you  
4 know, right now they have bi-monthly meetings. They have  
5 a meeting every two months. And, so, I can't get there  
6 from here so there just has to be - it just has to be  
7 \*49:37 like what Cheryl was talking about.

8 I was just wondering if that was - because we've  
9 been through so many environmental processes and  
10 archeological and the whole bit and it's all been zoned,  
11 actually. Our entire property has been zoned for  
12 geothermal development so we already have those. And it  
13 wouldn't be any problem to get that except for - they're  
14 just not meeting that much.

15 [LAUGHTER]

16 MS. MAYER: Okay. Thank you, sir.

17 MS. LEBRILLA: Just for clarification. The way  
18 you explained this particular, Section (8), you said a  
19 letter from an appropriate planning, zoning or land-use  
20 office indicating that they're aware of your project.  
21 That's really different from approving your projects as  
22 stated in this language. So are you expecting - I mean,  
23 the way that these reads is for private entity applicants  
24 a letter from an appropriate planning, zoning or land-use  
25 office or a resolution from blah blah blah approving the

1 use of the grant or loan for the proposed project.

2 I don't know if - I mean, you need to go through  
3 and have a permit in some cases. But you may - but you  
4 don't know how long that process is so do you want  
5 approval from the office before or after or when a project  
6 becomes viable, approved, awarded, pending an agreement in  
7 place, you know. I think you need to provide clarity on  
8 when you want all of that because as applicants you don't  
9 know how long that process is for different counties,  
10 different offices, different local jurisdictions.

11 MS. CLOSSON: Thank you, Elaine. Thank you. Go  
12 ahead, sir.

13 MR. MERRICK: That would be like a use permit.  
14 Sometimes those take 9 months. These things are long  
15 processes and with counties like mine it's even longer.  
16 And, so, if - it'd be one thing if they said, "Yeah. We  
17 know about your project." But that doesn't mean that  
18 they're going to give me a use permit until - down here.  
19 You know. Until some of my time is eaten up by processes.

20 MS. CLOSSON: I think that's one of the things  
21 in looking at the statute. It doesn't necessarily require  
22 a permit as the approval mechanism and not all projects  
23 have permitting elements that would apply so, I think,  
24 what our intent here would be by providing the option of  
25 getting a letter where the local land-use authority is

1 approving by letter, saying they acknowledge that you have  
2 this award, they're aware of it and they approve your use  
3 of that award money in their district as opposed to having  
4 to get that use permit.

5 Robin, what are your thoughts?

6 MS. MAYER: Well. Yeah. So, for example, if we  
7 added "within 90 days of the award", would that be a  
8 reasonable time? If we set a timeframe it can't be  
9 forever, obviously. So what, in your estimation, would be  
10 a reasonable timeframe to secure that approval?

11 MR. MERRICK: I'm sure - well, it's like - a  
12 reasonable timeframe? I guess that would be, depending on  
13 what county you're from, and in Modoc County that could -  
14 I've had one use permit, 9 months. That what that means?  
15 You know. They know about my project. They like it. But  
16 they have to review all the things that they need to do.  
17 What does that mean? You know, and if it eats up my time  
18 to get my project done, if you only give me so much time,  
19 and it's eating by that time, which has happened before,  
20 and the Energy Commission has been gracious to work with  
21 me to get stuff done. Then that's good. But those  
22 processes are completely out of the applicant's control.  
23 And, depending on how financially viable the county is  
24 that makes it - and a lot of these - and a lot of projects  
25 like mine are in rural counties, sparsely populated

1 counties where most low temperature geothermal is. And I  
2 don't know that - I don't know the - how viable everybody  
3 else is, how quickly things get down, but in a rural  
4 county where I'm from it can take awhile. And so I  
5 appreciate that you have to have a timeframe but it's not  
6 like three months.

7 MS. CLOSSON: Would it be - I'm wondering and  
8 I've put this to our legal counsel who is here as well.  
9 I'm wondering if a letter from the local planning agency  
10 that says, you know, "We approve of your use of the grant  
11 contingent upon getting the appropriate use permit" if  
12 that would meet the criteria set forth in the statute?

13 So that might provide some sort of a leeway  
14 there. So that we could fulfill the statutory requirement  
15 and not hold things up waiting for that permit.

16 MS. BROWN: Yeah. Is it something like a letter  
17 of support? I think a letter of support is a lot easier  
18 to get from one of those authorities than a permit. You  
19 know, so -

20 MS. MAYER: You see, but we're not asking for a  
21 permit though. All we're asking is a letter that approves  
22 the using of funds for the proposed project.

23 MS. CLOSSON: But I can see where - I'm grasping  
24 why that might be - why the local jurisdiction might have  
25 difficulty because they don't want to approve and give

1 approval -

2 MS. LEBRILLA: The word approve sort of  
3 indicates some kind of process that you have gone through.  
4 And if - depending on the county they may not have a  
5 process.

6 And so when they issue a letter to you saying  
7 they approve something and they don't have a process that  
8 allows them to approve something they can't give you a  
9 letter. They can give you a letter saying that "Yes. We  
10 are aware of this project. Yes, you may be awarded and  
11 yes, we'll work with you." Whatever. But if they don't  
12 have a formal process to approve something they can't give  
13 you a letter that says they approve something. And,  
14 whether or not, I don't know how many counties that have  
15 that issue but I'm sure that many of them do.

16 MS. BROWN: So just jumping back to what Elaine  
17 said, and this is Elise Brown with CGEC, for those of you  
18 who can't see on the call. I think that's where the issue  
19 lies is the word of proof. So if there's a way to word  
20 'letter of support' or 'letter of acknowledgement' or - I  
21 don't know what would fulfill the needs or the  
22 requirements of the statute but, yeah, the word 'approve'  
23 indicates some sort of process that planners and city  
24 councils will get very cagey around.

25 MS. MAYER: 'Approved' is in the statute. So

1 it's also, you know, this is something that we can  
2 interpret. And we don't want to, you know, we don't have  
3 to force a process. That's not the goal. The goal is to  
4 try to get to meet this requirement in the statute in a  
5 way that works. So, I think we'll probably need to talk  
6 more about it with you. Maybe a year is a reasonable  
7 timeframe. I don't know. That's something that staff  
8 would have to really think about. Because I know there  
9 are things that happen after the award and that's out of  
10 my expertise. So we could, you know, I think it's  
11 reasonable because the statute is pretty specific that  
12 it's when the award is made so we can certainly tie it to  
13 the actual award, for one thing. You could go the other  
14 way and make it approval of the application but it sounds  
15 like 'approval' is what you're concerned about, not what  
16 they're approving so much.

17 Well, if you have specific suggestions, love to  
18 hear them.

19 MR. MERRICK: If you have a project you really  
20 want things to move along quickly so it doesn't benefit  
21 the project to stretch it out. So, I think a year would  
22 probably be good because it sounds like a use permit to me  
23 just from having done this several times in my county.  
24 That's what it sounds like. And anybody would be nervous  
25 to say they approved of it without going through that

1 process. Because that process is the approval of that  
2 process. And then if there was some way to do what you're  
3 needing to do - if it took a period of time as they all do  
4 does that count against your time to construct the  
5 project. To put it in. As you know, geothermal projects  
6 can get crazy, you know. And one thing depends on  
7 another. You can't get ahead of yourself and so if there  
8 were - if there was some flexibility built into that, what  
9 you want to do is encourage everybody to move along  
10 quickly because this is taking up time. However, there  
11 has to be some flexibility in the system in order to get  
12 it done otherwise you've awarded a grant to somebody and  
13 then it's not going to go through because we've boxed them  
14 in. It's just going to fail.

15 MS. CLOSSON: You make a really good point and  
16 that's one of the elements that we're actually working on  
17 within the program that's separate from the regulations.

18 Currently, our awards we have two years of  
19 what's called "encumbering the funds" and then we have two  
20 years to liquidate the funds. So we have a total of four  
21 years but, unfortunately, sometimes up to a year of that  
22 can be taken up as part of the solicitation process and  
23 actually writing the agreement. So what we are doing, and  
24 it'll come up in our next - as our budget cycle goes  
25 ahead, we're going to be requesting to extend the

1 liquidation period to four years but we don't have that in  
2 place right now.

3           So, you know, I understand that it's a kind of a  
4 fine balance because you don't want to start all your  
5 projects unless you know that you've got the funding there  
6 and yet there's a lot of that up front work that needs to  
7 be done.

8           So, yeah, we definitely recognize that there are  
9 some catches here and it's a balance.

10           MS. MAYER: Well, permit can certainly work in  
11 lieu of approval if everything need a permit. If any  
12 project needs a permit and I'm not sure about that. But  
13 if every project needs a permit. That certainly acts as  
14 approval to me. So, maybe we could work in something of a  
15 permit works in lieu of a resolution or something like an  
16 offer option of permit is an - would that be helpful?

17           Would the option of a permit work as approval in  
18 lieu of a resolution letter or permit also function as  
19 approval. Would that be helpful?

20           MR. MERRICK: (Off mic.)

21           MS. MAYER: Yeah. I was trying to make it  
22 something like the process would not be as onerous as a  
23 permit but it sounds like what you're saying it still  
24 onerous.

25           MS. CLOSSON: So, unfortunately, a lot of this

1 is tied to the statute. And that we don't have much  
2 control over so -

3 MR. MERRICK: As reasonable people, on the  
4 Energy Commission side, and the folks that are actually  
5 trying to do this deal, my experience has been that we've  
6 gotten it done and there has to be flexibility there  
7 that's tied to the statute. If it's too rigid we've spent  
8 a lot of money that's for nothing, you know. And so as  
9 long as we understand that going forward, you know, and I  
10 think that we've been actually successful of getting stuff  
11 done in very difficult situations because that's what  
12 geothermal demands. It's not something that you can see.  
13 It's not something that you can - put a solar panel up, a  
14 wind turbine or whatever. You're going to someplace that  
15 you're trying to figure out that causes real issues that  
16 takes time to resolve that problem. And so built into the  
17 system is if there were, you know, cross planning sections  
18 or something to where you are able to fulfill your  
19 statutes with the regulations that we're putting together  
20 and get this done. Then we can be reasonable people. And  
21 my experience has been we've been able to do that. Just  
22 so that we don't get boxed into a situation.

23 MS. CLOSSON: Yes. Understood. Thank you.

24 MS. MAYER: Thank you.

25 MS. CLOSSON: So we will be revisiting the

1 Section (8) to look at that for how we can better phrase  
2 that and what other clarity and potential tools for  
3 approval we can provide.

4 And then going on to old Section (4), which is  
5 now what we propose is Section (9). Basically, the old  
6 section said -

7 MS. LEBRILLA: Excuse me. If I could interrupt,  
8 Cheryl?

9 MS. CLOSSON: Sure.

10 MS. LEBRILLA: Just a clarifying question.  
11 Section (8) is supposed to have this letter or this  
12 solution that has to be included in the application. Is  
13 that clear?

14 MS. CLOSSON: In this point, we did include it  
15 as an application element. But that's something that we  
16 can change. The statute doesn't have a time aspect to it.  
17 It just says that any grant - loan or grant made to a  
18 private entity must - shall do these three things. So, I  
19 think as Robin was saying that she was interpreting that  
20 to mean once the grant was awarded that we would need that  
21 documentation. Is that correct, Robin?

22 MS. MAYER: Yeah. I think it's definitely tied  
23 to the loan or grant being made.

24 MS. BROWN: So probably the agreement itself  
25 signing as opposed to the, just, to the Notice Of Proposed

1 Award?

2 MS. LEBRILLA: One suggestion would be to allow  
3 it to be included as part of the project and as a  
4 milestone within the project, helping to indicate in the  
5 application that they need to explain, similar to the next  
6 paragraph underneath, they need to explain how - what  
7 efforts they have made to, you know, contact the local  
8 jurisdiction or the appropriate planning and then have  
9 them included in the project as possibly a milestone.  
10 That's a suggestion. But, so that it's part of what  
11 you're doing in the project. It doesn't stop it from  
12 starting the project.

13 MS. CLOSSON: Okay. Very good.

14 So going on to 9, the old language in the  
15 regulation had required just evidence of compliance with  
16 the California Environmental Quality Act and we've amended  
17 that to provide for an explanation of how the project will  
18 comply or has complied so that if you're still in the  
19 process then you can, you know, show us how you're moving  
20 forward. When we do have agreements that are approved by  
21 our Commission the Commission cannot approve activities or  
22 agreements that include activities that have not complied  
23 with CEQA. That's one of the things that the Commission  
24 has to ensure that each decision has included a  
25 determination that CEQA has been complied with. And so

1 before we actually have an executed agreement then there  
2 would have to be documentation of the CEQA compliance at  
3 that time.

4           And then also we included language into ask for  
5 the explanation on how the project will meet applicable  
6 laws and standards and regulations so that we know that  
7 the - so we're not blindsided by any type of any  
8 environmental law that might impact something so we'd like  
9 to have - to make sure we have that discussion as part of  
10 the application.

11           And then we've - in the previous - or in the  
12 existing regulations the language had resource development  
13 projects that would result in energy or revenue savings.  
14 It would have them do a feasibility study and we've  
15 amended that to basically have that application to  
16 projects that would develop a resource so that we kind of  
17 look at the big picture, not just the power plant. So it  
18 would be - it would apply to direct use type of projects  
19 as well or resource development.

20           And I think we may end up keeping (a) and (b)  
21 that are currently lined out but possibly not.

22           MS. MAYER: Yeah. I think we may keep them for  
23 a number of reasons.

24           MS. CLOSSON: Sure.

25           MS. MAYER: Because of the removal pre-

1 application.

2 MS. CLOSSON: And then continuing on with that  
3 feasibility study we've included just a statement of 'as  
4 appropriate' because not every project is going to include  
5 all of those types of features like distribution piping  
6 and equipment so we just wanted to clarify that as things  
7 - if it fits with the project then that would be  
8 requested. And then, again, in the old (e) in what is now  
9 (c) we would say "As appropriate a table including, but  
10 not limited to, a description of any equipment and capital  
11 costs and such."

12 So those provisions are largely the same with  
13 just a few edits for clarity.

14 And then we've taken out again the statement of  
15 the final application review and scoring. Because it  
16 addresses the three categories and also the Technical  
17 Advisory Committee review. And we've added a section that  
18 basically addresses the same thing and it applies to all  
19 the applications because we haven't split out pre-  
20 applications and final and it covers the similar items by  
21 saying "Staff shall review and score all applications" and  
22 "by using the criteria that's set forth in the Program  
23 Opportunity Notice." And that's in there specifically  
24 because we would propose to remove the Appendix A in  
25 Application Scoring Criteria and we would set forth in the

1 Program Opportunity Notice what the actual criteria are.

2 And then we have the same with the "Staff will  
3 rank the applications based on the scores and submit the  
4 recommended award agreements to the Energy Commission for  
5 approval." So, basically, that follows our internal  
6 process and the Energy Commission provides their final  
7 approval when they approve each agreement.

8 And then we deleted the Aspects for  
9 Modifications. This is a Section in the existing regs  
10 that allowed the Technical Advisory Committee to change  
11 the application and - but then it required that you had to  
12 rescore the application and, I think, it's a pretty  
13 onerous type thing. If you've changed the application how  
14 do you then rescore and make sure that you're being  
15 equitable to other applications. So we proposed to take  
16 out that element.

17 Robin, do you have any input on that? On the  
18 modifications?

19 And then the Committee review, again we're  
20 proposing the Committee no longer exists so we're taking  
21 out the requirements for the Committee. And then, also,  
22 as I mentioned earlier the Section G requirements that  
23 requires that 25 percent of each fund be put into each  
24 category, this could be limiting in case we don't get  
25 Planning or Mitigation Projects it would limit us in the

1 amount of funding that we could provide in a solicitation.

2           And then we've just had a - we've reclarified a  
3 few elements of the Declined Awards and just saying that  
4 "Staff may use any monies that were declined to supplement  
5 an existing award or fund the next ranked passing  
6 application." So that the next in line could potentially  
7 be funded if, in the event that a project, previously-  
8 funded project, gave up money.

9           And then we've left - I'm sorry.

10           MS. LEBRILLA: So you've eliminated the use of  
11 the Committee because you guys don't use those anymore. I  
12 understand that but the Section that would check,  
13 historically, with the Technical Advisory Committee, which  
14 was a group of people that helped score the proposal but  
15 not necessarily the Committee that is made of two  
16 Commissioners. Did you intend to eliminate - did you only  
17 intend to have staff rank the applications or did you  
18 intend to also seek Technical Advisory Committee that  
19 includes staff and other outsiders? Because historically,  
20 in the past, the program had outside help in evaluating  
21 the application.

22           MS. CLOSSON: The intent would be to continue  
23 having a Technical Advisory Committee but we would  
24 establish the Committee as part of the Program Opportunity  
25 Notice and not within the regulations. And, I think, as

1 Robin had explained a little earlier about just the  
2 flexibility issues.

3 MS. LEBRILLA: Just a clarification because  
4 under (b) it says "Staff shall review and score all  
5 applications." So it appears that you're only eliminating  
6 - it appears that you're only having staff review the  
7 application. And then in the bottom you eliminate all  
8 references of a Technical Advisory Committee. So just  
9 clarification. So if you're choosing - if you're  
10 intending that only staff evaluating or if you're  
11 intending to have a group of people, including staff, plus  
12 outside - in the past there's been \*1:16.26.6 folks that  
13 have been part of the application review. And, in fact,  
14 representatives from DOE.

15 MS. CLOSSON: Yes, I think our intent would be  
16 to still utilize technical assistance in reviewing from  
17 Division of Oil and Gas and such but we would establish  
18 that element within the Program Opportunity Notice. We  
19 could potentially amend Section (b) to include a statement  
20 that says, "Staff and possible technical advisory -  
21 technical advisors." But mainly we didn't want to have to  
22 limit ourselves to having specific reviews that  
23 established in the statute. So staff is kind of like the  
24 fallback, the default position.

25 Go ahead, Rizaldo.

1           MR. ALDAS: Yeah. That was a good point, I  
2 think. And staff will hear this. I was just wondering  
3 whether we could revise the way that we say "The review  
4 committee established by the solicitation or Program  
5 Opportunity Notice shall review and score all  
6 applications."? So we would effectively - the statement  
7 would be "The Program Opportunity Notice Committee or team  
8 established or recognized or - you know, appointed by the  
9 - identified by the solicitation will review the proposal  
10 for application."

11           MS. MAYER: I think there's always the  
12 opportunity to consult experts for the review. We could  
13 add a 'may'. "Staff may consult technical experts as  
14 needed to complete the review and scoring."

15           I think the ball is kind of in staff's court to  
16 do these - obviously, also, when staff does approval it  
17 goes in front of the Commission. So staff is ultimately  
18 making the recommendation that the Commission adopts at a  
19 public hearing.

20           I think that I certainly have concerns, and I  
21 don't know the history of the Technical Advisory  
22 Committee. I've only started to work on this type of  
23 matter but I think, you know, the immediate flag I see as  
24 a lawyer is the potential for conflicts of interest and we  
25 have an extremely sensitivity at the Commission, and

1 really statewide, about conflicts of interest.

2           And so when you have a formal Committee you  
3 raise all sorts of issues. And, I think, it's better to  
4 have the flexibility and it's better if we can announce in  
5 advance if we have a certain group of people. It's going  
6 to help with the round of applications. It would be  
7 excellent to put it in the Notice. I'm not sure that you  
8 can do that completely because I think it's also going to  
9 depend on the project that you're considering.

10           MS. CLOSSON: Other comments? Okay. Oh, sorry.  
11 Elaine, go ahead.

12           MS. LEBRILLA: Sorry, I don't mean to - I don't  
13 mean to belabor the point but I think from an applicant's  
14 point of view, I think it adds a lot of credibility if  
15 there is a diversity of reviewers and scorers in the  
16 process.

17           Not to say that I don't trust Commission staff.  
18 It's just that there's specificity to a lot of credibility  
19 if there's more than just Commission folk and this is ©  
20 implies to me is that it's only Energy Commission staff  
21 that reviews this.

22           Just a comment. And I used to work at the  
23 Energy Commission so there's nothing - it does lend more  
24 credibility in this point.

25           MR. ALDAS: Agreed. I just want to echo what

1 Cheryl said awhile ago. That it's still our hope - it's  
2 still our desire to continue asking folks from outside the  
3 CEC, if we can, to review the applications. And so yeah  
4 we recognize that and we value your suggestions. I think  
5 I understand that because we (indiscernible) on this one  
6 that the staff will review.

7           And the second part it's definitely that staff  
8 who will do this type of reviews for the Energy  
9 Commission. But the review part, the scoring part, would  
10 be a team of reviewers chosen by the staff during the  
11 Program Opportunity Notice stage, during this solicitation  
12 stage, is what I understand.

13           So it looks like we need to revise it a little  
14 bit, that statement. We need to show somehow- which staff  
15 or not necessarily just the staff who will review the  
16 applications.

17           MS. CLOSSON: Okay. Moving ahead then. We  
18 talked a little bit about the modification and the reason  
19 for deleting that. And then, again, the Committee reviews  
20 that there's no longer a Committee so deleting that. And  
21 also proposing to delete the Commission allocation of  
22 funds according to the project categories. We'd like to  
23 delete that so we're not limited in the event that we  
24 don't get projects in every one of the categories.

25           And then "Declined Awards", again, this just

1 clarifies that staff could use the amount declined to fund  
2 an existing award or supplement an existing award or fund  
3 the next grant passing application so that the next person  
4 up who we couldn't fund because of limits then they could,  
5 potentially, get either full or partial funding -  
6 potentially.

7           And then we've added information here. We've  
8 deleted statements about the notification of final  
9 applications in writing and instead proposed language that  
10 would allow for an applicant to request an evaluation and  
11 scores once the Notice of Proposed Award is released. So  
12 it would take an affirmative action by the applicant to  
13 actually make that request.

14           And then we kept the language and just noting  
15 that "Nothing shall prevent an applicant in one funding  
16 cycle from submitting an application in another." We've  
17 deleted the 'unsuccessful' phrase and left it as any  
18 eligible applicant so that it doesn't matter if you were  
19 successful or not you always have the option of coming in  
20 in any solicitation.

21           And then Appendix A, this is - we proposed to  
22 delete the entirety of Appendix A because we were  
23 proposing to delete the categories and the evaluation  
24 criteria in A are tied to the categories. We would,  
25 instead, identify the evaluation criteria within the

1 Program Opportunity Notice and publish it at that time.

2 So any additional questions or comments or -- ?

3 MR. MERRICK: (Off mic.)

4 MS. CLOSSON: Okay.

5 MR. MERRICK: (Off mic.)

6 MS. MAYER: Yes. We have a Commission-wide  
7 effort to allow e-filing. I think, again, without knowing  
8 the history I would that say we definitely would be able  
9 to do that.

10 MR. MERRICK: (Off mic.)

11 MR. ALDAS: (off mic.) I can't say if it'll be  
12 this year or next year.

13 MS. MAYER: I don't think there's something to  
14 be put in the regulation but -

15 MR. MERRICK: (Off mic.)

16 [LAUGHTER]

17 MS. BROWN: Less about the rules and more about  
18 the solicitation. Can you give us an idea of what the  
19 funding amount might be for this funding cycle? The  
20 awards and if there's a maximum?

21 MS. CLOSSON: You know, we haven't determined  
22 whether there will be a maximum or not per project. Right  
23 now, I think, we may have upwards to \$4 million but it's  
24 not - I don't have a final number yet. We've had funds  
25 that have gone back into our account but, unfortunately

1 because of the timing there's also encumbering limitations  
2 and we may not have full access to all of the funds that  
3 have been returned to the account. Right now we're  
4 getting about \$1-\$1.5 million a year that accumulates from  
5 the Geothermal Resources Development account. Our portion  
6 of that - our 30 percent of that account has been running  
7 \$1-\$1.5 million. So for the solicitation that we proposed  
8 for fiscal year '13-'14 I think it's going to be \$3-4  
9 million.

10 Any other comments or questions? Do we have  
11 anyone online?

12 MS. BROWN: Just a quick question, will these  
13 changes be in effect with the next solicitation round?

14 MS. CLOSSON: We're targeting trying to get all  
15 of the changes in effect and - so that the actual  
16 regulations are effective by October 1. The reason that  
17 we need to do this before we do our next solicitation  
18 otherwise all of the activities or approvals that are  
19 assigned to the Committee in the existing regulations the  
20 default element means that all of that have to go back to  
21 the full Commission. So it would just make any  
22 solicitation just unwieldy. So that's our target. We  
23 hope to be able to get the Program Opportunity Notice  
24 actually published as soon after we can get the  
25 regulations in place so that we can just hit the ground

1 running.

2 We also do intend to have workshops during the  
3 summer trying to give people a head's up about things -  
4 thinking about project development, looking at CEQA in  
5 particular and getting people, you know, thinking ahead  
6 for their applications. So those are some of the - kind  
7 of the non-regulatory things that we plan to do.

8 Any other questions? We will be happy to, if  
9 you have additional comments or after having heard what  
10 we're proposing and being able to, you know, relook at  
11 things if you want to provide written comments or  
12 suggestions for actual language if you could send those to  
13 us by February 1. You can either email those to me or  
14 send them hardcopy. My number is also listed in the  
15 Notice for the workshop. So the address is listed there  
16 as well.

17 And if there are no other comments or questions,  
18 I guess we'll complete our workshop. And I thank you all  
19 very much. I appreciate your input and everyone here.  
20 Thank you.

21 [Meeting is adjourned.]

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