STATE OF CALIFORNIA – THE RESOURCES AGENCY
BEFORE THE
CALIFORNIA ENERGY COMMISSION (CEC)

In the matter of, )
) Docket No. 12-OIR-1
Rulemaking to Consider )
Modification of Regulations )
Establishing a Greenhouse Gases )
Emission Performance Standard )
for Baseload Generation of Local) Publicly Owned Electric )
Utilities____________________)

Public Workshop

California Energy Commission
Hearing Room A
1516 9th Street
Sacramento, California

Tuesday, January 29, 2013
1:10 P.M.

Reported by:
Kent Odell
COMMISSIONERS

Robert B. Weisenmiller, Chairperson

STAFF

Sekita Grant, Advisor to Chairperson Weisenmiller

Melissa Jones

Lisa DeCarlo, Staff Counsel

Blake Edwards, Public Adviser

Also Present (* Via WebEx)

Randy Howard, Director, of Power System Planning and Development, Los Angeles Department of Water and Power

Steven L. Homer, Director, Project Administration, Southern California Public Power Authority.

Martin R. Hopper, General Manager, MSR Public Power Agency

Susie Berlin, Counsel, MSA

James Lau, Director, Regulatory Affairs, Southern California Public Power Authority

Norman A. Pedersen, Attorney for the SCPPA San Juan Participants and City of Anaheim

Noah Long, Natural Resources Defense Council

Matthew Vespa, Sierra Club

Public Comment
INDEX

| Welcome; Introductions; Summary of Purpose and Discussion Format | 5 |
| Opening Statements (POUs, NRDC, Sierra Club) | 8 |
| Status Updates and Roundtable Discussion (issues will include matters raised in the December 20, 2012 workshop notice) | 19 |
| Break | 90 |
| Continuation of Roundtable Discussion | 90 |
| Public Comments | 135 |
| Closing Statements | 136 |
| Adjournment | 141 |
| Reporter’s Certificate | 142 |
| Transcriber’s Certificate | 143 |
MS. GRANT: Good afternoon, everyone. We’ll get started now. We’re starting a tad bit late, but I think we have enough time to get through the agenda.

Hopefully, everybody picked up an agenda on the way in and signed in. There’s a sign-in sheet outside.

I’d like to welcome everyone to this public workshop to discuss the possible changes to the Energy Commission’s Greenhouse Gases Emissions Performance Standard.

What we’ll do to start out with is just have a round of introductions. We’ll start with Energy Commission participants.

I’ll start with myself. My name is Sekita Grant and I’m Advisor to Chair Weisenmiller, and I’ll be facilitating today’s discussions.

CHAIRPERSON WEISENMILLER: Hi, I’m Bob Weisenmiller. I’m Chair of the Energy Commission.

MS. JONES: Melissa Jones, Energy Commission staff.

MS. DE CARLO: Lisa DeCarlo, Energy Commission Staff Counsel.

MS. GRANT: Okay, great.

So, now we’ll go ahead. We’ll start with
introductions in the room and then we’ll ask for people on the phone to introduce themselves, as well. So, we can maybe start by going this way.

MR. HOWARD: Randy Howard, Director of Power System Planning and Development for Los Angeles Department of Water and Power.

MR. HOMER: Steven Homer, Director of Project Administration for Southern California Public Power Authority.

MR. HOPPER: Martin Hopper, General Manager, MSR Public Power Agency.

MS. BERLIN: Susie Berlin, Counsel for MSR and also CPA.

MR. LAU: James Lau, Director of Regulatory Affairs, Southern California Public Power Authority.

MR. PEDERSEN: Norman Pedersen, Attorney for the SCPPA San Juan participants and City of Anaheim.

MR. LONG: Noah Long with the Natural Resources Defense Council.

MR. VESPA: Matt Vespa with the Sierra Club.

MS. GRANT: Yes, and we have Blake Roberts here, the Public Adviser. He’s in the audience, so if anybody has any problems or they’d like -- have any comments or concerns, they can bring it up to him.

We will have a public comment period at the end.
And for those of you who are new to the process, there are blue cards outside, you fill them out and you give them to Blake, and he’ll make sure that you have an opportunity to speak towards the end.

Okay, so I’ll start with giving a little background and purpose for today’s workshop. Again, the purpose is to discuss possible changes to the Energy Commission’s Emissions Performance Standard Regulations that can be found at sections 2900 through 2913.

Specifically, today we would like to focus on the limited scope of issues that were outlined in the December 20th, 2012 workshop notice. Namely, we’ll basically march through three primary issues.

The first being to get a brief status update from POUs on their activities related to investments to meet environmental and regulatory requirements for noncompliant facilities.

The second will be a discussion on a possible filing or notification requirement for POU investments in non-EPS compliant facilities.

Finally, we’ll have a brief discussion on whether the term “investment” should replace the term “cover procurement” under section 2913 of the regulations, regarding the case-by-case review of preexisting multi-party commitments.
So, I’ll just give a bit of the layout in terms of what the discussion format will look like. I will essentially state a topic or question, I’ll ask for the parties around the table to respond one at a time.

The purpose is not to have you repeat what was in the written comments, you all did a very thorough job with that, but is really to bring out anything that was not covered in those written comments and, also, to highlight some of the more critical points that you want to make sure the Commission understands.

So, after each participant has spoken, there will be a brief opportunity for others to respond or ask questions, including the Chair, staff and myself. So, that’s kind of how we’re going to march through this.

There’s only three issues, but there could be a very long discussion on this, but we like to keep it short and to the point. Again, you guys did a great job with the written comments, so I think quite a bit is covered on the record there.

So, marching through the agenda, let’s go ahead and do opening statements. And again, these should be brief and focused on some of the high points you want to stress to the Commission on topics relevant to today’s workshop.

So, we can continue going this direction.
Randy, if you’d like to start.

MR. HOWARD: Sure. I didn’t know I was in the hot seat. So, I’m Randy Howard, Director of Power System Planning and Development.

We thank you for the opportunity to allow comments regarding this important rulemaking. I think we’ve entered a number of comments over the last year into the record. We had formal comments that we’ve also provided for this proceeding, responding to the questions.

I think LADWP continues to believe that the record in this proceeding is pretty clear. There really is no meaningful evidence of noncompliance by any POU and that the POUs clearly do understand the provisions of SB 1368, the legislative intent, and we are all marching down that path of implementing measures that remain compliant.

The transformation of energy policy in California is moving at a record speed and our ratepayers are unable to write checks quite fast enough to keep up with the rate increases as proposed going forward.

These actions include the RPS, the OTC, and numerous other activities such as AB 32, and coal replacement.
So, from LADWP’s perspective, the parties in this proceeding really need to spend their resources, both labor and dollars, focused on these enormous issues. And we believe that additional reporting requirements and obligations are not necessary and, actually, are not justifiable at this time.

As we get through later in the agenda, we will be sharing more on the specific activities LADWP’s proceeding with on its divestiture of its coal assets, and we’ll go through those details.

So, thank you, I’ll stop.

MR. LAU: So, this is James Lau, again, from -- I’m Director of Regulatory Affairs for the Southern California Public Power Authority.

We are a joint powers authority that represents 11 public utilities and one irrigation district.

I wanted to just say a few words about our broader efforts and then allow my colleagues to speak more specifically to issues related to this workshop.

SCPPA supports the 1368’s goal of reducing the greenhouse gas emissions. In that spirit, SCPPA and our members, member agencies who have an interest in San Juan, having exploring options with multiple parties, Sierra Club, NRDC, PNEM and others on how we can fully achieve this goal.
While our conversations are confidential, we have been making positive progress and we are committed to continuing to have these conversations.

And I mean, we thank Sierra Club and NRDC for their devotion and commitment to this effort and in the near future we just -- we hope to have some positive news to share with the Commission.

Until that time, I want to give it over to our Legal Counsel, Norman Pedersen, who can talk more about the specific issues, and Steve Homer, who is our Project Director for San Juan. Thank you.

MR. PEDERSEN: We did file fairly extensive opening comments, so I’m not going to belabor it. As you saw form our comments on the options, we think that if they were narrowed that they would be acceptable, with the exception of one that actually turns out to be the first choice of NRDC and Sierra Club.

MR. VESPA: Imagine that.

(Laughter)

MR. PEDERSEN: Almost pressing in that regard. We are prepared, within the limits of our confidentiality agreement, to provide you the update and I think James actually gave you probably the high notes on that one.

And we were very pleased to see in the notice of
this workshop the proposal to revise section 2913, and we appreciate that.

And I don’t have anything more. Do you have anything, Steve?

MR. HOMER: No.

MR. HOPPER: Okay, I’ll start, Martin Hopper, General Manager of MSR.

We have filed extensive written comments, both in the course of the proceeding and in response to the most recent request. And if there are any questions on those, I’ll hand them ably off to Suzie Berlin.

But I think what I wanted to take a minute on here is that as a matter of status I think it’s pretty fair to say that all of us, be it -- though I’m speaking for MSR, I’ll use the grand “we” and I’ll throw in SCPPA and LADWP. We’re all in the path to exit out of these non-EPS compliant facilities.

I think the record and public comments, and positions we’ve taken are all pretty clear on that. And I think Matt and Noah are doing their best to encourage us down that path.

But I think the important thing to note is that we are on that path. And that I think that really comes back to what was the spirit of the statute. It was to encourage us down that path and try and prevent
I think, as hinted in all of our filings to various degrees, depending on how comfortable we are under our various nondisclosure agreements, that the prerequisites to divestitures, particularly as speaks to San Juan, are really underway.

And I think it’s interesting reading. It’s not filed in this proceeding, but with the 10th Circuit on Thursday and Friday we all made a number of filings there describing the progress being made with respect to achieving a settlement of the San Juan project that provides, I think to all our minds, a clear path for the Californians to exit that project no later than December 31st of 2017.

So, we’re on that path and I think what I want to emphasize is kind of the interim nature of this problem. We have non-EPS compliant facilities right now. There is a date and a date fairly soon when we will all be out of those facilities.

I think what’s also important to note and we’ve addressed this in our filings that as far as MSR goes, we’ve not yet run into a covered procurement. We’re staring some actions in the fact that could conceivably be covered procurements and we’re doing our darndest to stay out of them because we don’t want to cross that
Rubicon. We want to get out cleanly and at the least cost to our ratepayers, and that’s really what it all comes down to.

So, to summarize, we’re on the way out and if you all will help us so the door doesn’t hit us too hard in the backside as we go.

MS. BERLIN: Suzie Berlin for the MSR Public Power Agency.

So, hopefully, I’m not going to sound like I’m reiterating our comments. We did file comments and Martin has given you a brief update as to where we are with regard to the desire to divest and, as Martin very aptly put it, to meet the intent of SB 1368.

We have a question that we’d like to address in the context of this workshop with regard to what the scope of this proceeding is, because we think that if the policy is to provide notice to the public, assuming that that’s the purpose here to ensure that there’s notice of expenditures in these facilities, then the law already provides adequate accommodations to meet this objective.

The parties are all familiar with these provisions. They’ve even utilized them in the past. Parties know what transactions are occurring.

If the objective is something broader, then that
needs to be made clear and appropriately addressed.

It appears that what we’re moving towards here is a proposal to have some kind of review and approval of POU transactions by the CEC in advance of the POU embarking upon those transactions, and we don’t think that’s appropriate within the context of the regulation.

If we are talking about revising the regulation to do that, then we’re talking about something that’s a lot more expansive than a mere notice requirement.

So, we need to ensure that the language we’re using is really consistent with what it is the objectives are that we’re trying to make with regard to the revisions.

Like I said, I believe that calling these “filing and notice requirements” is a misnomer because we’re talking about submitting stuff, in some instances proposals for CEC approval. It’s not sure what that form would be.

Fundamentally, we think that additional filing requirements are unnecessary. The information is already out there. The POUs are all moving towards the purpose of SB 1368. Nobody has made any finding that the POUs are not complying with the current regulation.

Therefore, not to put it too bluntly, but if it’s not broken, why are we spending so many resources...
to fix it? And there’s not been any demonstration in
the record that there’s anything wrong with the way in
which the process is currently working or that the POUs
have violated the regulation at all.

So, you touched on the mandatory Commission
evaluation and we believe that’s problematic. And as a
practical matter, if there are third parties or the
Commission that does believe that there are violations
of the regulation, then there’s already a process in the
record -- in the regulation to address how that can be
dealt with.

And we think that the existing regulation, as it
stands, meets the objectives of the SB 1368. We don’t
think that there’s been any filings that have
demonstrated a need to change that. And if there are,
we believe that we’re embarking upon a much broader
scope change to the EPS than merely requiring a notice
requirement. Thank you.

MR. VESPA: Thanks. Yeah, I’ll start and Noah
can finish up. This is Matt Vespa from Sierra Club.

You know, just to be clear on the scope of what
we’re talking about, it’s reporting on non-deemed
compliant power plants that provide baseload generation
that exceed the EPS. So, we’re talking about a real
finite number, you know, Navajo, San Juan, IPP.
I saw in the filings references to headquarters for SCPPA and a peaker plant. You know, this is a very narrow subject of plants we’re talking about, so I just want to get that out to begin with.

And what we’ve seen from the filings is, A, you know, a lot of these investments don’t actually go to the governing board in all cases. So, you know, that is not necessarily the best way to be notified.

And B, there’s differences of opinion on what is or is not a covered procurement, you know, are these environmental investments covered or not? You know, there’s some differences there.

And so because of those two things, you know, we feel it would be helpful and necessary for the CEC and other interested parties to have advance notice of some of these potential investments in these three facilities so we could all have some confidence on compliance.

You know, one of the things about option three, which was a sort of prospective look at investments, is this allows everybody to be on the same page about whether these things can lawfully go forward.

And so, you know, the San Juan example, and I will agree with Martin and others that we’ve had really excellent communications since our lack workshop, and encouraging divestment, that’s been very positive.
You know, but one thing that came up there was I think there was a lot of uncertainty with EPA, with the out-of-state actors about what’s going on in California. Can they lawfully invest in some of these environmental upgrades? No one really knew.

And I think teeing these things up in advance is helpful for everyone. And we’re really talking about, you know, a finite and small number of potential investments to ensure California completes this divestment from coal. And that’s happening. It’s, I think as Martin referenced, very much interim because this will be -- I think if San Juan -- if they divest from San Juan, you know, they’re out and that’s done.

And so we just want to ensure that this process moves forward in a way where all the parties, not just the POUs, but the out-of-state actors, the EPA, different entities that have interest in these facilities understand and have clarity on what is lawful for California POUs to invest and what isn’t.

MR. LONG: I think Matt’s -- I’m sorry, Noah Long from the NRDC. Matt’s opening comments cover mine as well.

I’ll just add that Matt has the flu, so he can come off a little bit grumpy right off the start. I think we want to start by saying thanks for having this
MR. VESPA: Yeah, thank you.

(Laughter)

MR. LONG: And also, thanks to our colleagues from the POUs for coming up and having this conversation.

I think it’s an important conversation to have. I can’t agree more with the sentiments from Martin, also from SCPPA on how far we’ve come with regard to San Juan in the last few months. I think we’ve had really good conversations. I’m very hopeful that we’re going to come to an agreement that we’re all going to support. You know, the devil’s in the details and we’re not there yet, but I think we’ve made a lot of progress.

And I just want to add that I think relative to our conversation today about the progress that we’ve made there is that there’s still a couple, a couple more of these to do. Not a lot, but a couple more of these to seal up.

And it’s been very useful to have a forum. It’s been very useful to make sure that we know that the CEC, which is the State agency empowered and entrusted with the responsibility of implementing SB 1368, has a role, and that we’re going to be able to come back here and discuss these issues.
And I think going forward the importance of public notice and, you know, we’ve emphasized already our preferences as between these options. But having public notice in advance for the statewide forum and for the Commission will make it much easier to have real clarity and to promote the kinds of conversations that we’ve had around San Juan in this past year. And, hopefully, those conversations around San Juan won’t go forward, you know, indefinitely. Hopefully, we’re going to wrap those up soon but, you know, we have a couple more of those to do.

And I think maintaining a certain level of Commission involvement through the reporting process could be really useful to do that. So, thank you.

MS. GRANT: Okay, thank you. Another reminder, if we can have everyone on the line mute themselves, there’s some -- a little bit of background.

Okay. Great. Okay, perfect.

Okay, thank you guys for your opening statements, they were brief and impressive. I left a lot more time for those, so thank you.

So, the next thing on the agenda is to get into the status update and roundtable discussion.

We’ll start with the status update, and there was a bit of that provided by the POUs during their
opening statements, so thank you for that.

And, you know, there’s no need to repeat what you’ve already said, but to the extent there’s more information you’d like to provide for us at this time, we’d appreciate that.

So again, Randy.

MR. HOWARD: So, Randy Howard again with LADWP. I’m going to pass around a handout that no one’s going to see that are listening in.

LADWP just completed -- we do an annual Integrated Resource Plan, so we just did -- similar to the CEC, every other year we do a partial update and then we do a full blown. Last year was our full blown. And this is our -- what we call our IRP in one page. For those that have not seen it, it’s available online as well, and our full Integrated Resource Plan is online.

So, it’s a very transparent, public process in which we develop the resources. We bring in the public, the city council members, staff. We bring in other types of stakeholders.

Both the NRDC and Sierra Club are very active participants in our process of the Integrated Resource Plan.

So, the top part of our plan really lays out the
foundation of our exit out of coal resources and then identifies at least our view of the types of resources that we need to add. And I’m going to get into some very specifics on those for the upcoming coal plants.

So, we lay this out, we discuss it, we price it. So, you can see the next category is our capacity, which is obviously different than energy, and how we’re going to meet the obligations of keeping a reliable grid for the City of Los Angeles and those resources. It’s very clearly showing the exit out of Navajo and the exit out of IPP coal.

We ran this year I think almost close to 20 different models and scenarios based on input from stakeholders and the community. And the recommended case that did come out was a divestiture of Navajo by 2015 and a divestiture of Intermountain Power Project by 2027. I will go into, again, some details there.

And then it lays out what that does to our overall CO2 emissions and then the increase in energy efficiency, and how that assists us in meeting our obligations, our removal of -- or elimination of once-through cooling at our power plants and increase in RPS, and then the cost, clearly outlining the cost to our ratepayers because in the end they’re the ones that have to pay for this. We have to really bring them along in
the process of understanding what they’re getting for those costs and the environmental improvements that come to the Los Angeles area and Southern California.

So, LADWP is in confidential, exclusive negotiations to divest of Navajo Generating Station by 2015. We do plan on shortly having a signed term sheet on that divestiture. This is four years ahead of the date required by SB 1368.

These plans of the divestiture have been quite public and they were discussed both in our 2011 and our 2012 Integrated Resource Planning proceedings.

Last Friday, a public presentation on the specific action items was presented to our Board of Commissioners in a public meeting and that is also available.

So LADWP, to replace Navajo Generating Station, issued late last year and RFP for replacement resources, natural gas, combined cycle, combustion turbines.

We also did approve two very large solar transactions for 460 megawatts of large-scale solar as part of our replacement strategy.

We’ve now formally approved 100 megawatts of local feed-in tariff in the City of Los Angeles as part of our replacement strategy.

We’ve had a substantial increase in our energy
efficiency spending, also part of the strategy for the replacement of the Navajo Generating Station.

As it stands, everything is on track to have resources that will be fully built out, and in place, and ready to deliver as we exist ourselves by 2015, the end of 2015, off of Navajo Generating Station.

We do not see any action that would prevent us or keep us from proceeding with the divestiture.

For Intermountain Power Project which is, as we’ve discussed before in this forum, it’s a power purchase agreement. It terminates in 2027. It’s not an ownership. We do not carry, or any of the -- LADWP nor California participants carry an ownership role there, nor do we have a lot of the direct control over some of the investments and expenditures in that facility.

That being said, the owners are Utah Utilities. They’re not subject to SB 1368, but they have clearly recognized the benefits of having a diverse participant mix in a future project at Intermountain Power project or in Southern Utah.

They have recognized that there have been benefits from the Southern California participants by adding projects, such as the Milford Wind Projects 1 and 2. That’s almost 300 megawatts there of wind. And the Southwest Wyoming Wind Project, which is almost another
100 megawatts of wind coming through the Intermountain Power Plants.

So, LADWP has moved forward, we’ve identified a complex eight-step process to transition IPP to an SB 1368-deemed compliant baseload plant into the future. The first step was to amend the Utah State law that allowed -- that would allow non-coal generation at IPP. That has been completed.

The second step was to amend the Intermountain Power Agency Organization Agreement. This step has also been completed and ratified by the IPA board. Currently, the individual Utah municipal owners are working on ratifying the amended agreements. Approximately five of those owners have currently done so. The rest are working on it.

The next step will be to amend the existing power sales contracts. This step will be the first step for the California POU participants to engage. That, we expect to happen very soon.

This is part of a lengthy process to get us out of a contractual obligation, potentially earlier, but to transform a facility in which a number of participants have invested billions of dollars over the years.

We think it’s a very valuable asset for the Southern California participants and the Utah
participants. We think there is a need to continue having something there operating that would support additional renewables that could be delivered into Southern California, and so the parties are working on that process today.

So, we think it’s all positive steps, but we do not believe, at least in the SB 1368, at least for additional reporting obligations that, really, IPP has much that we could do or would do because we just don’t see that the CEC in that venue, because LADWP Board, as stated, really doesn’t make specific decisions associated with investments to keep that plant operating.

One additional thing that I’ll raise, in the reporting and some of the suggestions by the petitioners, was for these facilities, as we transform these facilities there are lots of investments going on really associated with transforming them into more renewable type assets or assets that would complement, or be able to allow us to integrate in more renewables, such as the interconnections.

The transmission lines associated with Navajo belong to the Navajo agreement and the Navajo participants. They don’t belong to LADWP. In the divestiture, it’s our objective to retain some of those
transmission assets, and separate them, and use them for renewable purposes, but that takes working of all the participants.

And the same thing in Utah; there are investments being made that allow for additional renewables to be built and brought from the Utah or that area into Southern California. And those investments have nothing to do with extending the life of coal, but are strictly for the purposes of increasing renewables and our access to renewables at the least cost for the ratepayers in California.

So with that, I’ll stop.

MS. GRANT: Yeah, before we go on, is there anybody either here or on the line representing NCPA? Okay, so you’re the -- is there somebody else? Okay.

MS. BERLIN: NCPA does not have an ownership interest in any non-EPS compliant facilities under the current EPS level. But Scott Tomashefsky is also participating via the webcast.

MS. GRANT: Okay, perfect.

MR. HOWARD: Steve Homer for SCPPA. SCPPA is involved in confidential discussions and negotiations to develop an alternate plan to the Federal Implementation Plan for San Juan. I wish I could tell you more but, basically, we’re under orders from the EPA to spend
possibly a billion dollars on SCR technology.

No one in this room wants us to do that. None of the owners of the plant want to do that. We’re feverishly working with the State of New Mexico and the EPA to come up with an alternative plan that makes everyone happy, that will meet the BART goals, and regional HAZE issues.

We’re very close to that, we think. It will also allow the California entities to exit the project and have no coal anymore. That’s our goal, we’re getting closer and we just need a little more time to accomplish that. Thank you.

MR. HOPPER: I’ll take this one, as yours seems to take a lot of feedback, Suzie. Martin Hopper here.

You know, kind of to amplify what Steve indicated that there are these discussions ongoing, and I know we’ve -- we, being the MSR, SCPPA and Anaheim have met with the Sierra Club and NRDC folks a couple of times and shared with them what we can share. They’ve proffered some good ideas for moving the process forward.

And, you know, looking at time lines and information that we cannot yet share, unfortunately, but I do want to report and reiterate what Steve says, there’s been some very good and substantial progress.
there.

But I think what’s most important for this room is not so much the specifics of the settlement pending among the New Mexico Environmental Department, the Public Service Company of New Mexico, and the Environmental Protection Agency, as interesting as it is, what is key to that is it’s providing the prerequisite, the circumstance by which we, Californians, can get out of San Juan, we can divest our interest and see actual megawatts shut down there, go cold, and stop contributing CO2 emissions.

But one of the things I think I want to touch on is that the spirit of SB 1368, if we look at the preamble, we look at the legislative analysis back when it was enacted, back in 2006, and part and almost a subtitle, if you will, was the economic protection of our ratepayers.

And one of the things I’m going to say here is that the decision of us to get out, to make these proceedings moot is really -- it’s good economics, it’s self-executing.

The time is right. We have a duty to our ratepayers to provide the cleanest power at the best price, and the best price is what’s leading us out of the San Juan Project.
We look at the economics there, it’s where does it sit vis-à-vis comparable baseload resources because that’s what 1368 is about is baseload resources. And we start to do the economic analysis.

And the economic analysis has told MSR and is members, regardless of the cost of carbon, whether it’s price at zero dollars or $50 a ton, the right decision is to get out of San Juan and we’re going down that path.

And I think what’s also important to note here is that if we are successful in these discussions, and I have a very high degree of confidence that we will, that we’re going to be out of San Juan in less than five years, 12/31 of ’17.

And I think that’s important for two reasons. A, it’s a date certain and we’re all looking for a date certain.

And B, it’s less than five years out and I think that gives us some of the -- again, with the spirit of SB 1368 it talks about that five-year horizon. That’s a very magic number. And if we can be out less than five years from now, I think that really puts us in a good position as to what the statute was intended to do.

The statute has worked, we’re on our way out.

MS. BERLIN: This is Susie Berlin. I’d just add
one more thing for those that might not be aware of it, the discussions that are ongoing with multiple parties are subject to confidentiality agreements, so that’s why further details are not being shared at this time. We’re simply unable to do so because we’re restricted in what we can share publicly.

MR. PEDERSEN: We can, however, share information that has been released in a public notice or press release. And something that we did append, I think MSR appended as well to their comments, was the most recent press release from PNM.

PNM, like us, can’t talk about what is actually being discussed with EPA because that is subject to a confidentiality agreement. But they can tell what they’re doing and body language can say more than anything sometimes.

And what they have said, as of the press release on January 18th, is that they are suspending the work of its engineering -- of PNM’s engineering and construction contractor on the SCRs that were mandated by the FIP.

And furthermore, the Public Service Company of New Mexico has, in their terms, put on hold their plan to request that the New Mexico Public Regulatory Commission approve the SCR project. They’re putting the approval process on hold.
So that body language, which they can report on,

I think gives you a sense with how things are moving

with the negotiations regarding San Juan.

MR. HOPPER: And I think Norm, just to echo

that, one of the things I have in my hand here and we

didn’t file this in the proceeding, these are the

filings that were made with the U.S. Court of Appeals,

for the 10th Circuit, on the 25th by all of the parties

in the San Juan litigation.

And I was carefully reading these last night so

I could temper my remarks to what was in the public

domain. I don’t want to be the one who lets the cat out

of the bag on something I’m not supposed to.

But again, when you look at documents like this

it’s very interesting because everybody has their

slightly different spin on what’s going on.

But I think the important take home here is this

sense of optimism that we’re on the cusp of getting this

done.

And I never want to speculate, I never want to

put a set of odds on it, but I think it is fair to say

that there’s a lot of brain power, a lot of ingenuity, a

lot of prodding going on, I’m pointing to Matt and Noah,

to get this done. And I think that is huge, speaking

for MSR.
And then we hear Randy talking about the positive steps they’re taking.

So, again, I’m going to come back to my home point, which I’ve made about four, or five, or six times now, the statute is working.

MS. GRANT: Okay. James, did you want to add anything now?

MR. LAU: No.

MS. GRANT: Okay. Thank you that.

MR. LONG: Can I just ask a quick question.

MS. GRANT: Do you want to respond? Sure.

MR. LONG: Sorry, not a response, but just a question to Randy, if that’s all right.

Randy, you mentioned an eight-step process for IPP. And as I was jotting notes, I think I caught through the first four. You said, changing the law in Utah, amending the IPP agreement, then owners amending their own agreements, and then changing the power sales contract.

Can you disclose the next four steps to us or not?

MR. HOWARD: No, at this point we’re preparing to work on three, which would be amending the power sales agreements. And depending on how that goes, then we’ll have a better indication of steps four, five, six,
seven and eight.

But we’ve kind of laid out a long-term plan to get us there.

Similar to the Navajo Generating Station, as I indicated, we’ve had a large number of steps to get to ensure -- or to ensure that we can supply reliable energy in the City of Los Angeles. And so that’s a number of procurements that have had to go in parallel to the proposed divestiture.

That is not different at IPP, as well, as we look at what will be the future size or interest of the parties. There’s a lot of work to be done there and there’s a lot of work on replacement.

As most people recognize that have been involved with a large power plant, I mean if you just think of what you go through here at the CEC and that process, it’s really about a ten-year process.

And so when we’re talking about replacing a resource this large, so many members, so complex, there’s a lot of parts to how you’re going to replace that and how you’re going to do it without just shutting off and then starting. You know, you kind of have to do this in tandem.

So, many of those steps are more involved with that part and working with the actual owners of that.
So, at this point we’re not prepared to discuss the specific elements, but we believe we’re at step three in what will be a very lengthy, challenging process.

But I think what we’re using is Navajo is kind of the guiding process that we think could be duplicated if it works out.

MR. LONG: Okay.

MS. GRANT: Okay, are there any other questions or comments, either here in the room or over the phone?

MR. PEDERSEN: Probably just one last point.

MS. GRANT: Okay.

MR. PEDERSEN: And I think this stands certainly for MSR, it’s certainly true of SCPPA and Anaheim. As public information becomes available, we’re going to convey it to you, through your staff, just as soon as it becomes available to us.

So, when something comes out, you’ll be the first to know.

MR. LONG: I hope we’ll be the second to know.

(Laughter)

CHAIRPERSON WEISENMILLER: I thought you were in the settlement documents so you’re before us.

MR. LONG: We know some, we don’t know everything.

MS. GRANT: We’re going to unmute the phones.
If you don’t have any questions, if you can mute yourself.

Okay, sounds like nobody has any questions.

Thank you.

Okay, great, so we’ve gotten through. Hello?

(Technical issues with microphones)

MS. GRANT: Okay, hopefully, that’s stopped.

Hello? Great. I feel like I’m mocking myself.

(Laughter)

MS. GRANT: Okay, hold on one second. Okay.

We’re going to take a break and James is going to come and fix this, if it’s fixable. So, we’ll go offline for a couple of minutes and we’ll be back without feedback.

(Off the record at 1:55 p.m.)

(Reconvene at 2:01 p.m.)

MS. GRANT: No more echoing. Okay, so we’re marching through. We’ve completed the status updates. Thank you for that.

We’ll now get into hearing comments on the possible filing or notification filings that were laid out in the workshop notice.

What we’re going to do is we’re going to walk through each of the options separately. We’re briefly have the parties go through and make comments on each option one by one.
And then we have a few, additional questions after that regarding some of the details in the options.

We understand, again, you guys did a great job briefing this in responses so, you know, keep it to the points that you really want to reiterate and make sure that we’re focused on, and any points that were not mentioned.

We also understand there might be quite a few duplicative arguments and feel free to repeat, but understand that we have those arguments on the record, so there’s no need to go into detail on them again.

So, let’s go ahead and start with option one, the POUs providing a URL and the Energy Commission posts any investments in non-EPS compliant investments no later than three days in advance.

This option does not require posting of backup material and there would be no Energy Commission list serve.

So, let’s go ahead and have each of the parties respond to that. And we’ll change it around and maybe start and go this way.

MR. VESPA: Noah, why don’t you start.

MR. LONG: Well, our comments --

MS. GRANT: Oh, I’m sorry.

MR. LONG: Sure.
MS. GRANT: Before I forget, Blake reminded me, if you all can just -- and myself, this is Sekita Grant speaking. If we can all remember to say our names before we begin talking, that would be great for the people on the phone.

MR. LONG: I’m Noah Long from NRDC. Thanks for the reminder. I’m terrible at remembering to do that.

I guess if I can just say one thing that I think, before getting into the specifics of option one, that I think that will be useful for the entire conversation, and Matt alluded to this earlier, but I think that there was a fair amount of discussion about the breadth of any of these reporting requirements. And I think it would be useful if we all, even if we have some disagreements about the specifics of these reporting requirements, agree in advance that the intent of each of these options was limited to a very small number of facilities, and likely a small number of investments at those facilities.

You know, we certainly are not interested in requiring additional reporting on the headquarters of SCPPA, on transmission lines, on peaker plants that are not within the scope of the already defined noncompliant and non-deemed compliant, so those gas plants built before 2007, for example, facilities.
So we really are, as far as we know, talking about three coal plants. If there are other facilities that people think fit into that narrower scope, we’d love to hear about it. But as far as we know, that’s the limit of it.

So, I think, you know, that hopefully can narrow our conversation and some of the concerns about reporting from all the POU’s that we, frankly, would agree with.

MS. JONES: And this is Melissa Jones. I’d just like to clarify that, yes, in terms of the options we were only thinking of it being applied to noncompliant facilities.

CHAIRPERSON WEISENMILLER: Just to either complicate or clarify things a little bit more, as we go forward, let’s say if a deal was cut on San Juan would that basically get rid of your concerns on that specific of the three?

MR. LONG: Yeah, I think if there was an enforceable agreement in place, unless there was some change that meant there was a new investment plan in that facility that I think some of the options, I think option three is a good example, could potentially cover, we wouldn’t need ongoing reporting beyond -- beyond once that agreement was in place.
At least, and Matt feel free to chime in, my sense is once we know the clear investment and end-of-investment trajectory for a facility, we don’t need an extensive annual reporting saying the same as last year. That’s not interesting to us and I think we’re fine without it.

You know, to the extent that something were to pop up and SCPPA said, actually, oh, no, we do have to invest in San Juan, then I think that would be triggered in the next year’s annual report or potentially in the meeting reports, depending on the options.

Yeah, is that useful?

CHAIRPERSON WEISENMILLER: Yes.

MR. VESPA: And I just want to reserve, just wait and see what the agreement actually provides. My understanding --

MS. GRANT: What is your name?

MR. VESPA: Oh, Matt Vespa from Sierra Club.

You know, if -- as Martin sketched out, you know, this is really shutting down a boiler, you know, it’s not transferring it and so on, I mean, I think that would give us the assurance that there’s no more need to discuss this, but we’ll have to see what actually comes out of it.

MR. LONG: But I think the general question,
without getting into the specifics of each unit is could
something be phased out once we know that no further
investments are going to happen in that facility, and
certainly no more triggering the EPS, and I think the
answer is yes.

So, as to option one just -- I don’t know that
we need to go into too much details. I think I can
maybe, again if I can, make a sort of general statement
about the options here.

Options one and two, as between options one and
two we prefer two. Both are about, you know, pre-notice
for imminent decisions by boards and, you know, they
differ in terms of the amount of the detail, the content
and how that information is distributed.

We prefer option two because it provides more
detail, is more clearly and easily distributed and,
therefore, more accessible and more amenable to a public
classification.

Options three and four, which I won’t get into
now, are really about more cumulative reporting so we
get a sense of the full activities.

And our preference was to combine one of those
first two options with one of the latter two options so
that you get a perspective sense of where the utility is
going, and then you get any -- either, you know, changes
or you get a sense of the imminent decisions that are
going to affect that trajectory along the course of the
year.

So, as between option one and two, Matt, do you
have any more to add as to why we prefer option two?

MR. VESPA: I mean, I think the whole purpose of
at least one and two is to give interested parties, you
know, a heads up that something’s going to be
deliberated, and to give them enough information to know
whether it’s important to show up and protest.

And I think option one, as it’s currently
designed, doesn’t fulfill that because you’re not
providing any background material. Agendas, under the
Brown Act, can be quite sparse in detail and so, you
know, you may be wasting people’s time in creating these
sort of fires that don’t need to be there if you
provided a little more backup. So, I think that’s why
two was preferable.

I also think some sort of instantaneous service
list notification, which might just be, you know, Sierra
Club and NRDC, not a big service list, is important
because the Brown Act is only 72 hours’ notice.

I think it might have been LAWDP asked for sort
of a carve-out for emergencies, which are only 24 hours,
which if that’s the case, fine. So, you want to make
sure people know right away and I think the service list option takes the onus out of the Commission to immediately have to let people know.

So, you know, I think it’s basically cc’ing a couple of extra people and I don’t think it’s really all that much of a burden to fulfill really what is going to be happening.

So, if one or two is adopted, I mean, I think adding that in would be helpful in either case.

MS. JONES: This is Melissa Jones. Can I ask a question; when you talk about backup material could you describe that in a little more detail because I think there’s some concerns that you’re requiring extensive information to be produced for the purpose of this.

MR. VESPA: Well, I think option two, which is the 2908 public notice, gives some requirements about what you have to do in certain contexts. So, if you look at that provision, I think if it’s a new contract, you have to show a certain thing, if it’s a new type of investment, you have to provide other background.

So, if you’re going with option two and just adding to 2908, I mean, it’s just adding in those provisions that already exist.

Did you have any other thoughts on that?

MS. BERLIN: Excuse me, this is Susie Berlin.
Matt, can you clarify what you just meant by that? I’d like to expand upon Melissa Jones’ inquiry because this is where there’s the fundamental disconnect, or misunderstanding, or confusion on my part, because 2908 applies to covered procurements.

MR. VESPA: Uh-hum, right.

MS. BERLIN: So, when you have a determination as a covered procurement there’s a certain -- it’s a covered procurement.

So, now, if you’re talking about things that aren’t covered procurements, you know, you could be talking about replacing a toilet seat. So, I mean, what do you mean by backup materials and how would that backup material meet that desire for information above and beyond what applies to covered procurements?

MR. VESPA: Well, let’s take a step back for the toilet seat scenario, which we -- you know, let’s keep it real here for a second.

So, we are talking about, in our proposal, adding to the notice requirement major investments, which we defined as investments above $250,000. So, hopefully, the toilet seat isn’t costing that much.

MR. LONG: If there is, it’s probably a problem.

MR. VESPA: You know, I think we’d all want to know. You know, and/or investments to meet
environmental or other regulatory requirements.

So, we’re talking about significant monetary investments in a noncompliant facility, you know, and some of these issues around SCR, for example, which might be pursuant to some kind of mandate.

And understanding, you know, when those deliberations are going to take place on those types of investments.

MR. LONG: So, Susie just asked --

CHAIRPERSON WEISENMILLER: Let me just ask a follow-up for a second. So, we’re really talking three specific units or plants, and I’m assuming that what you’re mostly concerned about although, obviously, I’m not trying to tie you down, is these pending air quality investments, as opposed to any number of other types of investments that might occur?

MR. LONG: Yeah, I think that’s mostly --

CHAIRPERSON WEISENMILLER: Is that fair?

MR. LONG: Yeah, that’s mostly true. Obviously, the -- sorry, Noah Long, from NRDC. Thanks, Chair Weisenmiller.

Of course, you know, everybody has said here, and we really appreciate there’s clear intent to exit these facilities over time and we really hope that that, you know, is the continued intent over the next years.
But, of course, the statute and the regulations do cover other things, like capacity additions or thing of that nature that we would also be concerned about.

And I would just add, you used the words “air quality” and not to be nitpicky but, you know, for example the coal ash rule is not necessarily an air quality regulation, but also it applied.

MR. HOPPER: This is Martin Hopper with MSR. And I’m going to wear kind of my plant operator hat. It’s one I haven’t worn for a long time, but it was kind of ringing out here when I hear the word “regulatory requirements.”

Regulatory requirements could mean anything from as is -- well, helping trigger our exit from the San Juan Project, or a requirement or potential requirement to install a billion dollars’ worth of SCRs -- and transcriptionist that was “billion” with a “b”. Or it could be OSHA coming in and saying they want toe boards installed on a thousand feet of catwalk. I don’t think we’re trying to capture putting toe boards on a thousand feet of catwalk.

So, if one went down this kind of a path, and we’re not advocating that one does, that to avoid a morass there’s going to need to be some very, very specific definition of what we mean here.
And then I’m going to put my rhetorical hat back on, my manager hat back on and say, look, we’re on our way out, who cares? We’re going to spend as little as we can, we’re going to be in a harvest mode until we’re gone.

MR. VESPA: In terms of the burden, one thing I’m -- one thing we found in a lot of the filings was a lot of these more routine types of low-cost expenditures don’t actually make it to the governing board for approval.

So, you know, how much, if we defined as regulatory requirements, even broadly, without putting a price cap or anything else, realistically, how much of this is already getting to the board for approval, in which case they would have to be sort of cc’d to the Commission and so on.

It seemed to me that most often they’re not getting to that level for approval.

So, I’m just kind of curious, you know, how you’re seeing this as being extra burdensome given what appear to be the limited amount of review for individual expenditures like that, the actual governing board has --

MR. LONG: And just to put, you know, a finer point on that, I can’t imagine a toilet seat replacement...
or something along those lines ever making it to any of
the governing boards, so I think that would make it
pretty clearly excluded.

And I think the definitions, as we’ve defined
them here in our 2908 recommendation, knows it even
further.

MR. HOPPER: Well, I -- Martin Hopper with MSR
here. I was going to point that I think as a totality,
and I’m going to use MSR as the example on it, and I’m
sure we’ve touched on it in one of our myriad filings,
but our plant budget as a whole goes to the board.

And when I look at the term of the regulation
and what MSR has done, and we’ve filed about this, is
that we have taken every capital expenditure since this
regulation went into effect to our board and made a
formal determination.

And, really, what that’s extended to is
everything that has flowed through or can flow through a
utility accounting point of view through account 107,
construction work in progress.

Anything that touches that account we have taken
to our board.

Others have only taken major, major things. But
that’s what we’ve done out of an abundance of caution.
and we may be throwing our brethren to the bus or under
the bus, but that’s the criterion we have applied.

And the reason I’m bringing this up is to say that this decision as to whether or not things have been taking to the board has, in all the filings, been carefully delineated processes at each of us. And what we have done is applied what we feel is the best faith way to demonstrate compliance with the statute.

MR. VESPA: Can I ask some follow ups?

MR. HOPPER: Sure.

MR. VESPA: So, you’re taking it to the board, it’s going on the agenda.

MR. HOPPER: Yeah.

MR. VESPA: Would the budget actually be part of the -- it’s the budget would not be part of the filing, it would just be agendized as reviewed.

So, what I’m wondering is could the provision of materials just be what you’re already taking to the board for approval and just leave it at that?

So, let’s say the budget doesn’t get posted, but that would be something that CEC might get.

So, it’s just a matter of looping people in to what’s already taking place to relieve a burden of additional work product or additional explanation, or something like that.

MR. HOPPER: I was going to say if that is your
intent, and I’m not sure that comes from the written
document, but I think that we would need some very
careful definition here to make sure that’s what we
accomplish.

MS. JONES: So --

MS. BERLIN: And this is --

MS. JONES: Oh, sorry. Melissa Jones. So, in
the current regulation we have delineated five elements
that would have to be reported and it was information
that would go to the board associated with the agenda
item, so that’s already in the current regulations, and
that’s pretty well defined.

MS. BERLIN: Excuse me, are you talking about
that 2908 requirement for covered procurements?

MS. JONES: Yes.

MS. BERLIN: So, this is Susie Berlin. So, two
questions directly on Melissa’s point is your proposal
then that the 2908 would be for all investments or
procurements, whatever we’re calling them? I mean,
because it -- I have serious concerns with the
definitional aspects of this.

MR. HOPPER: Uh-hum.

MS. BERLIN: And the regulation is entirely
drafted around reporting and addressing covered
procurements and we’re going beyond that, so that’s a
big concern. It doesn’t lend itself to just inserting, I believe, provisions here and there because the provisions are carefully drafted around addressing covered procurements, so that’s one thing that we need to keep in mind when we’re having this discussion.

And the other thing is for purposes of revising a regulation, we have to have language that articulates exactly what it is that we intend to do and exactly what’s required.

And to that end I believe major -- and reiterating our filings, and we’re not the only one, but major investments and investments to meet environmental and regulatory compliance need to be defined. I don’t think they’re self-defining. Perhaps a dollar amount on major, although I’m not certain that actually works in the context of some projects because it really depends on the context in which these investments are being done and, again, if they’re covered procurements or not.

So, especially with regard to the latter, though, the environmental and regulatory compliance, I don’t think that that’s self-explanatory. I do believe that it can go a number of different ways. And I do believe that it is going to be -- and now I’m touching on option two, rather than option one, but they’re interrelated in this discussion --
MR. VESPA: Yeah.

MS. BERLIN: -- that we can’t have a definition, we can’t have a provision that talks about those two terms without talking about a detailed definition of what those terms mean.

MR. VESPA: Okay, well, just slow down. The filings you’re giving, is this an annual type of filing or is it mostly every type of meeting? You know, there’s some expense with San Juan that you’re line-iteming for the board to approve.

MR. HOPPER: Well, I was going to say, as you’ve noted from our filings that we have had, and in the case of MSR we’ve had -- I’ll call it a large cluster of determinations that we make at the time of the annual budget and then there are emergent projects that occur over the course of the year.

And those could range from projects for which the operating agent did not sufficiently justify at time of budget adoption to things that broke during the course of the year, or things that for ratemaking purposes the operating agent determines is appropriate to capitalize rather than to carry as an operating expense.

But what I want to circle back to and I think this fits with the points that both my counsel and Ms.
Jones made, is that for covered procurements there is a very detailed step of areas that have to be touched upon and reported.

And the processes that MSR uses are because these are not covered procurements, and documenting that they’re not covered procurements are simpler. And what we don’t want to do is to take that formal reporting, as we would do under 08, and apply that to everything. That really just doesn’t make sense to me as somebody who has to manage the flow of work, never mind the legal precedent or statute here that is just not what we believe was intended.

MR. VESPA: You know, I think the concern we’re trying to address of what is or is not covered can be somewhat subjective and having this extra layer of public and CEC review of determinations about the investments in a facility and that’s it, so it’s just all reported.

It seems to me -- and I understand not wanting to have -- you know, jumping through a bunch of hoops and creating more requirements.

But it seems to me that if you were to cc or send the CEC and interested parties the materials you’re giving already to your board for approval, this will be what’s on the agenda and also the documents, presumably,
you’ve already prepared for the board to review in approving those expenditures, you know, you’re basically kind of just expanding the amount of viewers to some of this information. You know, that, I think, would satisfy our purposes.

You know, it’s just getting at the question of additional scrutiny of whether something might be covered or not to people that might be interested in those types of decisions.

MS. GRANT: I’m going to jump in at this point. I think that’s a very good, useful discussion for the record.

What I want to do, so we keep it moving, is I’m going to go around and we’ll combine the option one and two discussion at one time and then we’ll go through and do the options three and four discussion.

So, if you guys have anything -- do you have anything more to say on option two and then we’ll move on to the other parties.

MR. LONG: Just before -- oh, so you’re combining one and two to see if anybody else --

MS. GRANT: Yeah.

MR. LONG: No, I think at this time we’re fine on one and two, unless we have something to respond to from SCCPA or DWP.
MR. PEDERSEN: Yeah, we do have a comment but I --

MR. VESPA: And, you know, I understand the concerns that are getting raised and I think there’s a way to craft this in a way that meets everybody’s needs without creating additional, you know, generation of newer product and so on.

MS. GRANT: Okay, so we’ll go around. Norm, would you like to start.

MR. PEDERSEN: Sure, that would be great.

MS. GRANT: Options one and two.

MR. PEDERSEN: That would be great, Sekita.

First of all, we had some conversation about the breadth of the options as currently drafted. We, in our comment, raised our concerns about the overly-broad drafting. If we were to pursue either option one or option two, we’d certainly what to make sure that they are narrowly crafted to reach just exactly what Melissa was talking about.

We understand the intent. Our only concern was as drafted they would appear to reach beyond the intent of the Commission.

Now, I just said if they were to be adopted.

Something I do want to underscore is, in SCPPA’s view, and I think this was highlighted by Randy’s
comments, they were highlighted by Martin’s comments, by James as well, you have a regulation that’s working. You really don’t need to go beyond the construct that you have, and it isn’t just 2908, it’s 2909, 2910, 2911. You look at the whole of the regulation, and the requirements, and the interworking parts of the regulation and you have a comprehensive scheme that is effective and it has been effective.

So, we really don’t think you need to have any broadening of the requirements that are currently in the regulation.

But if you were to consider going ahead, first, as I just mentioned, with options one and two you’d want to narrow them, in our view.

With regard to option one, that doesn’t involve the backup material as you’ve framed it. You would ask us for a URL link. And in our view, if you were to adopt option one what it would probably apply to would be just exactly what Martin was talking about, the board meetings at which -- for example, the SCPPA board or the governing board at Anaheim would consider the annual budget for San Juan. That’s the time at which the investments foreseen for the year are all going to be considered by the board.

As far as option two is concerned, we don’t
think you need to have any further definition of what you mean by actions to -- pursuant to an environmental regulation or regarding major investments. Defining major investments, from our standpoint, is particularly difficult because major is a relative term. And at some point you have to leave it to the regulated entity to make some determinations about what, for them, is major or minor.

Frankly, we had some mention at one point in this procedure of $50,000, another mention in the January 22nd comments from NRDC and Sierra Club of $250,000.

Certainly, at my house those are major investments, but at San Juan those aren’t. It really is a relative term. And so I think you have to leave the reporting entity some discretion to determine what is major.

Again, if you narrowly define the scope of the reporting requirement that you propose in option two, and you left discretion with the reporting entity to determine, for example, what is a major investment, you know, we believe we could probably live with option two.

But we’re not encouraging it. We do think you have a regulation that has worked, has worked well, and so our fundamental plea with you is with regard to...
option one and option two, stick with the regulation as you have it.

MS. GRANT: All right, thank you. James?

Nothing. Suzie?

MS. BERLIN: I have an -- this might be more to question three or four.

But, Matt, you’ve mentioned a couple of times have an opportunity for the public and the Commission to review and create a dialogue. What is the role, because this isn’t articulated anywhere in any of the filings, what’s the role of the CEC once you’ve submitted this report or this filing, and what kind of time line are you envisioning?

What is the process? What will this document -- what will be done with this document?

MR. LONG: This is Noah Long for NRDC. If I may, I think that my sense of that question is it’s more pertinent to options three and four, since you’re talking about a particular document laying out investment plans.

But to the extent that it applies to one and two, I think the answer would be that it would depend on the content of the filing, depend on the information about the particular investment.

I think, obviously, the staff would be free to
review that information and then they would be in a position to make a determination if any further action were required or not.

To the extent that no further actions were required because the investments were clearly allowed under the statute, then no further action would be needed by the Commission.

If a stakeholder disagreed with that, we would obviously be free to take that up with the Commission and the information would be available.

I don’t think that there’s any predetermined activity by either the Commission staff, the Commissioners or stakeholders. I think the idea is to create clear public information about the ongoing investments and decisions at these facilities so that to the extent there are actions required, or considered by the agency then they can be taken.

Does that answer your question?

MS. BERLIN: This is Susie Berlin. It does to a certain extent, but then it begs different questions. My fundamental concern here is that you’re asking for something to be submitted and my question then, and I don’t -- to the Commission or to, you know, the parties that want this, what are you doing with that information other than filling a file drawer? And that’s my
question. And are you in fact anticipating or
advocating for a review and approval process from the
Commission prior to a POU expenditure?

MR. VESPA: You know, I think it’s going to
depend. I mean, you know, one concern that we have is
getting notice 72 hours in advance of approval isn’t
really helping everyone because it’s sort of a bit of a
done deal at that point and --

MR. LONG: If I can just in, by itself.

MR. VESPA: By itself.

MR. LONG: I mean, that’s why we’ve advocated
for a combination of option two and three.

MR. VESPA: By itself, right. And so, you know,
the point is to give everyone some notice to kind of
deal with these things prospectively before commitments
are made, before negotiations take place, before
expectations are built, not just with the POU but,
potentially, out-of-state actors that might also be
contributing to this type of investment, as we’ve seen
in San Juan.

And it just seems to be in everyone’s interest
to look at this prospectively and flag potential issues,
you know, before you get to this point of no return or
before it becomes just more difficult to explicate
yourself.
And, you know, maybe there’s a filing where we see some kind of major investment planned for an environmental upgrade that would extend the legal life of the facility for five years, and we notice that and we give you a call and say, hey, we’ve got some concerns. You know, so it’s out there. You know, not 72 hours before it’s getting approved, but in advance.

And I think it’s in everyone’s interest to, you know, flag potential issues sooner, rather than later.

MS. JONES: And this is Melissa Jones. To clarify, when staff developed these options we were looking at it as a notification role, so we would be providing URL and backup information as already required in the regulations.

Of course, staff always has the option, if they see something, to initiate an investigation. But we don’t see the Commission in an approval mode at all. It’s not being submitted to us for approval. It’s being submitted to us so that we can put notices out to other parties.

MS. BERLIN: This is Susie. Thank you, Melissa. I appreciate the clarification on that.

MS. GRANT: Susie, did you have any more comments for options one and two, just the questions?

MS. BERLIN: Not that we haven’t already
articulated in our comments or have been encompassed in this discussion.

MS. GRANT: Okay.

MS. BERLIN: Thank you.

MR. HOPPER: Actually, there was one thing I was going to pile on here from just something that Matt had said, and this really comes more in options three and four, but I think it raised in option two, is that there seems to be a change or an approach at redefining what life means.

And if you could, I don’t know what you mean by the legal operating life; what are you driving at?

MR. LONG: This is Noah. I, maybe, can respond to that. You’ve seen in our comments we requested this change. We’ve requested versions of this change in our previous comments before and I don’t think that that request is pertinent to options one, two, frankly, or three and four.

It’s more a reiteration that our view is that that clarity would be an additional and very useful change to the existing regulations.

It’s not, frankly, directly related to the notice requirement.

MS. GRANT: We have a couple of follow-up questions after we go through the options that get a
little bit -- drill a little bit more down into some of
the language that we’re suggested, so we’ll get into
that in a little bit.

Randy?

MR. HOWARD: So, Randy Howard, LADWP. I think I
want to reiterate Norm’s comments. It is LADWP’s
opinion that neither one or two are necessary. That,
again, the existing and current requirements are
working.

I think in option one we did provide the
comments, you know, any investment is really unworkable
and I’m glad to hear that there’s a little more
definition coming around what investment might mean, if
that were to be selected at all, even though we wouldn’t
be very supportive.

There is some concerns, too, when it states
public meeting of a POU where deliberations are
occurring, you know, a POU’s set up very differently
than IOUs, almost anything and everything we do becomes
quite public, and a lot of deliberations occur.

And, personally, I could look back at my
calendar, I was in approximately 30 meetings related --
public meetings related to the Integrated Resource
Planning activities where deliberations took place of
both DWP management and the public, and other
stakeholders as to different cases that could be run
related to exits of coal and noncompliant facilities.

We had over 40 meetings, community and public
meetings where deliberations took place related to rate
activity and the cost of exiting those resources.

It would just be an enormous task for us to
somehow look at those and say those are deliberations as
to options one and two, because they’re both spelled out
that public meetings of a POU where there’s
deliberations being made.

So, I think what you’re looking for is more, if
you were, it would be where there’s a governing
authority approval taking place, would be more
clarification that would be necessary.

MS. JONES: Randy, can I ask you a question?
Melissa Jones.

MR. HOWARD: Sure.

MS. JONES: In terms of the board meetings would
you, like MSR, have a time when an annual budget is
adopted?

MR. HOWARD: We do and I think we’ve had that
discussion before, because for our purposes, let’s say,
the Intermountain Power Project, the board takes up an
annual budget in which they estimate the expenditures
over a given year related to what was reported to our
board for its budget.

That’s very similar for Navajo Generating Station and there are deliberations on that specific budget.

MS. JONES: Thank you.

MR. HOWARD: But, again, there’s not a lot of clarity here as to what some of these terms mean. That’s very fearful -- I’m not an attorney, but I would have a difficult time telling my staff on how we would be compliant for any of these reporting requirements.

On option two, when we start discussing environmental and regulatory requirements, generating facilities have a multitude of requirements there, involving not just air quality and greenhouse gas emissions, but CEQA and NEPA, toxic and hazardous substances, water, waste water, industrial hygiene, worker safety, not to mention FERC regulations, NERC regulations, WECC regulations and requirements that are associated with the continued safe and reliable operation of the facilities.

I can’t see any measure by which we would provide advanced notice or some notification on many of these issues as to expenditures that need to be made for compliance. You know, again, I don’t think, from what I’m hearing today, that’s not your intent. Your intent
is looking at major. Again, what is major? That just
scares us because there’s no formal definition as to
minor versus major.

Most of these regulations have nothing to do
with an expenditure that’s designed and intended to
extend the life of the plant.

They are there for the purposes of ongoing
operations and the needs to protect the employees, the
public, and the reliability of the grid. They’re not
there to extend the plant.

So, putting a blanket statement, we would find
would just not be acceptable or workable, at least from
our perspective. And I’ll reiterate, we’re in an exit
plan. We’re not in a plan to retain these assets for
purposes of generating coal baseload, so we don’t think
it’s necessary.

MR. LONG: This is Noah Long from NRDC. Do you
mind if I just take a moment to respond and ask a
question?

I guess my first question is maybe if -- it
sounds like it might be useful to have a little bit of
dialogue between Randy and Norm on this question of
definitions, because it sounds like Randy’s preference
is different than Norm’s preference as to definition of
major investments.
MS. GRANT: We’re going to get a little bit more into definitions later, do you want to -- we can hold off on that.

MR. LONG: Yeah, we can put that off. I just want to note the difference between DWP’s position and what I perceive to be SCPPA’s position on whether or not major investments should be defined and whether or not that’s useful.

And so I think we can talk about that in a moment.

And then another, I guess, just point of clarity is -- and, Randy, I think it’s useful -- is that you point out that most, if not all, or I think you would say all of those investments are not intended to extend the life of the facility, they’re ongoing investments.

And I think the point of a notice requirement here is that it not predetermine that question and then not put DWP in the position of having to say this is or is not intended to extend the life of the facility.

Obviously, if it were intended to extend the life of the facility by more than five years, it potentially would be out of compliance.

But the notice requirement is to say we’re not requiring you to make that determination, we’re not putting on our investigative hat here, we’re just saying
if you can provide that information when decisions are being made, not just any public meeting, but a meeting where a decision is made, if you can provide that information in advance to the CEC and to interested stakeholders, then it just makes -- facilitates conversation and greater access to those decisions.

And I think that’s the point, the difference between a notice requirement and, you know, a requirement of filing for any predetermined action that has already decided that it will be a covered procurement.

MR. HOWARD: This is Randy Howard. If I could ask you, both of you, do you know if either one of your agencies or both your agencies are currently on LADWP’s list serve?

MR. LONG: I know that some of my colleagues are on some of your list serves. I believe there are a few, yeah.

MR. HOWARD: Yeah, I do believe both of your agencies are on the list serves, and so anything that would be provided that would be before a governing -- our governing authority, you should be receiving it today.

So, I’m not real sure, because I don’t see a lot of other interested parties, I’m not real sure, you
know, providing -- I mean, I can put CEC on my list
serve of our governing body and they would see anything
and everything that goes before the governing body on
the agendas.

The one thing that’s kind of also concerning to
me, personally, and I don’t know that any of the other
POUs have quite the same problem is, you know, we have a
five-member board of commissioners that makes decisions,
and they have a limitation of authority as to those
decisions. And a number of decisions that have longer-
term ramifications, including real estate and other
things, have to go then onto a city council for
approval, but some decisions do not, some expenditures
do not.

And the city council, on its own, could have
deliberations specific to some of the facilities and not
even include LADWP. So, I’m not really sure how I
obligate them or how I respond to them as to providing
notification because they can choose to do that on their
own.

And they’re currently having a proceeding
relating to Southern California Edison and San Onofre.
It has nothing to do with LADWP, I’m not a participant
in that, LADWP’s not a part of the proceeding, but they
do those types of things.
So, when we get a little broad here I’m a little concerned as to how we manage that because I don’t want to come across as we’re not being cooperative, we’re not compliant when I don’t necessarily control or have jurisdiction over the ability of what our public officials say or do and when they deliberate.

So, when we say a deliberation, I also kind of need to have a better appreciation of how we could put boundaries around that, so that if there was a decision that we would know how to funnel that.

MR. VESPA: Yeah, I just feel like this is getting more complicated than it needs to be. I mean, we’re talking about three specific facilities right now and moments where the governing body is actually going to deliberate and potentially approve an investment in one of the those three facilities.

And the agendas are already prepared, the background material is already prepared and it is just a matter of, you know, cc’ing the CEC on the agenda and the background material for that approval and, ideally, a service list as well. I mean, that’s it.

So, you know, these are things that are already happening, it’s just a notification of, you know, these deliberations and when they will occur to a broader degree of entities.
MR. HOWARD: So, Matt, if I could -- Randy Howard again, LADWP.

So, we recently had a debate and the city council took control over our proposed 100-megawatt feed-in tariff program. But during that process, and discussion and debate, part of our objective on 100 megawatts is to meet some of our obligations to cover Navajo Generating Station, so the divestiture of Navajo, some of those.

So, the 100 megawatts exceeds the State requirements, which our share is about 75 megawatts of feed-in tariff.

So, the city council debated some of the thought process as should we do 100 or should we just do the obligation of 75 was one of the debates. And then how soon should we do the 25 because they really haven’t made a decision on the divestiture of Navajo, but the debate was there, the deliberations were there.

So, again, does that -- does that qualify for what you’re saying? I mean, or are you talking investment covered --

MR. VESPA: In the specific plan, an investment in the facility. I mean, the feed-in tariff is not an investment in IPP. I mean, is there some capital expenditure in IPP, some kind of upgrade, some kind of
pollution control technology that you are planning to install in --

MR. HOWARD: A covered procurement issue.

MR. VESPA: Well, that’s part of the question.

It’s not necessarily covered, it’s an investment. So, you know, the CEC and interested parties can look at it and kind of think about whether it may or may not be covered.

And one of the issues here is those determinations that are being covered are not subject to a broader review and there is some disagreement about what can be covered or what not. But it is specifically an investment in the facility.

So, the feed-in tariff is not that, it would not be part of this notice requirement.

MR. LONG: And Noah Long from NRDC. Just to be clear, alternative procurement would never -- you know, particularly a renewable alternative procurement, unless the was alternative procurement in the baseload facility emitting over 1,100 pounds a megawatt hour would never come under that rubric.

MR. PEDERSEN: Maybe I could just cut in with one comment. I think maybe it was -- maybe it was Noah, one of you made the comment that this could become quite complicated and I tend to agree with that.
And one of the reasons it becomes complicated is different POUs operate differently. The way DWP operates is dramatically different from the way the SCCPA board operates. The SCCPA board is -- SCCPA’s made up of 12 different entities. The board consists, essentially, of the general managers or their designees from those entities.

The board meets once a month, its meeting is agendized. You know, if a matter’s going to come up, it’s going to come up at one of those meetings.

So, we take a look at, for example, option one. You know, from our standpoint it’s pretty clear cut. You know, under option one we would only provide the URL link when there’s going to be a deliberation at a business meeting. That’s once a month for us, very clear, pretty easy to understand.

From our standpoint, you know, and again we don’t think you need to expand the scope of the regulation as you have it now, or any of the reporting provisions of it.

But, you know, if you were to have something like option one, narrowly defined so it would apply just to the -- for us, it would be San Juan and that’s it, that’s the only plant, just one, well, you know, we would be able to provide you, for example, with a URL
link to the agenda at which the SCCPA board would be considering the budget. The budget would include, of course, capital investments.

So, you know, somewhat option one could work for us. We’re not advocating, but it could work for us.

But you get to another POU, you get to DWP, and you can run into some real problems and you can have a lot more that you would have to define for a DWP that has a more complicated situation. And then you do have the point that I think MSR raised, well, you know, you do have situations -- this is something that I don’t know of ever happening at SCCPA, but you do have a situation where there might need to be 24-hour notice, rather than 36-hour notice.

So, once you start to go down this road I think you do get the complications, and you’re going to get to complications because you have different POUs operating differently, and you have a regulation that’s going to cover everybody.

MS. JONES: So, this is Melissa Jones. Just in response to that, the current regulations require that any public meeting to consider a public procurement -- so it’s confined to covered procurements. But if you applied that to all, you still have to make a determination of what meetings it is that you need to
report on.

So, if it’s complicated, then how are we sure right now that we’re getting adequate reporting.

MS. BERLIN: This is Susie Berlin for MSR. In our estimation, what our public meetings are is not complicated. In our estimation, it’s coming up with a definition of investment, if you literally mean everything, that’s more complicated.

And not to be argumentative in the least bit, I don’t want to come across as being argumentative, but I’m not certain how that notification is any different than somebody that signs up to receive all of the public meeting notices for MSR, for example, or for SCCPA, or LA. It would be the exact same thing, we do send out the agendas if you request to be on that list, and the like.

So, from MSR’s perspective, it’s not an issue of what are our meetings. We know what our meetings are. But we’re not -- LADWP, we don’t have as many different facets, perhaps. But at the same time it goes down to more we make determinations, or staff reports and whatnot regarding covered procurements, and what we’re talking about here is just a lot broader expansion than covered procurements.

So, it’s not a what’s-our-meeting issue, it’s a
what’s-the-topic issue, I guess.

MR. HOWARD: This is Randy Howard. Very similar, I think under the covered procurement it’s pretty straight forward. I think we have -- we’re comfortable with the definition there, but when you get to this broader investment it becomes more complicated.

The meeting notices of LA would be probably more unique than most of them, and that’s just because there are three city council meetings a week, there are two board meetings a month, at least, and then there are city council committee meetings related to energy and environment issues. So, there are multiple meetings in which issues can be raised.

But if it’s a covered procurement, we feel fairly comfortable if you’re just talking investment without really, really narrow definitions, then I think we could -- that’s our concern.

MR. LONG: Noah Long from NRDC. I think, you know, just two points. One is we’re only talking about three facilities so it’s not -- it can’t be that broad, there can’t be that number of -- that many meetings that those facilities and investments in those facilities are discussed.

And I think we’re comfortable, even if it’s -- if that is too broad, we’re comfortable narrowing it to
make sure we’re only talking about the major or significant, and we can talk about how to define that in a way that people are more comfortable, so we’re not catching flytraps and toilet seats.

Our point is these decisions are made. They’re made by these entities, about these facilities. There’s got to be a finite number of meetings per year where decisions about major investments at those facilities are made.

If we were talking about 300 facilities, rather than three, I think the conversation that we’re having about the over-breadth would be one that we should be very concerned about.

Given that we’re only talking about three facilities, and from the intent of everybody here that I take very seriously, we’re talking about a finite number of years for those three facilities, it seems to me that we ought to be able to craft a narrow enough distinction.

And just as to the point of what’s the difference between being on the service list for SCPPA, or for MSR, or for DWP, I think the point is that the CEC has an independent obligation with regard to this regulation.

And stakeholders, ourselves included, but
potentially other stakeholders in the future have
potentially an independent interest with regard to this
regulation and these facilities.

And having those items related to these very
important facilities for California’s energy future
plucked out and provide some extra emphasis.

And so it rises to the top and people say, well,
this is something I need to pay attention to, this is a
major decision coming forward for Navajo, or for IPP, or
for San Juan. It provides extra value.

And, you know, I recognize all of these are
public entities, we can do Public Records Act requests,
but that’s after the fact, it’s slow, it’s cumbersome,
it’s difficult for you, it’s difficult for us.

Having some ongoing, clear, quick notices about
these limited number of key decisions could be really
valuable in our perspective.

MS. GRANT: Let’s go ahead and just touch on
options three and four, which are the annual filing
requirements, and then we’ll get a little bit more into
some of these terms that are being thrown around.

So, if you guys would like to, Noah and Matt,
start again with options three and four.

MR. LONG: Sure, so, Noah Long from NRDC. Go
ahead, Susie.
MS. BERLIN: I would like to ask a preliminary question, again from Melissa. You gave an answer with regard to how you perceived the CEC’s role vis-à-vis the documents that are submitted under options one and two. Does that apply to options three and four, as well? You consider those as having -- you receive them, if you see something wrong, then obviously an investigation would prevail, but that it’s not a review and approval process.

MS. JONES: That’s correct. Melissa Jones. Yeah, that’s correct. We don’t envision a review and approval process.

MR. LONG: So, Noah Long from NRDC, if I can just continue.

So, not that it’s necessary, but to quickly summarize three and four, both annual reporting requirements on all of the investments made and, unless I’m mistaken, the major difference is that option three is prospective whereas option four is retrospective.

We have a strong preference for option three, and we think it’s very useful along with option two, as we’ve discussed. So that to the extent there are changes along the year, or particular inflection points where key decisions are made, you not only get the sense of the breadth of the year in advance, but you also get
the notice about when those key decisions are made in 
order to involve stakeholders or the CEC. 

And the key point about the difference between 
option three and four that’s so important is that given 
that we’re talking about a finite number of facilities, 
and a finite number of years, there is real value to 
having clarity in advance of the decisions on 
investments in those facilities. 

And I think as my colleague Matt mentioned 
earlier, in our perspective and not to say that we’re 
not equally optimistic about the finality of where the 
San Juan discussion is going, but in our view there 
could have been a lot less heartache, a lot less trouble 
if there was more clarity in advance about what the role 
of SB 1368 was with regard to limits on California 
utilities’ investment possibility into that facility. 

So, having the conversation, even though we 
didn’t -- we didn’t have necessarily all of the clarity, 
but having the conversation in advance was really 
critical to spur the kinds of negotiations and 
discussions that we’ve had over this last year before 
investment was made. 

Now, if the only notice requirement were 
retrospective, so that each entity made their own 
determination about what was possible at San Juan, filed
that information, and then here we are at the Sierra Club, or the NRDC, or for that matter the staff of the CEC says, oh, wow, that doesn’t look like to us like it’s allowed. There’s a real question at that point about what the remedy is, whether or not there’s anything to be done with the EPA, or with the other implicated actors.

And to the extent that the filing requirement is in anticipation, it allows everybody and gives everybody the notice to make sure that those conversations happen in advance, and we all come around to the table in advance and make sure we have those conversations before we’re in the place of saying, oh, gosh, we sure think you shouldn’t have made that investment last year.

Matt, do you have anything to add?

MR. VESPA: No.

MR. PEDERSEN: When would this annual filing be due or has the staff thought about that?

MS. JONES: No, that would be part of the regulation.

MR. PEDERSEN: Yet-to-come feature of it, uh-huh.

You know, from our -- from SCPPA’s standpoint and Anaheim’s standpoint as with the other -- or the first two options, we do have a concern about the
breadth. But this could be, as we’ve agreed, more narrowly drafted so that for us it would apply just to San Juan, nothing more, no other plants.

We still have a concern about it and it’s just the mechanics. You know, we don’t do the budget for San Juan, we don’t prepare the investments. PMN is the operating agent, they do all of that. We get the package and then it’s approved generally as part of -- well, as part of an overall budget.

At Anaheim, for example, they have a board and they also have a city council and they would approve the utility’s entire budget, which would include the budget for San Juan.

We don’t control when that is going to happen so, you know, we would have a detail that we would have to work out. You know, we couldn’t have a deadline that we wouldn’t be able to meet because, you know, we don’t control what PNM does and when we get the material from PNM.

A further problem is that necessarily, and I think that we’ve agreed on this point, it’s an obvious point, anything you have that is looking forward to an entire year is necessarily going to be -- is going to be exposed to the possibility of being incomplete. Something very well may come up during the course of the
year and so what you’re going to be getting is, you
know, an overview of what is expected. It’s something
in the nature of a forecast. But you know what they
always say about forecasts, the only thing you know
about a forecast is it’s going to be wrong.

So, our concerns about option three, you know,
aside from the over-breadth which we have agreed --
which we’ve stipulated we can solve, is the workability
of it. And given those features, it just seemed to us
that option three, when you were ranking these options,
ought to be actually put at the bottom of the list.

And I know that’s directionality different from
where Matt and Noah see it going, but it seems to us
that just from a practical standpoint you ought to put
it at the bottom of the list.

MS. BERLIN: This is Susie Berlin. And rather
than reiterate all of the points Norman raised, it’s the
same San Juan budget, it’s the same issues, we also
agree that it’s the least favorable option, and it also
suffers from the same definitional defects in our
estimation, as we’ve discussed in the context of the
previous options.

MS. JONES: Melissa Jones. I had one question
and I can’t remember if it was your comment, Susie, but
one of you raised the issue that the retrospective was
similar to what the POUs would be doing. And what we
intended with that option was to make it what the LSEs,
under the PUC, have to do. And that’s just a
retrospective, made an investment and an attestation.

The IOUs have a completely different role with
the PUC in terms of EPS compliance.

MR. PEDERSEN: But I think that’s option four,
isn’t it?

MS. JONES: Yes.

MS. BERLIN: Yes.

MR. PEDERSEN: You’re moving to option four.

MS. JONES: We’re doing three and four.

MS. GRANT: We’re doing three and four combined,

I’m sorry.

MR. PEDERSEN: Oh, Norman Pedersen. Can I talk
about four?

(Laughter)

MS. GRANT: Yeah.

MR. PEDERSEN: You know, we are familiar with
what the small LSEs, as we call them in our filing and
our pleading, have to do for the CPUC. And, you know,
we think that that’s something that we could do.

Again, we aren’t advocating expanding the
current regulation, but it is something that we could
do.
However, from our standpoint, we would urge that it be an option for a compliant POU, not a substitute for the regulation we have.

We’re comfortable with the regulation we have, we understand the regulation we have and, you know, better the devil you know than the devil you don’t know. You know, there very well may be POUs that would like to just live with the regulation you have in place. There may be some that do want to do something differently.

We’re talking about a pretty small scope and we’re not too sure who they are, but there may be some, and so it would be acceptable as an option.

MR. HOWARD: Randy Howard, LADWP. Related to options three and four, related to option three in our comments we currently, and I’ve passed around the Integrated Resource Plan in a single page, it lays out our foundation of the future and the objectives of the utility.

Both the petitioners and their co-workers were very involved in our Integrated Resource Planning activities. It’s a fairly robust process. The documents are printed, they’re on our website.

They lay out the strategic objectives related to the two facilities. And again, we’re talking three facilities and two of them are really under LADWP’s
purview or jurisdiction. So, if you’re following LADWP, you’re capturing two of them and the balance of the participants here are focused on the third.

So, related to the two facilities, the plans are put out there, they’re put out there annually. They’re discussed in great detail in the public forums.

I’ve provided to the Chairman here a presentation that was provided publicly on Friday to our board, and it’s a presentation condensed on the IRP. But the last page of that gives them the purview of what are the action items, the key action items that they should see this next year related to the IRP.

And there are three related to coal that are laid out in there that they should expect to see. One being an amended power sales agreement for IPP should come before them.

One should be the divestiture of Navajo should come before them in the 2013 period.

I’m drawing a blank to the third one. There’s a third one in there but -- but they’re there, they’re public, so it’s already provided.

If you’re asking us to provide, you know, additional notifications to folks, I think that’s the -- oh, the third is to purchase combined cycle in 2013, which we think there could be some purview. We don’t
know that yet, until we make the selection and then bring that before the CEC, potentially.

So, it’s public. We don’t think it’s necessary to do it any other way, but it’s being done for two of the facilities. And again, both of your entities are actively engaged and we appreciate that because they give a lot of valuable input into that process.

As to option four, it really -- if we were to accept any of the options, we think that’s the one that we feel most comfortable with, using the existing requirements of SB 1368. And if you want us to do an attestation at the end of the year that we didn’t violate and that we were in compliance, I think LADWP would be most comfortable to do that.

I think everything else for us, and the size of our entity, and the complexity becomes more challenging and we think there’s enough processes in place, enough transparency in the activity.

What we’re just trying to do is not provide any additional burdens or busy work that we just don’t think is necessary.

MS. BERLIN: This is Susie Berlin. With regard to option four, like Randy said, if it involves the existing definitions set forth in 1368 it’s different.

As it stands now, with the undefined terms and
the expansion of the scope, we find that problematic.

If it was -- going back, we don’t believe it’s necessary. I will save that further for closing statements.

But if it pertains to this filing that’s going to address these undefined terms then, again, we have a lot of the same problems that were discussed in the context of the other options.

If, like Randy says, we are talking about an end-of-the-year filing within the current definition or structure of 1368, which applies strictly to covered procurements and nothing else, then that could be different.

MS. GRANT: Go ahead.

MR. LONG: Noah Long from NRDC. I appreciate these comments.

Just a couple of responses, one that said -- Norm’s comment on the option three being necessarily incomplete, forecasts are always wrong, I think that’s exactly the reason why we saw it being so usefully combined with option two. We don’t expect it to be perfect or, you know, have perfect tea leaf information about the coming year, but we expect it to be the best plan that you have.

And then filed in combination with option two,
we think that could provide a complete picture, and
that’s how we saw those working together.

As to the comments from Randy, I think I just --
if I can, just take a step back and, first of all,
congratulate DWP on all the great work that they’re
doing to divest from these facilities and take steps.

And I just want to remind folks where we were a
year ago where there was far less information available
to DWP and certainly to stakeholders about where these
plants were going, the same with San Juan.

And so when we started these facilities I
think -- I’m sorry, started these proceedings we had far
less information.

And I think it’s a mark of all of our progress,
the progress of DWP, as well as of this Commission that
this statute’s still in place, the regulation is still
in place and that we’re going forward with divestment.

And I think I in no way mean for my comments, I
think my colleague Matt agrees, we’re not trying to
undermine the intention of the management of DWP or of
the city council.

But at the same time we do view these additional
advance notices and notices as useful because just in
the same way that so much has changed in the last year,
we want to make sure that we maintain that momentum, and
that the Commission sees that momentum maintained and
carried through in the coming years.

And that’s not to say that there’s a lack of
trust for the work of DWP, but that we’re all in this
together. And it’s an important regulation and
providing notice on the progress, and the excellent
progress that you’re making to make those divestments,
we don’t see as particularly burdensome.

And we’ll be happy to have further conversation
about limiting the definition so that it’s not so
burdensome, but so that we can make sure that we do have
ongoing notice of the status of those discussions and
status of progress through divestment of those
facilities.

MS. GRANT: Okay. Great, thank you.

MR. VESPA: Can I make one last comment?

MS. GRANT: Sure.

MR. VESPA: Just on the foreseeability
expenditures and we certainly understand there’s not
going to be, you know, complete clarity on what may or
may not come that year.

And one thing we had proposed amending the
requirement would be in the subsequent filings one could
say here are some expenditures we didn’t reasonably
anticipate, here’s why, here’s what’s coming forward in
the next year, so it kind of closes the loop on the year-to-year expenditures.

So, in other words, if there was something in your first year that you didn’t identify, and that ends up becoming an expenditure, you would identify that in a subsequent report.

You know, I just think there’s a real value in prospectively flagging what major expenditures are in these two or three facilities as we go forward, so we can proceed apace with that investment.

MS. GRANT: Okay, thank you for the comments. We’re going to go ahead and before getting into some of the questions around definitions, we’ll just take a short break.

So, we’ll come back -- I have it at 3:07, we’ll come back at 3:15 and we’ll finish up.

Thank you.

(Off the record at 3:07)

(Resumed at 3:20)

MS. GRANT: Okay, we’ll get started. We’ll get started in just a second.

Susie, to your question, I think if folks had wanted to submit follow-up comments that would be fine. I’m trying to think if we should set a time line. Yeah, I would say two weeks from today. If any further
additional comments, and I’ll repeat this when Matt and
Noah get back in the room, if you guys could get in
comments by then, that would be great.

CHAIRPERSON WEISENMILLER: Two weeks. Yeah, two
weeks, and of course we encourage during comments.

MR. LONG: Sorry, this is Noah Long again.

You’re referring to comments due in two weeks?

MS. GRANT: Right. So, Susie had asked if there
would be an opportunity to submit written comments in
response to the workshop and we were saying that’s fine
if you guys could get it to us within two weeks, which
is February 12th.

MR. LONG: Okay.

MS. GRANT: So, if you could share that with
Matt?

MR. LONG: I will. He’ll be back momentarily,
his still in the rest room, I believe.

MS. GRANT: Okay.

(Laughter)

MR. LONG: What do you use breaks for, Susie?

MS. GRANT: So, we have a request to finish
quickly, by Norm, he needs to be out of here in half an
hour.

Okay, so we have Matt coming back.

We’re going to march through just a few of these
terms that are being thrown around. Let’s start with
major investments. I know, Noah, you had some response
to what had already been brought up by Randy and Norm,
so if you want to kind of kick off with that.

MR. LONG: Well, sure. Noah Long, NRDC. I
guess it was just the first question, I understood a
difference between Randy and Norm’s positions.

Randy said we would need more definition, Norm
said please don’t define that term any further. We’d
rather define it ourselves. Is that fair?

MR. PEDERSEN: I believe we were talking about
major investments.

MR. LONG: Major investments, yeah.

MR. PEDERSEN: Yeah. And I think Randy was
looking more at the term “investments” and we were
looking at the term -- we were looking at actually the
specific question the staff raised, which was defining
“major.”

And your proposed, I think in your comments,
$250,000. And what we said in our comments was please
leave it to the regulated entity to determine what major
is. $250,000 might sound like a lot if, you know,
you’re thinking about an add-on to your house. But I’ll
tell you, at San Juan it isn’t major.

And Steve, you might want to say a word about
MR. HOMER: Sure. At San Juan there are literally dozens, if not over a hundred of expenses, capital items that would be over $250,000 every year. You know, we already report or talk about anything we think might be a covered procurement. If you’re talking about everything that we spend there that’s $250,000 or more, that’s a lot of things. And I don’t believe you care about most of them.

MR. PEDERSEN: And going back to the word “investments” that goes to the other issue that I think we’ve already discussed, some POUs are different from others.

And, you know, for us, you know, we looked at option one, which is the first place the word “investments” comes up and we saw we just have to report -- we just have to provide our URL link and it would be for meetings at which we would have a deliberation. And I already described how, you know, the numbers of meetings that the SCPPA board holds each year are very limited, well defined.

And so if you limited option one to board meetings, at which governing board meetings at which there would be deliberations, well, you know, we didn’t get so concerned about the definition of the term
“investment” because you were limiting the number of meetings.

And we already agreed that we were talking about SCCPA one plant.

So, that was, you know, why we had the view that we had regarding option one.

But when you hear from Randy you hear a little bit different concerns and there’s a very good reason for that. LADWP is a lot different utility from SCCPA.

Well, in fact it is a utility, that’s one difference.

(Laughter)

MR. LONG: That would probably make a difference. So, Noah Long from NRDC.

So, just as to this point of the question of major investments, our intent, and it may be useful to see proposed language from staff on this so that we’re not all sort of going all over the place.

But our intent was to limit the number of decision points that we’re talking about to the major inflection points for these facilities that are non-EPS compliant facilities, existing non-EPS compliant facilities.

We offered the possibility of using a line with regard to, you know, $250,000. We’re open to other
options under that. But our intent is to limit it to the major inflection points for these facilities.

And I think beyond that, you know, we’re not specifically tied to a particular number value. I think we don’t want it so large that things can either, by themselves or potentially broken up into little pieces slide under it.

And we don’t want it so small that we’re hearing about every piece of new office furniture at the plant.

So, that’s the intent. And I think, you know, to the extent that you all have further information about where the rubric would be -- Steve, if you have information about where you think that line could be drawn, we’re open to it.

MR. VESPA: And just to add, we looked -- we got this number from looking at some of your own documents. So, in San Juan’s case it appeared from the contract, the joint party contract, that if there was some kind of emergency expenditure, if it exceeded $250,000 there would be some other level of review.

So, it’s sort of like what is the point where people tend to view other lines of scrutiny as being necessary?

I think in LA’s context it was this similar situation where there would be this other committee that
would look through the expenditure if it was above a quarter of a million dollars.

So, that’s where we got it from and I think that’s the point of it’s like what rises to the level of needing a little bit more review.

And again, we’re only talking about in terms of notice, those investments that actually are before the board for approval, which I think in many cases don’t go to the board for approval, and also the ones you may list as part of your annual filing, which I think would be already identified in some document.

So, just to provide some context for those numbers.

MR. HOMER: This is Steve Homer with SCCPA. In SCCPA’s case, there’s hardly any deliberation on routine expenses at San Juan. We bring an annual budget and it says here’s a dollar figure for capital, but there’s very little detail there.

Where we have discussion is a few years ago we had the rotor replacements that were controversial, we bring it and we just discuss it.

I had maybe an out-of-the-box thought here, I’ll just throw it out, maybe it can save us all some time.

My feeling is that the Commission is not interested in approving every expense that we make at
these plants.

The people who are interested are sitting right over there and I haven’t seen anyone else intervene or participating here. So, would it -- could we just cut out revising the regulations and put you on our distribution list for our -- for our meetings, all of our meetings.

If you call me the week before and say is there anything on the San Juan, I’ll tell you. We’re wasting a tremendous amount of government time on something that you want a little bit more advance notice.

MR. LONG: NRDC -- Noah Long from NRDC. Steve, I appreciate the thought and certainly the intent behind it. I don’t think that would meet our needs and I’m sorry we can’t so reasonably resolve our concerns.

I mean, I work for NRDC. I hope I work for NRDC for a very long time. But, of course, I’m not the responsible actor or entity here.

And I think our view is that there is a role for CEC in this process because, like I said, it may be that other entities take an interest in this, which obviously implies the whole State of California, and all of us as stakeholders, and for 1368.

Unfortunately, I don’t think that quite resolves the problem, but I do appreciate the intent.
MR. HOMER: All right.

MR. HOWARD: So, Randy Howard, LADWP, to dollar numbers, again, it’s quite challenging. If we were to narrow it, as Matt indicated, that it’s very specific to expenditures that go before our governing commission, if it was just the annual budget type issues or any special issues it certainly is more workable.

But, you know, I get quite concerned. Navajo Generating Station, you know, we’re not the operating agent, we don’t put the agenda together, we don’t identify what the materials are that have to be replaced. You know, but there is a representative of DWP that participates in those committees when those decisions are made.

You know, you put together -- or they put together an annual budget, they provide it to us, our board then gets to approve it or not approve it.

So, just the approval of the budget I think is simple enough.

The challenge, I mentioned it, and Norm’s out of the room but, you know, for me it’s like taking your car to a shop to get something repaired. You know, you’re going to get new brake pads but when you go in they find five other things, they always find five other things, and instead of $300, it’s $900.
You know, that happens. And so when we put dollar thresholds, you know, I don’t know if the five other things are all individual or independent things, or if it’s one bill at the end that the $250,000 threshold represents. I don’t know that, nor do I want to put that kind of burden, again, on some of the personnel involved in this process as to make a determination of has that been something that needs to come back or get noticed.

So, I’m really concerned here. It is our objective to get out of Navajo the end of this year and, hopefully, this is a non-issue after that point. For Navajo IPP, a very different type of situation, it’s really just an annual budget. There are really no individual expenditures that would come before our governing board. So, there would be really nothing noticed here related to the specifics on an expenditure that would be an investment in that facility.

With the exception, and I point out that we’re making investments in renewables that could intertie to that facility. So, you could be making investments in that facility that have nothing to do with the baseload generation.

And that’s why when it goes back to the definition of “covered procurement” it’s easy for me to
When you do this more generalized investment without really refined definitions, then I’m going to have more problems.

MR. HOPPER: I was going to say -- this is Martin Hopper with MSR. And not conceding any of the prior points, but one of the things that was mentioned earlier is that there have been a review made of the San Juan Participants Agreement, which suggested a threshold.

And I’d suggest perhaps if we do want to go down that path, which I don’t believe we do, that agreement, I think, provides some good illustration as to what might be considered major.

And when one looks at the review provisions for the owners in that agreement, you’ll see the break point is actually at $5 million is a break point where further scrutiny and a higher standard is held to proposed projects. And that might be a more comfortable level if one were to go down that path.

But what I want to do is sort of step back to a point that Noah made, as indicating that what they want to catch are inflection points of the project, things that are going to change the course of where the project is going.
And that, philosophically, might be much more suited to what they’re hoping to accomplish here, which is to watch for backsliding.

Notwithstanding, I think we’ve all shown we’re on the way out here. And I would also probably suggest if we do go down this path that we have an escape hatch. Once you have a date certain exit you don’t have to file anything anymore because you’re gone at date X. And I think that could really simplify life here.

But this may be more of a closing remark than anything else. I think one of the basic problems we have here is that there’s a level of distrust in the room that if we aren’t being forced to report, and the CEC is being forced to review, that somehow we’re all going to ignore the requirements of statute.

And, frankly, I feel a little insulted in that we’ve made some very good faith efforts here. We’re working hard to do what the statute wants us to do, which is to get out of coal. The statute wasn’t to condemn coal, it was they encourage you to get out of coal.

If it was a condemnation, actually it could have made life very simple and easy, we could have had these things condemned, we could have collected our investment back from the State and we could have been down the
road. But that’s not what the statute was about. The statute was to encourage us to do the right thing.

We’re doing the right thing and I resent that we’re being held that unless we bare our soul, like to the TSA man that we’re not going to do the right thing.

MS. BERLIN: This is Susie Berlin. I would just add that I do believe that we have some significant obstacles to overcome if we are going to use the terms “major” and “investment” in the regulation. I think it’s problematic to define them. A dollar amount does not provide a simple solution. Both the terms “major” and “investment” are subjective and relative, and those are things that we’re going to have to really dig into and likely spend a lot of time on if they are, in fact, going to be part of any regulatory language.

MR. LONG: Noah Long from NRDC. Susie, if I may, your problem with “major investment” was that it was both subjective and relative, and you said a dollar figure doesn’t answer that, but it’s neither subjective nor relative.

Do you have another proposed solution or some reason why something which is neither subjective, nor relative doesn’t work?

MS. BERLIN: My proposed solution is to use the term “covered procurement.”
MR. LONG: Okay, touché, fair. But can you elaborate why a dollar solution --

MS. BERLIN: For the very reason -- for the very reason -- I’m sorry, Susie Berlin. For the very reason Martin just articulated. You read through the document and you said if there’s an expenditure of $250,000 or more there needs to be some notification. But that notification does not necessarily comport with it being a major investment.

You used $250,000 based on some of your readings. On Martin’s understand of the documents and what really triggers review, it’s $5 million.

And just to reiterate the points that have already been made, like Norman said, we have $250,000. To me, if you’re asking me to spend $250,000, I’m going to put major investment on that, but I’m not operating a multi-billion dollar electric generation facility.

And I think that trying to constrain operations into classifications of is it major, is it not, is it’s primary purpose this or is that it’s secondary purpose, or is that just an end result and that doesn’t even -- now, I’m speaking to environmental compliance or regulatory compliance, for example.

I don’t think these issues are easily pigeonholed, and I don’t think that putting these kinds
of definitions on the transactions, consistent with the way these facilities are operated, and I think that’s problematic.

And I don’t think that we’re going to be able to resolve the myriad issues in the context of this workshop. My understanding of the purpose of this workshop is to raise what, if any, concerns we have with that. And I don’t think that resolving this is going to be an easy endeavor.

MR. LONG: Well, just one brief comment, Noah Long from NRDC, which is to say I recognize that there’s potentially a disagreement based on our filed comments about what the number would be. And I think we’re open to some discussion of that.

But I think once determined, you know, if there is a number, whether it’s $250,000, or $2 million, or some other number there is clarity about which investments that either fit into that or don’t fit into that.

And so it does get over the problem of subjectivity and lack of clarity.

As to whether that’s the appropriate number to meet the word “major”, I think that’s a second question and I think ultimately, you know, we can look at a couple of different reference points for where that
right number should be and then, you know, the staff can make a suggestion on that issue.

MS. BERLIN: All right, Noah, thank you. This is Susie Berlin and I appreciate that. But I do believe that even if we assign a number to it, then whether it’s $250,000 or $2 million, we also have to define how that is relevant to meeting the objectives of 1368.

Whereas the term “covered procurement” very clearly does.

CHAIRPERSON WEISENMILLER: Okay. I actually wish to sidestep things for a second. I’ll just turn to Norman. I think we’re getting close to his half-hour window. And I was going to point to the list --

MR. PEDERSEN: I changed my flight.

CHAIRPERSON WEISENMILLER: Okay, I was going to give you an option if you wanted to talk about what was remaining and hit the road, you could. But otherwise, we can go back.

MR. LONG: I don’t know that I have a further comment. I think, you know, the point that we’ve tried to make on that is we want to make sure that inflection points are reported, and I think that that’s the additional purpose that we would identify. And so there’s clarity and a possibility for advanced public process around those discussions.
MR. VESPA: Yeah, I just want to get at this issue of distrust that Martin raised, because it’s really not. We had a great year, I think, negotiating. It’s not really about that. It’s just that reasonable minds, I think, differ on what may or may not be covered.

And, you know, our view is all of these environmental investments to meet pollution control requirements are all covered, they all extend the life, all of them.

I think some may say it’s case by case, some might say none of them do.

And so it’s just the idea of noticing some of these in advance and really just kind of cc’ing the Commission and interested parties on things you’re already noticing to your governing board, and also an annual report, which you’re probably already preparing about what these expenditures are, so there’s an ability to have an independent look at some of what are, I think, somewhat discretionary judgments.

And that’s the point. And it’s not about distrust, it’s just about areas where reasonable minds might disagree and ensuring compliance with the statute in a more objective way.

MS. JONES: This is Melissa Jones and I’ve got a
question for you guys. You look at the word “major” and if we’re able to define for environmental and regulatory investments do you need both terms? Or wouldn’t the environmental and regulatory probably get at everything you’re really concerned at?

MR. LONG: Well, I think it certainly wouldn’t get, for example, capacity increases or other things subject to 1368 that are, you know, not covered under environmental and regulatory requirements.

So, I think our view is that having both you would definitely capture both areas.

All of the environmental and regulatory requirement investments, in our view, our -- the ones that we’re worried about, our major, are also major investments.

So in that sense, yes, I think there is a -- what’s the word I’m looking for? They both capture the same pool of investments. I think the only concern is that the environmental and regulatory requirement investments don’t capture the full field of possible investments at a facility.

I just want to make a quick note, if I can, as to Randy’s comment. And just to perhaps agree and recognize that there’s a need for clarity or at least I would hope that the final -- any final language does

CALIFORNIA REPORTING, LLC
52 Longwood Drive, San Rafael, California 94901 (415) 457-4417
provide language that investments in renewable
facilities in Utah and increased transmission, for
example, or investments around the transmission
substation to provide for renewable investments
shouldn’t -- shouldn’t be captured here.

So, they would only be captured to the extent
that they affected the baseload facility, itself, and
not the electrical infrastructure to provide for
additional procurement opportunities.

MR. PEDERSEN: Norman Pedersen. I really wish I
would have had Melissa’s idea because I think it is a
superb idea. It just had not occurred to me.

You know, we’ve got covered procurements.
Everything you mentioned, aside from that one disputed
area where we are doing major investments to meet an
environmental obligation, okay, all of the ones you’re
concerned about are covered procurements and they’re
already covered by the regulation.

Anything to expand capacity, it’s already
covered by the regulation. Anything that, you know,
would extend the physical life for more than five years,
it’s already covered by the regulation.

The one thing that concerns you, and we all in
this room know it, is where we’re making an investment
to comply with environmental regulation. And everybody
in this room, we don’t have to make any secret of it, we
don’t think it extends the life within the meaning of
the regulation. You do.

And what you’re asking for, you’re very simply,
at the ground of it, you’re asking for us to notify you
when -- and the public, through the CEC, when we are
going to make one of those investments because we do
have this dispute.

And so, I think that Melissa really -- if we
were to proceed with any of these options, options one,
two, three or four, of course I guess it isn’t relevant
to option one. But if we were to proceed with any of
these, it would really narrow it significantly to just
limit it to investments to meet environmental or other
regulatory requirements and just skip the major
investments.

If we make a major investment that would be
along the line of what you’re talking about it’s going
to be covered, and then the test is will that investment
lead that plant to be within the EPS.

If it won’t lead the plant to be within the EPS,
we can’t do it. If it would lead to the plant being
within the EPS, we can do it.

MR. LONG: We’re just having some conferencing
around that issue and I think, you know, I think I would
just stand by my previous comments. It’s definitely, likely the same subset of investments. To the extent that there are other additional procurement -- sorry, other additional investments, they would likely trigger the covered procurement.

To the extent that there’s agreement about what covered procurement is, I think the only question is that the noticing requirement recommended here is additional across the board. It’s an additional noticing requirement that isn’t currently in the regulation.

MS. GRANT: All right, that’s good. And, you know, to the extent there’s opportunities to provide additional written comments, you guys can --

MR. LONG: Yeah, we’ll address that issue in our written comments.

MS. GRANT: All right, so let’s move on from that.

Now, it was proposed that if the Energy Commission were to establish a requirement for “investments to meet environmental or other regulatory requirements”, and now we just want comments on that phrase and if additional definitions would be necessary.

MR. PEDERSEN: I think that’s an easy one. We can really move this meeting along on that one because I
think we had consensus. You don’t need anything more on that, as I read your comment.

MR. LONG: I understood Randy to disagree, that that might affect a whole slew of other regulatory requirements, OSHA requirements, FERC requirements.

We’re not interested in those issues.

So, our concern would just be that it’s not over-broad.

MS. BERLIN: This is Susie Berlin for MSR and we believe that there does need to be some fine-tuning of it. I appreciate the clarification you’ve made in the context of the workshop, that we know you’re talking about a specific set of investments, and EPA, perhaps mandates and the rest.

But as the term is used, it’s overly-broad, it’s ambiguous and it could capture a whole slew of things that we don’t think are relevant.

We talk a little bit more about that in our comments and so I won’t reiterate them now.

MS. GRANT: Okay.

MS. DE CARLO: How about the term -- this is Lisa DeCarlo, Energy Commission Staff Counsel.

I am a little concerned about the potential for ambiguity with such a kind of vague terminology. How about would some reference to put the investments for
pollution control equipment get to what the parties are interested in? That seems to me a little bit more
defined, but I’m not sure it gets to the heart of all the intentions.

MR. HOPPER: Martin Hopper with the MSR. I think, Lisa, you’re heading in the right direction of more definition. But just as I was sitting here, for example, EPA may mandate a new technology for your CEMs, your continuous emission monitors, and those things are darned expensive.

And that, for example, doesn’t change anything other than how you’re reporting and monitoring compliance with an existing requirement. But that could be a regulatory requirement that could be millions of dollars and reportable here, and we would not want to imply somehow that that’s not something that you’re permitted to do. It doesn’t change the life of the plant, it doesn’t change the emissions, but it’s necessary to achieve regulatory compliance.

Or the example, earlier, of OSHA decides a thousand feet of catwalk need toeboards and that could be very expensive, and so on, and so forth.

So, the term “regulatory” is very, very broad.

I don’t have a better idea, but I think we do need a better idea and I think you’re right to suggest it.
MS. BERLIN: This is Susie Berlin. Lisa, will you repeat your proposed language?

MS. DE CARLO: Well, the key phrase was “pollution control equipment.”

MS. BERLIN: Okay, thank you.

MS. GRANT: Maybe what we can have is to the extent there’s going to be written comments submitted within two weeks, if you -- the parties can propose a definition on how to narrow that phrase, “investments to meet environmental or other regulatory requirements.”

And jointly would be great, amongst all parties.

MS. JONES: We did jointly a lot in the original rulemaking, so we should bring that back.

MR. LONG: I can’t imagine a joint SCCPA, MSR, DWP, and NRDC, and Sierra Club filing on that.

MS. BERLIN: Yeah, we had joint NRDC, CMUA, LADWP, and MSR comments in the original rulemaking.

MR. LONG: I’ve seen them.

MS. BERLIN: I would -- this is Susie Berlin. I would submit that if that was the scope of comments that two weeks would probably be an insufficient amount of time to collect all the --

MS. GRANT: All right, you guys, we’ll give you an extension if there’s any progress.

MR. LONG: And, you know, we’re open to
caucusing about trying to find a common definition in
advance, just to sort of seal the deal here and not go
back with the replies.

    MS. GRANT: That’s great.

Okay, so finally on the definition from, just to
throw out kind of a catchall, your comments on -- if
there’s any definition that’s short of all investments,
and maybe I’ll start with you all, that you find would
be more suitable -- I know major investments was kind of
what was originally thrown out so --

    MR. LONG: Yeah, my tendency was to put a dollar
number on there. And I think, like I said, we’re
somewhat -- we threw out $250,000 here. We’re open to
some discussion of that and maybe we can add that to our
joint written reply comments here.

    My only hesitancy in going further down that
road, frankly, is the fact that there seems to be some
disagreement among the POUs, but maybe we can all come
together and decide on a joint course forward that
works.

    But beyond that, I have no further comment at
this time.

    MR. LAU: This is James Lau from SCPPA. Really
quickly, Lisa, just back to your pollution control,
you’re talking about in reference to CO2 emissions,
right, and not just other types of pollution or are you talking about everything then?

MS. DE CARLO: I think it would be general, but we’d be well open to comments from the parties on whether or not that should be even further narrowed.

MR. LONG: And just to be clear, she’s talking about a reporting requirement on those investments to meet those requirements. She’s not setting up a separate determination of compliance with the performance standard.

MS. DE CARLO: Yeah, this --

MR. LONG: She’s not saying that those investments would not, per se, comply with the performance standards, she’s just saying that those are the kinds of investments that you would report on, if I understand you correctly, Lisa.

MS. DE CARLO: Yeah, that’s for the noticing that we’re talking about, the additional noticing requirement.

MS. GRANT: Okay great. So, before we go onto the -- so, I’m just going to wrap up the language portion of things, these definitions.

Before we go on to the final piece of the discussion portion, I wanted to kind of bring up NRDC submitted in their comments that they are interested in
having the Energy Commission clarify that investments to meet environmental and other regulatory requirements constitute a new ownership investment under the regulations, section 2901(j), to the extent that they extend the legal operating life of the facility by five years or more.

I just wanted to, at this point, if the parties or the POUs have a response to that portion of NRDC’s comments, if they’d like to make that now, you’d have an opportunity to do so.

MR. PEDERSEN: I’m sorry, I’m not sure I’m with you, Sekita.

MS. GRANT: There’s -- in the -- I don’t know if you want to go into it, but NRDC’s comments raised an issue and it was not scoped in our notice, so it was in the reply comments that NRDC provided to our notice.

MR. HOWARD: This is Randy Howard, LADWP, so I’ll give you our take. We disagree. We were very engaged with the Legislature in the development of SB 1368 and very involved in the proceedings. I personally was quite involved in the proceedings here on the rulemaking, and the discussions that took place then.

And no, we disagree with that definitional meaning and we do not believe that was the legislative intent.
MR. PEDERSEN: I’d actually like to say a few words on that. I was actually going to leave that for closing comments, I didn’t -- wasn’t aware you were going to raise it.

And this goes to the proposed revision for 2907, several points. The first point, as we just discussed a few moments ago, there is a point of disagreement that we all understand and that is whether an investment to meet an environmental or regulatory mandate is or is not a covered procurement. And we’re very strong on our view that extending the life for five years means extending the physical life.

We understand Noah and Matt’s point of view on it and they’re asking you to reach that entire issue and decide that entire issue here.

You know, that was not ever, as far as I know, within the scope of this proceeding.

This passage, on page -- the passages on pages 5 and 6, and it ties in with their request regarding an addition to section 2907, it’s exactly the same sort of thing. They are getting to an entirely new issue and at some point the scope of this proceeding has to stop being expanded.

You know, we’ve been through -- you know, we started out with a proceeding. We migrated on to
considering whether the EPS should be revised. You know, here in what we thought were our last round, our penultimate round of comments, right before we comment on whatever you have going to the Commission, you know, we thought we were wrapping this up and we have an entirely new issue being raised here.

We would urge you to not expand this proceeding further so as to reach the issue raised here. For one thing, it’s just a very naughty issue, aside from the fact that it is at this very late date a new issue.

We would really urge, frankly, that you take the record you have, you give us a decision to be presented to the Commission, give us our opportunity to provide written comments on that, give us our opportunity to present our views to the Commission meeting, and get this proceeding wrapped up.

MR. LONG:  Noah Long for NRDC. If I may, quickly, I agree that it was not directly responsive to the questions in this ruling. I guess I disagree that it’s a new issue. I think if you look back at our comments from this summer, this is exactly the issue that we were discussing in comments and we made recommendations along these lines then.

The point of bringing it back up now was to say if you were to do this, to then make this change, to
make it quite clear that these investments are not
allowed or, alternatively, to make the changes that we
recommended to 2907, we would view those as an effective
alternative to the monitoring and notice requirements
that are being considered today. And that’s why we
brought them back up because we think it would make it
very clear which investments were allowed, which ones
were not allowed. The point of notice and inflection
points would be less necessary, frankly.

But, you know, so I agree that it’s not directly
responsive to the question. We view it as an effective
alternative. I disagree that it’s a new issue. I mean,
it’s the issue we talked about last summer. It’s the
issue we talked about in our first set of comments, and
going on and forward from there.

MR. PEDERSEN: We can stipulate it’s not a new
issue, it goes back to 2007.

MS. BERLIN: This is Susie Berlin. So, two
things, with regard to a response to Sekita’s what do we
believe, we believe that this issue should not be a part
of this rulemaking.

But at the same time we also believe that this
determination of adding a new definition for the legal
life of the plan is unnecessary, it’s outside of the
intent of the legislation, and it is just a means to add
definitions to get an end that’s not intended, whether
with -- neither with regard to when the legislation was
first passed, nor when the regulation was first passed
back in 2007 and 2006, and when we had the long
deliberative process.

I also will touch on the 2907 issue. We don’t
think that that’s appropriate, either, to have a
mandatory filing. If we are going to explore that
further, that needs to be explored in a lot more depth.
There needs to be a greater detail regarding what
factors will be used to review it and what this,
ostensibly, review and approval process would look like.

I would also like to get clarification from
Noah, and maybe I’m just not understanding or I missed
something, are you saying that NRDC would advocate
either one of these or your option two/three combined
reporting requirement, or this additional language to
2901(j), as an either/or option for proposed revision to
the regulation? Is that what you meant when you say
that you see them as an effective alternative?

MR. LONG:  Noah Long for NRDC. We’ve said right
from the beginning of the proceeding that we think that
this would be a useful addition to the regulations that
would add clarity.

I think what I meant to say there was that the
2007 change that would require the utility to request the Commission to evaluate upcoming investments would preclude a need to notice those -- simply notice those same investments for environmental and regulatory requirements, because they’d be asking for permission to do them or, you know, asking for clarity that they’re allowed.

You wouldn’t -- you know, that would also cover a notice requirement.

MS. GRANT: Okay, thank you.

So, the final topic we’ll cover is whether to replace the term “investment” with “covered procurement” in section 2913 of the regulations.

We’ll go through very briefly and get comments on that. Norm, if you want to start.

MR. PEDERSEN: Thanks, Sekita. Yes, and as we indicate in our comments, we strongly encourage you to make that change.

You know, frankly, back in 2007 when we were putting together 2913, I just wish that we all, collectively working on that section, would have had it go through our heads, oh, it’s probably better to have the word “investments” in there to avoid the implication that somebody’s who’s coming in for a petitioner for exemption is agreeing that they have a covered
procurement.

It would have been a lot better. We didn’t think of it. You know, but we certainly have thought of it now and we strongly encourage you to make that revision. It would make that section capable of doing what we all intended back in 2007 for it to do.

MR. VESPA: I just had a --

MS. BERLIN: Susie Berlin. We agree with SCPPA’s position and what Mr. Pedersen just said, that it would be a good idea to clarify this provision, to capture the intent, but we want to ensure that we’re not bandying about definitions that could then get used in other parts of the regulation as they pertain to the scope of the EPS, itself.

So, the term “investment”, if it was to be used in the context of the 2913, that would address concerns that have been raised in the past. But it’s just important the term “investment”, when used in the context of 2913, is not also attempted to be applied in some other context because it’s not a defined term with regard to the applicability of the EPS.

MR. VESPA: I had a question about the change that you’re proposing. 2907 does provide a process to request the Commission to determine whether a particular investment is covered. So it does seem to be a process
to kind of figure this out in advance before moving to
what, I guess, was envisioned as a second step as to
whether there’s some escape.

So, why does 2907 not deal with your problem?

MR. PEDERSEN: 2913, certainly in our view, is
not a second step. It deals with a situation, such as
the one that the San Juan participants are in, where
you’ve got an operating agent who, if the participants
in the plant decide they don’t want to do something, but
the operating agent says we’ve got to do it and I, as
the operating agent are going to do it, and you’re going
to pay for it, and then we’re required to make the
investment.

But we can come into the Commission and say,
look, we’re bound to do this, can you give us an
exemption.

And, you know, it might be a covered
procurement, it might not be a covered procurement. The
key feature is that we’re contractually bound to make
the investment. That’s what 2913 was. It was a very
simple situation we all knew about back in 2007, and
that was the point of 2913.

But it just has -- the way that we worded it
just has this unfortunate consequence that it puts a POU
in the position of appearing to have to -- to have made
a determination that investment was a covered
procurement in order to petition for an exemption.

So, to remove the possibility of that
implication being drawn, you know, certainly we have
proposed that we make this change which is, we think,
rather minor and a conforming modification, conforming
to the original intent underlying 2913, that we make
this change.

And we really appreciate the staff raising this
point and considering the proposal.

MR. LONG: Noah Long for NRDC. If I may, I
think our view is I think I can’t imagine a circumstance
where the utilities -- under that circumstance of San
Juan is maybe a fair example, although we’re not
stipulating, obviously, that we would agree that an
exemption would be necessary, but where you’d want to
come in for a request of an exemption.

I can’t imagine a circumstance where you
wouldn’t also -- where the Commission, either by itself
or because of other stakeholders, wouldn’t also want to
evaluate whether or not they were giving an exemption
for a covered procurement, because I think that so
strongly affects the determination.

So, in my view, you may change the language of
2913, but in any case where that would happen there
would be a request for -- there should be a request for an evaluation under 2907 concurrently.

MR. PEDERSEN: That would be irrelevant.

MS. BERLIN: This is Susie Berlin. Noah, I have to say that that’s not the case. What 2913 says is even if it’s a covered procurement, if we’re contractually bound that’s the provision that we apply to the Commission for.

If there is a recent expenditure, SCPPA and San Juan parties voted, abstained, MSR voted no. PNM has a say, now, in how that goes forward. It’s not going forward at this time and we addressed this issue in our comments.

But there are instances where whether we like it or not, depending on how this operates, there could be covered procurements that the POUs have to pay for because of these preexisting agreements. That’s what 2913 addresses.

2907 addresses any noncompliant facility, whether you’ve got a preexisting agreement or not, if you’ve got expenditure -- or any facility at all if you’ve got an expenditure coming up, I’m not sure is this covered or not, and you can ask for the Commission’s determination on it.

2913 is not only available as a precursor -- or
excuse me, as a second step to a 2907 evaluation. As a
matter of fact, a 2907 evaluation is probably irrelevant
as compared to a 2913 request.

MR. PEDERSEN: Yeah, just to elaborate on what
Susie is saying, Norman Pedersen for SCPPA, there are
two necessary and jointly sufficient positions for
getting an exemption.

One, we have to show that the covered
procurements are required under the terms of the
contract or ownership agreement. And, two, the contract
or ownership agreement does not afford the local,
publicly-owned electric utility applying for the
exemption to avoid making such -- and there they use the
word “covered procurements.”

It doesn’t matter if it’s a covered procurement.
If you meet those two jointly sufficient conditions,
then under 2913 you would be able to obtain an
exemption.

So, you know, 2907 is not a first step in any
way to getting to 2913. Yes, a utility, a POU could
come in requesting the determination under section 2907,
but it could proceed under 2913 without taking that
step, and without even going through the process of
determining whether or not a given investment would be a
covered procurement under the EPS regulation.
MR. LONG:  Yeah, I recognize that it might be --

sorry, Noah Long for NRDC.

I recognize that it might be -- that might be
the strategy employed by a POU.  I think in our view it
would be relevant and likely relevant to the activities
leading up to the contractual requirement or the
attested contractual requirement to make that
investment.

It would be relevant to determine whether or not
the POU -- how the POU had acted and whether or not they
had employed all of their available -- contractual
available options to avoid an investment.

And under those circumstances, the determination
of whether or not it’s a covered procurement, and how
the board of the POU had acted, whether or not they had
voted appropriately in the operating committee of the
plant, for example, would be such a closely related
determination that I just can’t imagine the circumstance
where the Commission would, in fact, not be interested
in whether or not that investment were also a covered
procurement.

MR. PEDERSEN:  Well, the way the regulation’s
stated now, the Commission shouldn’t be interested
because it’s not relevant to making the determination
given the two jointly sufficient conditions.
MS. BERLIN: This is Susie Berlin. And that’s the whole point, the whole point is it is -- let’s assume it is a covered procurement. It’s a covered procurement.

MR. PEDERSEN: Right.

MS. BERLIN: It should be prohibited, but these preexisting agreements make it impossible for the POU to avoid the transaction. So the Commission doesn’t have to make a determination or not.

MR. LONG: Noah Long for NRDC. Under those circumstances, if it is a covered -- under the current regulations it’s agreed that it is a covered procurement, I think that there would be an expectation that the POU would have done everything possible to avoid that investment.

MR. PEDERSEN: Well, those are the two necessary and jointly sufficient conditions.

MS. BERLIN: Perhaps this is -- this is Susie Berlin. Perhaps we are coming against is a -- I don’t know if it’s because you’re concerned about where to insert the word “investment” or not. I mean, 2913 exempts covered procurements if these provisions take place.

So, I don’t see why you would -- that would be linked in any way, shape or form with the 2907 where
you’re getting the determination.

MR. LONG: Well, it’s --

MS. BERLIN: Let’s assume -- I mean, we wouldn’t even submit a 2913 if there wasn’t a covered procurement.

MR. LONG: Under the circumstances that Norman is discussing, you would or could because it wouldn’t have to be determined that it were a covered procurement. You could just say it’s an investment and we want an exemption. I think that’s the point of the request that you’re asking.

MR. PEDERSEN: It’s not an investment -- we want an exemption. It’s an investment that’s required under the term of the contract --

MR. LONG: Right.

MR. PEDERSEN: -- or ownership agreement. And that contract or ownership agreement does not afford the publicly-owned electric utility, applying for the exemption, the opportunity to avoid making the investment.

And you could easily have a POU not wishing to get to the point of having to decide whether or not the given investment is a covered procurement or not.

If the investment meets those standards, then it should be able to come in and get the investment because
it can’t avoid making the investment. It might be a
covered procurement. It might be a covered procurement
that would meet the EPS. It might not be a covered
procurement. You could still get the exemption because
you met the two necessary conditions.

So, you don’t have to get to the issue that
you’re saying you would have to get to.

MR. HOPPER: This is Martin Hopper with MSR.
What we’re talking about here is regulatory efficiency.
You know, why if we can -- if we can avoid tying up the
resources for staff and go to the meat of what we want
to do or have to do.

And as we’re talking here, just purely under
2913, you also note that under 2912 there are also
additional grounds by which a publicly-owned utility can
seek exemption from the requirements.

But whether or not, you know, if we go through a
2907 step, at the end of the day what has changed?
Okay, now we’ve formally determined it’s a covered
procurement and then we go and do 2913, or we can go
right to 2913 and not utilize the resources and taking
the time and effort of going through 2907.

The burden, the test, as Norm has reiterated
several times, the test is still the same once you get
to 2913. You’ve got to show that you have to do this
and you have done what you can to not. Your test is unchanged whether you go through 2907 or not. And we’re just adding, I think, an unnecessary regulatory burden if we were to insist you go through 2907 as a prerequisite to going into 2913.

MR. LONG: Noah Long for NRDC. If I may, I guess one meta-point, first, which is to say that I think the course we’re on, and that I expect and I think everybody agrees we’re on for all of these facilities, all the facilities we’re concerned about, likely de-prioritizes this issue.

So, to the extent that we’re disagreeing about it now, I think it’s likely not the highest priority for any of us.

I guess my concern is and, hopefully, we can leave it at that, that it’s an honest disagreement, is that 2913, in the way I view it, would require a factual determination that in fact the utility could not, does not, was not afforded any opportunity to object, which would mean that they used every available tool to them to stop that investment.

In my view, the fact that the force of law of California prevents such an investment, provides greater leverage for a utility than a utility that is in advance telling their partner from out-of-state or potentially
in-state, that they’re saying we don’t think we can do this. We’re going to go try and get an exemption. That would preclude that factual determination that in fact the utility had done everything that they could to stop that investment. So, I think that’s the difference.

MR. PEDERSEN: Okay, now you’re shifting to something else. Now, you’re going to another test for getting the exemption. You know, you were saying, oh, well, you know, you’d have to go through determining whether it was a covered procurement and now we’re moving to the actions a utility might take.

MR. LONG: Norman, my point was -- I’m sorry, if I can just clarify. My point was that I think that’s why a determination would be useful.

MS. GRANT: Sorry, I’m going to interrupt. I think this might be a good one for written comments, if you guys would like to kind of clarify the points that you’re making.

I don’t see that as one you might be able to stipulate to within the next two weeks, but we never know.

MR. LONG: I don’t. That’s why I recommended we de-prioritize the issue.

MR. VESPA: I have a side point on this issue of contracts I just want to raise for the record is that I
think it was Anaheim, in the San Juan context, in that contract if you have a certain percentage of investments you can say no, you know, depending on what your level is.

And each of the POUs own a different percentage. And I think Anaheim, what they had said was we own so little, we can never say no to anything.

But if you collected that with the other POUs as a block, you know, you can say no.

MR. LONG: Right.

MR. VESPA: And so when we talk about, you know, every -- making all these opportunities to avoid it, I think we do need to think about how the POUs function collectively and not in their individual capacity.

And if we’re going to look at amending this section, I think some clarification on that might be helpful, just based on some of the comments that were made in the filings.

MS. BERLIN: This is Susie Berlin. I have to interject here that I don’t think that there’s any grounds to deny, for example, MSR an exemption if they qualify for one under the language in the statute didn’t do something that you would have liked to have seen Anaheim do.

MR. VESPA: I’m saying --
MS. BERLIN: So, I’m saying that you cannot make a determination on whether or not -- or I do not believe that it’s appropriate to have a regulation in place where the Commission is making a determination on whether or not MSR qualifies for an exemption under 2913 based on looking at what all the POUs did collectively. And that’s what I heard you just say, where you need to look at what the POUs do collectively, and that just can’t be the way it’s done. We are individual entities.

MR. LONG: Noah Long for NRDC. If I may, that’s why a determination in advance as to whether or not it was a covered procurement and required actions of the covered procurement would be useful before getting to a 2913 evaluation.

MS. BERLIN: This is Susie Berlin. Because what you’re saying is a CEC determination of whether or not it’s a covered procurement has more weight than a POU determination and whether or not it’s a covered procurement.

MR. LONG: To the extent that MSR and Anaheim are acting on different determinations, I think it would be very useful if there were a consistent approach.

MR. VESPA: For the same investment.

MR. LONG: For the same investment.

MS. GRANT: Okay, so that’s --
MR. VESPA: For the same boiler, which they both have property interest in.

MS. GRANT: This is the last one on this issue and then we’re going to go to public comment.

MR. HOMER: The underlying thing is that we could all vote no on something and if PNM decides they have to do it for prudent utility practice and to abide by the law, they do it and we pay for it. It doesn’t matter and that’s when we would ask for an exemption.

MR. LONG: That’s right and that’s why 2913 is available.

MS. GRANT: So, at this point do we have -- well, thank you, that was great comments.

(Laughter)

MS. GRANT: I had -- a couple of hours ago I thought we were going to end early. I was completely wrong.

MS. JONES: Yeah, we thought that was a sleeper issue.

MS. GRANT: Yeah. Okay, so we look forward to written comments on some of these issues.

Blake, are there any public comments?

And so we’ll just -- we’re going to unmute in a second, so if you can mute yourselves, unless you have a comment, that would be great. So, we’re going to unmute
everyone now.

No one. Okay, well, I don’t think anybody had any comments, right? We unmuted for a while.

MR. LONG: Are there some written questions there?

MS. GRANT: We can try again.

Okay, so there’s -- so maybe if we can unmute. Do you want to unmute Carrie and just to get clarification on her question? Carrie, are you there?

Okay. Blake, do you have any suggestion?

MR. VESPA: Well, it’s not really a question.

MS. GRANT: It’s not really a question. It’s kind of stating one of the topics we covered.

Okay, we’ve unmuted again, if anybody has any comments.

Okay. All right, at this time if we can --

MR. PEDERSEN: Can you scroll down so we can see who else is on? I actually didn’t --

MS. GRANT: So, we’ll go around now, briefly, and just give closing statements.

Noah, if you want to start.

MR. LONG: Sure. Noah Long for NRDC, I’ll keep this very brief. I look forward to opportunities for joint comments. I hope we can just prioritize a couple of issues and make some recommendations on a possible
I just want to add one more point, which is to say that, you know, while there’s obviously some significant disagreements here, I think we should underscore the fact that I think we’re making progress. This regulation has done great things. I’m really glad the regulation is still in place.

And I hope that we continue to make progress. And I think an effectively and narrowly tailored reporting requirement could be useful to ensure full implementation of the intended purpose of the statute over the coming years.

MS. GRANT: Randy?

MR. HOWARD: Sure. Randy Howard, LADWP. I just want to again express my appreciation for allowing us to provide both the written comments and the oral comments today, and have the dialogue that we’ve been having. I think LADWP continues to be committed to reducing its GHG footprint and committed to this process.

I would just urge the Energy Commission to, you know, swiftly bring this rulemaking to a close and let’s focus on the efforts that are necessary to bring forward all of the other activities that are going to be needed to replace these big resources so, thank you.
MR. HOMER: Steve Homer, SCPPA. Amen.

MR. HOPPER: Martin Hopper, MSR. We’d like to concur. We are -- I think we’ve made a lot of progress. I think we’ve developed a good record in this proceeding. We’d like to see it wrapped up.

On the other hand, we could drag it out and render it moot because MSR will be out of the project by the time this proceeding’s done, otherwise.

MR. LONG: And I say amen to that.

(Laughter)

MS. BERLIN: We appreciate staff’s time and on presenting all the proposals, and the discussion that we’ve had today, and the comments.

Just a fundamental issue, the statute, as Martin has said, the statute is working. We’re getting out and doing everything that we can to advance the goals of the statute and to divest of these interests.

We believe that there is nothing to demonstrate that the POUs have not complied with both the intent and the language of the statute and the regulation. If it’s not broke, don’t fix it. We believe our resources are better spent moving forward with the divestiture under the regulation as it stands. Thank you.

MR. LAU: James Lau with SCPPA. Just wanted to thank the Chair Weisenmiller and the CEC staff on all
their time on this proceeding, and just echo what
everybody else has said. And, hopefully, you know,
continue talks with you all and that this would -- that
we’ll soon be out of this and all these talks will be
academic.

MR. PEDERSEN: It looks like we’re up to me and
actually I’d just like to point out, you know, this
statute, for those of us who have lived with this
statute since 2007 know this, it was never intended to
drive people out of plants until the end of their
contract, or until the plant life expired. But it was
an anti-backsliding statute. It was to prevent people
from getting into new investments in facilities where
you’d have emissions greater than the EPS.

And what you’ve been hearing in this room today,
and there’s a lot that’s going on that we can’t talk
about, what you have been hearing that we can talk about
is at least as far as these, and we’ve identified them,
three plants that people are concerned about, you know,
these utilities are going beyond the statute.

So, not only is the statute working to achieve
the legislatively intended purpose of the statute, but
we’re going -- we’re going beyond it.

And certainly, I think you’ve been hearing from
us that we need to spend our time not just complying
with the statute, but going beyond the statute and moving to cleaner assets.

So, yeah, I would reiterate that we’re going to have another round of comments, it looks like, in about two weeks. We’ll obviously have an opportunity to comment when this appears before the Commission.

But we would hope that you not continue to expand the proceeding. Rather, you know, get these last few items that you teed up in the Notice of Rulemaking Workshop addressed, and wrap it up. Thanks.

CHAIRPERSON WEISENMILLER: Again, I want to thank everyone for their participation in this. This is an important issue. We’ve spent time on it. We’ve tried to go through things carefully, as you know, the parts of it.

And as we’ve done that investigation, frankly, one of the things that became clear is that under the leadership of the prior Commissioners Gieseman and Fahnenstiel, this was a pretty well-drafted regulation at the start.

And I think at the same time situations have changed. I think it’s good to go back. I think, as you pointed out examples and somebody pointed out examples where things were -- people were beginning to wonder if we had really thought through all the implications.
So, it’s good to have had that. Certainly, I think early on I’ve encouraged the parties to all settle. And certainly, again, encourage that sort of settlement so we can move forward.

Again, it’s a great step. Glad where we’re going is in place.

Certainly, you know, I think everyone has the same interest in mind. I would point out that -- I guess PG&E’s still here, but certainly a number of noncompliant facilities they have in California have either been shut down or transformed to other fuels.

So, again, I think trying to deal generally with the noncompliant facilities is certainly what this legislation, cap and trade, and everything is dealing with.

And again, certainly encourage you guys to make progress on all little things, certainly to make progress on your bigger project and see if we can basically get you out of any reporting requirements sooner, as opposed to late. So thanks again.

(Thereupon, the Workshop was adjourned at 4:26 p.m.)

--oOo--