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EXHIBITS

<u>EXHIBIT NO.</u>	<u>IDENTIFICATION</u>	<u>EVIDENCE</u>
2031		21

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P R O C E E D I N G S

SEPTEMBER 12, 2017 9:30 A.M.

HEARING OFFICER KRAMER: So, this is Paul Kramer and I'm the Hearing Officer for the Puente AFC Committee. And we're here today for a Committee Conference prior to our hearings that will be held down in Oxnard on this Thursday, September 14th.

So, let me turn it over to our Presiding Member, Commissioner Scott, for the introductions.

COMMISSIONER SCOTT: Hi. Good morning everyone. This is Commissioner Janea Scott. As our Hearing Officer Paul Kramer just mentioned, I'm the Presiding Member for the Puente Power Project.

And I am joined here, as you can see on my right, by Paul Kramer, and to my left by my Advisors Rhetta DeMesa and Matt Coldwell.

And for the moment, to my far right is Jenn Nelson who is an Advisor to Commissioner Karen Douglas.

Let us go and do introductions with the parties, starting with the Applicant, please.

MR. CARROLL: Good morning, Mike Carroll

1 with Latham & Watkins. We're outside counsel for
2 the Applicant.

3 And with me today is George Piantka,
4 Director of Environmental Services for NRG.

5 COMMISSIONER SCOTT: Good morning. Do
6 you have anyone on the WebEx?

7 MR. CARROLL: I don't believe we do at
8 the moment. We may have people joining, but I
9 think primarily just to listen in. So, we don't
10 plan to have anyone speak via the WebEx.

11 COMMISSIONER SCOTT: Okay, great. Good
12 morning, welcome.

13 How about the Energy Commission staff,
14 please?

15 MS. WILLIS: Good morning, this is Kerry
16 Willis, Assistant Chief Counsel, with Michelle
17 Chester, Staff Counsel, and Lon Payne who is our
18 Project Manager.

19 COMMISSIONER SCOTT: Good morning.

20 And now, let's turn to the Intervenors,
21 starting with the City of Oxnard.

22 MS. FOLK: Good morning. This is Ellison
23 Folk with Shute, Mihaly & Weinberger, for the
24 City of Oxnard.

25 COMMISSIONER SCOTT: Hi, good morning.

1 How about the Environmental Coalition,
2 Environmental Defense Center and Sierra Club?

3 MR. VESPA: Yeah, hi, good morning. This
4 is Matt Vespa on behalf of those parties.

5 COMMISSIONER SCOTT: Good morning.

6 Do we have Intervenor Bob Sarvey? If so,
7 please go ahead and introduce yourself.

8 Okay, how about Intervenor California
9 Environmental Justice Alliance?

10 MS. LAZEROW: Yes, hi, good morning.
11 This is Shana Lazerow on behalf of CEJA.

12 COMMISSIONER SCOTT: Good morning.

13 Intervenor Center for Biological
14 Diversity?

15 MS. BELENKY: Hi, this is Lisa Belenky.
16 And also with me is Kevin Bundy.

17 MR. BUNDY: Good morning.

18 COMMISSIONER SCOTT: Hi, good morning.

19 And how about Fighting for Informed
20 Environmentally Responsible Clean Energy? Do we
21 have Dr. Chang on the line? Okay, we'll check
22 back in a minute.

23 Let me see whether or not we have any
24 others. Do we have anyone from the California
25 ISO on the line?

1 MR. PINJUV: Yes, good morning, Jordan
2 Pinjuv from the California ISO.

3 COMMISSIONER SCOTT: Good morning.
4 How about the California Coastal
5 Commission?

6 Okay. How about the United States
7 Geological Survey, USGS?

8 Okay. Do we have any other State or
9 Federal wildlife agencies who would like to
10 introduce themselves? If so, please go ahead.

11 And any other Federal, State or Local
12 agencies that I missed, who would like to say
13 hello? If so, please go ahead and introduce
14 yourself.

15 Okay, I think we have heard from
16 everyone. Good morning all and welcome.

17 So, we are now going to, I think, pause a
18 moment and wait until we are joined by
19 Commissioner Douglas and then we will get going
20 again.

21 HEARING OFFICER KRAMER: Let me say one
22 thing, though. Ms. Folk, when we were going and
23 entering the exhibit designations into the
24 system, your first proposed exhibit 3074 we
25 noticed was already in. At least under the TN

1 number that you gave was already in the system as
2 3036. So, I wonder if you can check on that and
3 see if there was some kind of --

4 MS. FOLK: Okay, I will check on that.
5 There could have been overlap there.

6 HEARING OFFICER KRAMER: Okay.

7 COMMISSIONER SCOTT: Any other
8 housekeeping?

9 HEARING OFFICER KRAMER: I'm just looking
10 to see if there are any other housekeeping type
11 items we could talk about. I don't see any.

12 Do any of the parties have any they want
13 to at least throw out on the table for people to
14 think about? Seeing none, okay, we'll --

15 MS. LAZEROW: Actually, hi, this is Shana
16 Lazerow. Can you hear me?

17 HEARING OFFICER KRAMER: Yes.

18 MS. LAZEROW: Great. I don't know
19 whether it's appropriate to talk about timing for
20 briefing or whether we need the whole Committee
21 present for that. Is that an administrative type
22 matter?

23 HEARING OFFICER KRAMER: Well, why don't
24 you describe what you want to propose and then we
25 can at least be thinking about it, maybe to get

1 back to it after the short closed session we're
2 going to start with.

3 MS. LAZEROW: Sure. I was going to
4 propose, I was going to ask whether we could
5 reconsider the briefing schedule that's currently
6 out there, with the idea of having both the --
7 I'm sorry a BART train was going by. Can you
8 hear me?

9 The idea that we could have both the
10 reply briefs and the briefs concerning the issues
11 around the CAISO study due on September 29th?

12 From CEJA's perspective, we're having a
13 bit of a legal staffing issue at the moment that
14 was unexpected. And having the reply briefs due
15 on the 19th would cause a real hardship for CEJA.
16 And I think that given the nature of the evidence
17 that is coming in, certainly from our perspective
18 it would be more efficient if we had the option
19 of providing, you know, either a combined brief
20 or separate reply, and opening briefs regarding
21 the ISO, the new ISO information, and the reply.

22 So, that's what I was going to suggest.

23 HEARING OFFICER KRAMER: Okay. We'll
24 come back to that when everyone is here, after
25 the closed session.

1 MS. LAZEROW: Great, thanks.

2 COMMISSIONER SCOTT: This is Commissioner
3 Janea Scott. I was going to note -- I'm sorry,
4 was that Ms. Folk?

5 MS. FOLK: Yeah, this is Ellison Folk. I
6 was just going to say I checked the exhibits and
7 I think you're right that there was a
8 duplication, so --.

9 HEARING OFFICER KRAMER: Okay, so we'll
10 just leave that number blank then.

11 MS. FOLK: I notice on the exhibit list -
12 - yeah, yeah.

13 HEARING OFFICER KRAMER: Okay.

14 COMMISSIONER SCOTT: Okay, great.

15 MR. VESPA: And this is Matt.

16 COMMISSIONER SCOTT: Go ahead.

17 MR. VESPA: This is Matt Vespa. I had a
18 minor item. In my prehearing conference
19 statement I had included some exhibits, one of
20 which ended up being a link to a GreenTech media
21 article. Because at the time I filed that I was
22 informed by the docket office that you need
23 permission -- copyright permission, which I've
24 since obtained. And that document is now refiled
25 as TN221103. So, we would propose to swap that

1 out.

2 As for exhibit numbers, I understand
3 there's also objections to these exhibits, but
4 assuming they go through I would just want to
5 switch out the web link for the actual document.

6 HEARING OFFICER KRAMER: Okay. And then
7 I think also Ms. Belenky had two links. What I
8 neglected to do over the weekend, but I'll do
9 this evening or later today, is I will create two
10 dummy, basically PDF files that just obtain the
11 link, and get those docketed, and then we'll put
12 the exhibit numbers on those.

13 And we'll do that regardless of whether,
14 you know, they're ultimately taken into evidence.
15 We just need them into the docket for historical
16 reasons.

17 MR. VESPA: Yes. So, in this particular
18 case I did docket it. I docketed something with
19 the link, already.

20 HEARING OFFICER KRAMER: Right.

21 MR. VESPA: And that's listed, right.
22 But now I do have the copyright permission so --

23 HEARING OFFICER KRAMER: Yes, and I'll
24 make sure.

25 MR. VESPA: Okay.

1 HEARING OFFICER KRAMER: I'll make sure
2 if we haven't already transferred the exhibit
3 number to the full document, we'll do that as
4 well.

5 MR. VESPA: Okay, thank you.

6 MS. BELENKY: Yes, and this is Lisa
7 Belenky. Yes, I think there were actually three
8 and we are working on getting those permissions.

9 You know, what might be helpful is if the
10 Commission has a -- collects some clarity on what
11 your new policy is, and that it could be --
12 actually we could all know what that policy now
13 is. Because you had encouraged me to file
14 excerpts, which I actually was very, quite
15 resistant after I thought about it because it
16 would be as though I were testifying as to the
17 document. And I don't think that's going to help
18 the situation. I think either the document, like
19 you said, there's a link and everyone can reach
20 it that way, or maybe you can file the document
21 but not put it up on the web, so that it is part
22 of the record.

23 We have used scientific articles and
24 other articles from various sources at least in
25 all of the years that I've been doing CEC work.

1 Which I realize is not as long as some people,
2 but it is probably eight years. I have never had
3 anything rejected on that basis before and I had
4 no idea that this was a new policy.

5 So, having the new policy stated
6 someplace on your website and so that we know
7 what it is, would be very, very helpful.

8 HEARING OFFICER KRAMER: Yeah, you're
9 caught right in the middle of the evolution of
10 this, so we're working on a policy. Actually,
11 it's one of the things I'm juggling, along with
12 this case.

13 But just to let everyone know what's
14 going on, we are trying to be more sensitive --
15 well, A, we don't want to spend a lot of our time
16 defending copyright infringement suits. And so,
17 we don't want people using our website to violate
18 somebody's copyright.

19 So, when I speak about excerpting
20 portions of documents that are appropriate to
21 your point, we think that likely is a fair use of
22 a document.

23 But to take a whole journal article and
24 just put it into the docket, and have it then be
25 republished because everything in the docket goes

1 through our website is something we're trying --
2 well, we're trying to find the right balance
3 there. But, at present --

4 And occasionally you may find something
5 that slips through, frankly. It's our filters
6 are not necessarily perfect in this regard, but
7 we are trying to spot these kinds of documents
8 and just make sure that either there's -- in one
9 case, one of the documents that was filed
10 recently had -- I think it was in this case,
11 currently said on it that it was subject to the
12 Common Commons License or something. I may have
13 the term wrong. But, basically, it's like an
14 open source license that anybody can republish it
15 as long as they give credit to the originator.
16 And so, therefore, that was fine.

17 But when we have copyrighted documents,
18 articles from newspapers, you know, who are
19 trying to sell us subscriptions to get past their
20 paid firewalls, we just -- we have enough
21 litigation and we're not trying to encourage
22 more. So, that's where we are with that.

23 So, Lisa, I think in your case if -- your
24 other option would be to just excerpt the
25 portions of the particular document that are

1 specific to the points you're trying to make, or
2 if you're offering them for impeachment or
3 something, then you could do it that way in the
4 future.

5 And at some point there will be a policy.
6 It's just not going to be -- it's probably not
7 going to be, certainly not next week, and maybe
8 not even next month.

9 So, with that I've spoken too much on
10 this record about the copyright and I'm going to
11 quit that.

12 Okay, so we're going to adjourn into that
13 closed session that I mentioned. This will be a
14 brief closed session. Probably not the only one
15 today.

16 And it is for the purpose of deliberation
17 on matters submitted for decision by the
18 Committee, including but not limited to pending
19 motions and scheduling.

20 And it's in accordance with Government
21 Code Section 11126(c)(3), which allows a State
22 body, including a delegated committee to hold a
23 closed session to deliberate.

24 So, we will be back here at no earlier
25 than 10:00 but, hopefully, not much later. So,

1 we'll see you then.

2 (Adjourned into Closed Session at

3 9:46 a.m.)

4 (Reconvened into Public Session at

5 10:09 a.m.)

6 HEARING OFFICER KRAMER: Okay, back on
7 the record.

8 Okay, this is Paul Kramer. The
9 Committee's back from closed session. It has no
10 actions to report at the moment.

11 The next item in order on our agenda was
12 to discuss the prehearing statements. But as
13 that involves, in essence, talking about the time
14 estimates and how much time we really need, which
15 I think you noticed I said we were going to
16 discuss in one of my memos in the last few days.
17 I think that will be better informed after we
18 discuss the prehearing evidentiary objections and
19 motions.

20 So, we're going to move on to Item 2.c.
21 And the first question I had, this is a holdover
22 from the last hearing but we had Exhibit 2031,
23 which was TN215772 and that was a couple-page
24 document, I think, that just had an updated data
25 from EnviroScreen 3.0. And some of the parties

1 were not sure if they were going to object or
2 not, so we just put that over.

3 And since then CEJA initially filed
4 objections and then withdrew those objections.
5 So, I'm wondering if any other party has any
6 objections to the admission of Exhibit 2031 or if
7 they need more time?

8 But otherwise we'd like to just put a
9 period on that question and right now, if we can.

10 MS. FOLK: This is Ellison Folk. The
11 City does not have any objection.

12 MR. CARROLL: The Applicant does not have
13 any objections.

14 HEARING OFFICER KRAMER: Okay. Does
15 anybody have any objection?

16 Okay, so then 2031 will be admitted.
17 Thank you, all.

18 Next is TN221104 and that's Applicant's
19 Motion to Strike the exhibits of Intervenors
20 Sierra Club, Environmental Coalition and the
21 Environmental Defense Center.

22 Mr. Carroll, do you want to briefly argue
23 your motion?

24 MR. CARROLL: Yes, thank you. The
25 Committee has been very clear in its orders with

1 respect to the deadlines for filing documents in
2 these proceedings, including ensuring that those
3 documents are available to the other parties via
4 the CEC's docket. This particular deadline of
5 August 30th, for filing testimony and evidence in
6 connection with the upcoming evidentiary hearings
7 was established by order dated June 20th. So,
8 the deadline has been known to the parties for
9 several months at this point.

10 And we think that it's incumbent upon all
11 of the parties to adhere to the deadline so that
12 these proceedings can move forward in an orderly
13 fashion. It has been understood from the very
14 beginning of these proceedings, and all of the
15 parties have adhered to this understanding, that
16 the filing of testimony includes the filing of
17 any -- in all documents, including not just the
18 written testimony, but any written exhibits that
19 are sponsored by that testimony.

20 I would also point out that the notice
21 for the evidentiary hearings, dated August 25th,
22 indicates that all evidence that the parties
23 intend to introduce at the upcoming evidentiary
24 hearings be docketed by the August 30th deadline.

25 So, we think it's been very clear since

1 June that all documents, either written testimony
2 or written exhibits of another nature, need to be
3 docketed and made available to the parties by
4 August 30th.

5 In this case a number of documents filed
6 by EDC, on behalf of the group of Intervenors,
7 were filed after the deadline and on that basis
8 we think should be excluded from the record.

9 Thank you.

10 HEARING OFFICER KRAMER: Okay.

11 MR. VESPA: This is Matt Vespa. May I
12 respond?

13 HEARING OFFICER KRAMER: Yes, go ahead
14 Matt.

15 MR. VESPA: Yeah, I did file a brief
16 response yesterday afternoon. These documents
17 are not testimony. Our testimony was timely
18 filed. These documents are not sponsored by the
19 persons, the experts that we did sponsor
20 testimony for.

21 These are documents we would like to use
22 to cross-examine CAISO in the upcoming hearings.
23 And because of that we feel are timely filed and
24 are already identified in the prehearing
25 conference statement which gives everyone a week,

1 which is more than enough time to look at them.

2 We do have rights as Intervenors to
3 cross-examine witnesses and to reject these would
4 prejudice those rights of cross-examine.

5 HEARING OFFICER KRAMER: Okay, if their
6 use were limited to cross-examination would that
7 satisfy your need for them?

8 MR. VESPA: Yes.

9 HEARING OFFICER KRAMER: Any other party
10 wish to speak to this motion?

11 MR. CARROLL: May I ask --

12 HEARING OFFICER KRAMER: Final word, Mr.
13 Carroll?

14 MR. CARROLL: With respect to the
15 question that you just asked of Mr. Vespa, I'm
16 not sure I understand exactly what it means to
17 say that they are limited to cross-examination.
18 Meaning that they can be used for context or for
19 purpose of reference during cross-examination,
20 but they would not be evidence to which a party
21 could cite to in support of a proposition in
22 their briefs. Would that be a correct
23 articulation of that limitation?

24 HEARING OFFICER KRAMER: Yeah, I think we
25 have to work on some language. But, you know,

1 what I was thinking was they could be used to
2 impeach a witness, but the contents of the
3 document, of course, would be hearsay because the
4 producer of the document's not available to us
5 for you to ask questions.

6 So -- but, yeah, let's be more precise.
7 Hearsay, used for the purpose of impeachment,
8 only or, for instance, to illustrate. Sometimes
9 we have people asking questions and they're
10 saying, you know, I saw this in such and such a
11 document, so it's good to have the document
12 available in the record to understand the full
13 context of the question.

14 MR. VESPA: I would just point out, you
15 know, a number of these documents are authored by
16 the CEC or CAISO, and a number of them were cited
17 by CAISO in CAISO's study. So, I just wouldn't
18 want to presume in advance that all these are
19 hearsay. You know, these are really getting at a
20 lot of what the study relies on.

21 HEARING OFFICER KRAMER: Okay. Well,
22 obviously, Mr. Carroll, we're going to take this
23 back to a closed session and make a decision.

24 But if we go down that path, it would
25 seem that it would be situational, so we would

1 have to see how they were actually used at the
2 hearing, and then, I suppose, when it comes to
3 the end of the hearing, to admit exhibits, then
4 we would have to describe the limitations at that
5 point.

6 MR. CARROLL: And let me just state that
7 Applicant would not object to the documents being
8 used in the manner that you proposed, Mr. Kramer.
9 That being that they are hearsay statements used
10 exclusively for the purposes of impeachment.

11 To Mr. Vespa's point, I suppose if it
12 turned out that one of the CAISO witnesses was
13 also able to authenticate and lay a foundation
14 for one of the CAISO documents that that could be
15 an exception to that rule. But absent a live
16 witness that's in a position to do that, that
17 they would be treated as hearsay documents, or
18 hearsay statements used exclusively for the
19 purposes of impeachment. We would not have an
20 objection to proceeding on that basis.

21 Although, I will note that in the briefs
22 the parties have been somewhat hesitant to adhere
23 to some of the limitations that have been
24 imposed, previously, on the admission of
25 exhibits, but we'll address that in our reply

1 brief. So, I would hope that if we go down that
2 path all the parties would respect the
3 Committee's ruling in that regard.

4 HEARING OFFICER KRAMER: Yeah, that's a
5 general problem we seem to have in our cases is -
6 - people want to -- and, of course, more with the
7 lay intervenors rather than the professional
8 intervenors. But they just want to dump a bunch
9 of documents into the record and without any
10 context, or any explanation as to what point
11 they're trying to make with the documents.

12 And I can't remember if the general
13 orders address this, but what we want to do with
14 them is say we're not going to figure out what
15 the document means. You have to spell it out
16 somewhere.

17 And so, I think if we apply the similar
18 themes to these documents, it sounds like that
19 may work. In other words, they're admitted only
20 for the propositions that they were actually used
21 and not for some miscellaneous proposition
22 that's, you know, on the other side of the
23 document from where we were pointed to during the
24 testimony.

25 Does that make sense to you?

1 MR. VESPA: Yeah, this is Matt Vespa.
2 That does. I'm comfortable with that. I mean,
3 just assuming documents are hearsay because
4 they're not authenticated when most of these are
5 in fact CEC-authored documents or CAISO-authored
6 documents, you know, we would have a problem
7 with.

8 But certainly, you know, we would not be
9 citing to materials we don't talk about or
10 question during the hearing. So, I think that
11 concern is valid.

12 But just excluding these documents for
13 being cited simply because they can't be
14 authenticated by the specific CAISO witness when
15 they are in fact, for example, CAISO documents,
16 we would have an issue with.

17 HEARING OFFICER KRAMER: Well --

18 MR. CARROLL: I would just add that that
19 does not overcome the hearsay exception. I mean,
20 the regulations are very clear, for example with
21 respect to the FSA. That the FSA, itself, is
22 hearsay unless a witness is made available for
23 the staff.

24 So, the fact that it was authored by
25 someone at an agency, who's appeared in some

1 capacity in these proceedings, doesn't mean that
2 that particular document is not hearsay.

3 HEARING OFFICER KRAMER: Yeah, okay,
4 we'll take this one under submission.

5 Next is TN221105, Applicant's motion to
6 strike the proposed exhibits of the Center for
7 Biological Diversity. And it includes a second
8 component which is an objection to the Center's
9 alleged attempting to go beyond the scope of the
10 upcoming hearing.

11 Mr. Carroll.

12 MR. CARROLL: Thank you. With respect to
13 the first portion of this motion it is
14 essentially the same reasoning as was applied to
15 the -- or, was conveyed in the motion with
16 respect to the EDC exhibits which is that, first
17 of all, the prehearing statement itself was filed
18 post-deadline. But then there were a number of
19 documents identified in the prehearing statement
20 that had not been docketed at all. And two
21 documents, one of which replaced the other, which
22 had been docketed late.

23 So, again it's a matter of not having
24 adhered to the orders of the Committee to ensure
25 that documents were made available to the parties

1 by the CEC's docket, by the August 30th deadline
2 which was, as I said, established back in June.

3 The second component of that motion is an
4 indication on the part of CBD that they intend to
5 get into the areas of Air Quality and Greenhouse
6 Gases. The motion may be somewhat premature
7 since they haven't yet done that.

8 But to the extent that they intend to
9 follow through with that stated intention, we
10 have an objection to that since the topics of Air
11 Quality and Greenhouse Gases are closed.

12 We will not have any witnesses available
13 to speak to those topics, since they're outside
14 the scope of the evidentiary hearing. And,
15 therefore, it would be inappropriate and
16 prejudicial to have other witnesses delve into
17 those topics when the record's been closed.

18 HEARING OFFICER KRAMER: Okay. No, I
19 think it is appropriate to -- well, what we're
20 going to get to a little later is defining the
21 scope of the hearing. So, catching that at this
22 point and being clear about the expectations is
23 useful.

24 Ms. Belenky or --

25 MS. BELENKY: Yes.

1 HEARING OFFICER KRAMER: Go ahead.

2 MS. BELENKY: Yes. Well, there's several
3 things there. First of all, as we said in our
4 response to this, we did try to docket our
5 prehearing conference statement at 4:25 and for
6 some reason it didn't go through and we had to
7 re-docket it at 5:22. And we did that as quickly
8 as possible.

9 As far as the documents are concerned, we
10 did docket the one that was accepted very early
11 in the day, but they had a bad PDF and we had to
12 have a re-PDF done. That's why there's two
13 documents there.

14 So, the other documents were tried to be
15 docketed earlier in the day and suddenly this new
16 issue arose as to the copyrights. So, as far as
17 whether they were docketed last week, they were.
18 We attempted to docket them. They were rejected.

19 Now, going back to the August 30th
20 deadline, these, these, each of these exhibits
21 are in the way of rebuttal. Now, on August 30th
22 everyone filed their witnesses' testimony at the
23 same time. It was a very truncated schedule and
24 there was no provision for rebuttal.

25 Our witness has rebuttal to the witness

1 from the Applicant. And these documents go to
2 some of that rebuttal.

3 For example, the Hitachi document, which
4 was not allowed to be docketed, talks about the
5 lifetime of these kinds of large batteries and
6 what is the reliability in a life, and what is
7 it? Is it 10 years? Is it 15 years? And that
8 came up in the Applicant's testimony from Mr.
9 Theaker. So, that is directly relevant to that
10 and will be utilized at the discussion.

11 We could have our witness simply discuss
12 it. But it is actually usually the practice of
13 this Commission and other commissions to prefer
14 that there's actual documentary evidence, rather
15 than just have someone saying what they read in a
16 document.

17 So, I feel like there's a gap here in
18 what people expect. But I do believe it's
19 because of this truncated schedule. We were not
20 allowed to have any rebuttal testimony. We are
21 being, you know, at a hearing in two days from
22 now and we still don't know if this evidence or
23 if our witness testimony will be accepted. So,
24 it's very, very truncated.

25 As to the second issue, which is the

1 Greenhouse Gas and Air Quality issues, these
2 again are in response to the CAISO study.
3 Because the CAISO study is about Alternatives and
4 some of the things that are affected by
5 Alternatives are Air Quality and Greenhouse -
6 Greenhouse Gas emissions, these are subjects that
7 may come up. And they were presented in
8 testimony today.

9 So, I think that this idea that you can
10 completely silo each issue area away from each
11 other is just -- truthfully, I don't think it
12 works. I think we did close Greenhouse Gases,
13 but we didn't close the Alternatives analysis,
14 which is what this is part of.

15 So, you can't totally separate those out
16 and we do believe it's fair to have some
17 discussion on -- at the hearing on the 14th.

18 HEARING OFFICER KRAMER: What point is it
19 you're trying to make with regard to Greenhouse
20 Gases?

21 MS. BELENKY: Well, I think the primary
22 issue is whether the Alternatives that are put
23 forward in the CAISO study and, potentially,
24 other aspects of those Alternatives that have
25 been discussed in other testimony could

1 potentially lower the greenhouse gas emissions.
2 It would be an Alternative.

3 HEARING OFFICER KRAMER: So, in effect,
4 then you're wanting to propose additional
5 Alternatives for consideration?

6 MS. BELENKY: I'm not just talking about
7 additional Alternatives. I'm also talking about
8 the CAISO Alternative and whether it would
9 produce criteria pollutants and greenhouse gas
10 emissions.

11 HEARING OFFICER KRAMER: Okay. Anything
12 to --

13 MR. CARROLL: Just to respond. First of
14 all, I am sympathetic to what Ms. Belenky has
15 said in terms of filing something at the end of
16 the day on a day when a lot is getting filed, and
17 sometimes it doesn't quite get through the
18 dockets office.

19 And if these exhibits had been docketed
20 on August 31st, instead of August 30th, for that
21 reason we would not be objecting because that has
22 happened to us. I think it's happened to all of
23 the parties. So, I'm sympathetic to that.

24 That's not the basis of our objection.
25 Our objection is that they weren't docketed until

1 September 8th, when they should have been
2 docketed on August 30th.

3 So, it's not the fact that the prehearing
4 conference statement came in technically the next
5 day. It's that the documents should have been
6 docketed a week prior to that.

7 With respect to the Greenhouse Gas issue,
8 the record is open with respect to the CAISO
9 study, which is very clearly focused on whether
10 or not preferred resources can meet the LCR need
11 in the Moorpark subarea.

12 It is not open and the scope of the study
13 did not include analysis of air quality impacts
14 or GHG impacts associated with any of those
15 alternatives that the CAISO may have chosen to
16 analyze. It was exclusively based on reliability
17 and need considerations in the subarea.

18 HEARING OFFICER KRAMER: Okay, thank you.
19 We'll take this one under submission, as well.

20 MS. FOLK: Can I? This is Ellison Folk
21 and I just want to make one point.

22 If you look at the transcript of the July
23 27th hearing, at the end there's a lot of back
24 and forth about what briefing on the CAISO study
25 would look like and the fact that it would also

1 entail Alternatives and overrides.

2 And I realize I was more geared towards
3 the briefing issue, but it does indicate that
4 there was a sense on the part of the parties that
5 the CAISO study would implicate Alternatives and
6 the ability to make overrides.

7 So, evidence that goes to that I think is
8 relevant to the CAISO report.

9 And the other problem we're dealing with
10 is because, you know, we didn't -- there was no
11 opportunity for rebuttal testimony, you know, we
12 got the Applicant's testimony at the same time we
13 put ours in.

14 And so, I think the point of having the
15 evidentiary hearing is to be able to ask
16 questions to the Applicant and have some
17 documentary evidence to support those questions.

18 And so, in that context I think that this
19 is appropriate.

20 HEARING OFFICER KRAMER: Okay, but
21 there's a distinction between asking another
22 party questions and adding to the testimony that
23 your witness is proposing to give. Or, is there
24 not?

25 MS. FOLK: Well, I think -- right. Well,

1 I do believe -- I mean, I don't know that it's
2 that clear a distinction. But the point is, I
3 mean, because you could do it either way. But I
4 think the point is that, you know, when you see
5 the Applicant's testimony, I think what CBD is
6 trying to say is that they want to be able to
7 rebut that. And since there's no opportunity for
8 actual submittal of rebuttal testimony, they need
9 to do that at the hearing.

10 HEARING OFFICER KRAMER: Okay,
11 understood. So, we'll take that one under
12 submission.

13 The next one is 221 -- TN221106,
14 Applicant's motion to strike portions of the
15 James H. Caldwell testimony in response to the
16 California ISO report.

17 Mr. Carroll.

18 MR. CARROLL: Thank you. And I'm
19 actually going to speak to the remaining two
20 motions together because they really present the
21 same issue, and the basis of our objections is
22 really the same. So, it's the one that you just
23 mentioned and then also the objection to the
24 admission of the Karpa testimony.

25 HEARING OFFICER KRAMER: Okay, and that's

1 221107.

2 MR. CARROLL: Correct. So, again, I
3 think it's important to keep in mind the context
4 within which we are currently operating, which is
5 that the record is now closed with the narrow
6 exception of the CAISO study and responses
7 thereto. And so, we are not in the realm of the
8 typically liberal standard for admission of
9 relevant evidence.

10 And I think that that's important to keep
11 in mind that additional evidence is only
12 admissible to the extent that it comes within the
13 scope of the Committee's June 20th order, in
14 which it decided to move forward with the CAISO
15 study.

16 With respect to the Caldwell testimonies
17 certainly, and for all intents and purposes the
18 Karpa testimony, as well, after essentially three
19 months my view is that we find ourselves exactly
20 where we were at the June 5th Committee
21 Conference, in this room.

22 At that time we had supplemental
23 testimony from Mr. Caldwell, advancing a
24 preferred resources alternative. We had a motion
25 to strike from the Applicant on the basis that

1 that testimony was beyond the scope of the extent
2 to which the record was open at that time. And
3 at that time the record was open to the extent
4 established by the March 10th order, from the
5 Committee.

6 And then we had an offer from the CAISO
7 to undertake a study. The Committee ruled in
8 favor of the Applicant and deemed the Caldwell
9 supplemental testimony as outside the scope of
10 the extent to which the record was opened at that
11 time. And the Committee further ruled to accept
12 the offer of the CAISO to conduct the study.

13 That ruling was highly dependent on the
14 fact that the offer was coming from the CAISO.
15 Among others, counsel for both the City and CBD,
16 the two proponents of the testimony to which
17 we're objecting today, emphasized that point at
18 the June 5th Committee Conference.

19 Ms. Folk argued that the purpose of the
20 CAISO study was to provide independent
21 confirmation of the ability of preferred
22 resources to meet the LCR need. That's at page
23 71 of the transcript.

24 And you may recall that we offered to
25 withdraw our objection to the Caldwell testimony

1 in exchange for the City agreeing to forego the
2 CAISO study. But the City insisted that the
3 independent assessment of the CAISO was critical.

4 Similarly, Mr. Bundy on behalf of CBD
5 argued in favor of, and I'm quoting, "The benefit
6 of an independent review from an expert sister
7 agency." And that's from page 79 of the
8 transcript, from the June 5 Committee Conference.

9 We had State Legislators who weighed in,
10 suggesting that an offer from the CAISO was one
11 that really the CEC could not refuse.

12 So, the Committee's decision to move
13 forward with the CAISO study was highly dependent
14 on the fact that it was the CAISO who was
15 undertaking the independent evaluation. And all
16 the parties who advocated for moving forward and
17 accepting the CAISO study focused on that
18 component. And it was on that basis that the
19 Committee reopened the record for the limited
20 purpose of the CAISO study.

21 It was not an open-ended invitation to
22 the parties to conduct their own studies of
23 additional alternatives beyond those studied by
24 the CAISO. And it was not an invitation to the
25 City and Mr. Caldwell to repackage his just

1 stricken testimony and resubmit it at a later
2 date in a somewhat different format.

3 So, notwithstanding the basis upon which
4 the Committee decided to go forward with the
5 CAISO study and the extent to which it opened the
6 record, or reopened the record to accept the
7 CAISO study, here we are with two alternatives
8 proposed and advanced by the City and CBD.
9 Neither of which was analyzed by the CAISO.

10 And I sincerely doubt that if back in
11 June, if the parties had requested of the
12 Committee that they have an additional three
13 months to conduct their own analysis of their own
14 alternatives that the Committee would have agreed
15 to that.

16 The Committee agreed to an additional
17 three months of time for the CAISO to analyze
18 alternatives to the project.

19 So, now the City and the CBD argue that
20 the CAISO didn't study the correct portfolios or
21 scenarios and, therefore, it's appropriate for
22 them to submit their own independent analysis
23 that hasn't been subject to review by the CAISO.

24 And, frankly, coming particularly from
25 the City we find that somewhat rich, given that

1 this entire process was initiated by Mr. Caldwell
2 at the May 1st CAISO Board Meeting, suggesting to
3 the CAISO that they had a specific portfolio that
4 they and the CEC were interested in having the
5 CAISO analyze.

6 By the time we got to the June 5th
7 conference it was clear that perhaps that wasn't
8 the case and that the parties that were
9 requesting the study were really looking to the
10 CAISO to try to come up with the portfolio that
11 would be analyzed. And that caused the CAISO to
12 extend its proposed time period.

13 The CAISO then engaged in a public
14 process in which they engaged SCE, the parties,
15 and the public for purposes of establishing what
16 the scenarios or portfolios would be in the
17 study.

18 So, we find it, again, you know, somewhat
19 rich that having initiated this process on the
20 basis that the City, itself, had a specific
21 portfolio, and then conceding that it didn't and
22 it was really looking to the CAISO to come up
23 with a portfolio, and then to say at the end of
24 the process that the portfolios that the CAISO
25 came up with are all wrong, and to attempt to

1 then substitute their own portfolio that hasn't
2 been analyzed by the CAISO, or to add to the
3 evidentiary record their own portfolio that
4 hasn't been analyzed by the CAISO we find
5 troubling.

6 So, the bottom line is that the entire
7 purpose of this exercise, as stated by all of
8 those who supported it, including the City and
9 CBD, was to get the independent expert assessment
10 of the CAISO on preferred resources alternatives
11 and their ability to meet the LCR need.

12 The alternatives proffered by the City
13 and CBD were not reviewed by the CAISO and,
14 therefore, they fall outside the scope of the
15 entire exercise and should be excluded from the
16 record.

17 Certainly, to the extent that they are
18 admitted they would have, you know, very limited
19 value in terms of feasible alternatives to the
20 Puente Project since they are essentially the
21 same as the supplemental Caldwell testimony that
22 we had in front of us at June 5th, and aren't any
23 further supported or any further reviewed by
24 independent expert authorities than that
25 supplemental testimony was.

1 So, we think that this was not the intent and
2 scope of the CAISO study. It was not an open
3 invitation for any party to develop their own
4 alternatives and conduct their own independent
5 analysis. And that anything along those lines,
6 including portions of the Caldwell testimony and
7 the entirety of the Karpa testimony should be
8 excluded. Thank you.

9 HEARING OFFICER KRAMER: Thank you.
10 First, Ms. Folk. And then, Ms. Belenky, Mr.
11 Karpa was your witness, correct?

12 MR. BUNDY: This is Kevin Bundy at CBD.
13 I'll speak to the motion after Ms. Folk.

14 HEARING OFFICER KRAMER: Okay. Thank
15 you, Kevin.

16 MS. FOLK: Sure. This is Ellison Folk.
17 And I'd first -- I'd just start by saying we are
18 not in the same position as we were on June 5th.
19 Because at that point the Committee had opened --
20 reopened the testimony on Alternatives as to the
21 feasibility -- the ability to reduce the impacts
22 on aviation through the use of a smaller turbine
23 at an inland location.

24 And, you know, even though we believe an
25 argument could be made that Mr. Caldwell's

1 testimony went to that, the Committee found that
2 given the scope of the proceeding at that point,
3 and the reopening, that his testimony was outside
4 that scope.

5 But at the same time the Committee then
6 asked for the CAISO study. And the lineup of the
7 order that the Committee issued at the time was
8 quite broad. It specifically said that the
9 parties are permitted to file testimony
10 responding to the study. And that's the scope of
11 the order on that issue.

12 And this clearly, the testimony of Jim
13 Caldwell, and particularly his Alternative
14 Scenario 4, responds to the CAISO study. And it
15 falls within the scope of what we had asked for
16 at the time, which was, in part, an analysis of
17 the ability of preferred resources to meet the
18 LCR need.

19 And a determination of how much of that
20 need was related to voltage support, and how much
21 of it is related to actual power generation.
22 Because the need has two aspects, and the
23 allocation of those needs will affect the kind of
24 preferred resources that you can procure.

25 And what the CAISO report does --

1 indicate those by breakdown, and looks at a
2 scenario, too, which largely involves the use of
3 reactive voltage support, which is the
4 synchronous condenser idea, plus some additional
5 battery support.

6 And all we did with Scenario 4 was take
7 that and instead of just having all batteries as
8 part of the alternative looked at other preferred
9 resources that are available in the area,
10 including demand response, and energy efficiency.
11 Things that were identified in the Committee's
12 direction to CAISO as things that could be
13 considered as part of its preferred resources
14 alternative.

15 And we took those and explained how they
16 would meet the need here without having to do an
17 all battery solution, which is what CAISO had
18 looked at, and which is much more expensive.

19 And so, our testimony responds to CAISO's
20 initial determination about the need and explains
21 how that need could be met in -- with the use of
22 other preferred resources that the Committee
23 specifically contemplated could be included.

24 And to say that the parties are not able
25 to effectively provide testimony on the

1 assumptions that CAISO used in its study would
2 really be prejudicial to the parties, and would
3 really undermine the purpose of even having an
4 evidentiary hearing on the CAISO report. If all
5 we were to do is just accept the report at face
6 value, then there would be no point in having
7 hearings and allowing the parties to submit
8 testimony that responds to the issues raised by
9 the report.

10 HEARING OFFICER KRAMER: Mr. Bundy?

11 MR. BUNDY: Thank you. This is Kevin
12 Bundy with the Center for Biological Diversity.
13 I think Ms. Folk stated it very well and I agree
14 with her arguments.

15 I'll just add, although we did present an
16 argument in our written response, in summary
17 again just echoing that the Committee's June 20th
18 order stated only that the parties should file
19 testimony "responding to" the CAISO study.

20 It didn't limit the scope of that
21 responsive testimony in any of the specific ways
22 that the Applicant seems to believe it did.

23 The June 20th order did not say that any
24 testimony that the parties might submit in
25 response to the CAISO study somehow had to be

1 reviewed by the CAISO, itself. That's just not
2 in the order.

3 And I think that Dr. Karpa's testimony
4 complies with the June 20th order. By any
5 reasonable measure the testimony responds to the
6 CAISO study. It identifies specific errors in
7 the CAISO study's estimation of capital costs of
8 the three alternative scenarios that were
9 studied.

10 And then it runs a cost model in order to
11 illustrate the effect of these errors. That
12 according to the testimony itself "replicated
13 scenarios 1 and 3 by using the lower cost
14 configuration of resources and more accurate cost
15 assumptions."

16 I think this is really important because
17 the scope of the CAISO study itself was amended
18 midstream to include a cost comparison that I
19 don't believe anybody thought was a focus of the
20 study on June 5th.

21 And precluding the parties from
22 submitting testimony regarding the assumptions
23 that went into that cost comparison would be
24 unfair and would actually undermine the adequacy
25 of the record.

1 I mean, again, what the Applicant
2 characterizes as a brand-new alternative in the
3 Karpa testimony is, itself, a response to CAISO's
4 cost conclusions. Not being able to introduce
5 that evidence would be highly prejudicial. But,
6 you know, if the Committee were to take the CAISO
7 study and conclude that there are no reasonable
8 or prudent alternatives based on the cost
9 estimates in the CAISO study, without actually
10 having any testimony in front of it as to whether
11 those cost estimates were correct, or whether
12 there might actually be cheaper ways of running
13 the same scenarios in a manner that would be
14 favorable, you know, related to the Puente --
15 related to the Puente Project. And, you know,
16 the Committee would have no evidence in front of
17 it. It would be highly prejudicial to the other
18 parties and it would result in an inadequate
19 record. A record that could really only be used
20 to support an arbitrary decision.

21 So, the last point I'd make is that even
22 if the Applicant were correct that the Karpa
23 testimony somehow tries to introduce a brand-new
24 alternative, there would be no basis for striking
25 the Karpa testimony in its entirety.

1 The testimony contains several specific
2 critiques of the cost assumptions used in the
3 CAISO study. The Applicant has not provide any
4 argument or basis in its written motion or in its
5 oral argument this morning for excluding those
6 aspects of Dr. Karpa's testimony.

7 Those objections were due, as you know,
8 as Applicant might itself point out, you know,
9 last week. And so, any objection to any other
10 aspects of the Karpa testimony should be deemed
11 waived.

12 HEARING OFFICER KRAMER: Any other party?

13 MS. LAZEROW: This is Shana Lazerow. I'd
14 like to speak to this just briefly, if I may.

15 HEARING OFFICER KRAMER: Go ahead.

16 MS. LAZEROW: It's extremely important to
17 the environmental justice communities that more
18 accurate cost assumptions be used and that the
19 testimony really examining the CAISO cost
20 methodology and cost assumptions be part of this
21 record.

22 As you have seen, many times the
23 community -- the environmental justice community
24 in Oxnard feels really strongly that we need to
25 explore non-combustion alternatives for this

1 local need. And while, of course, I agree with
2 Ms. Folk's and Mr. Bundy's arguments, I also want
3 to point out that just in the service of
4 conducting a complete CEQA analysis, looking at
5 feasible alternatives, the sort of arbitrary
6 cutoff when, in fact, CEJA is going to be
7 discussing alternatives in our briefing. And we
8 intend to rely on the evidence that non-
9 combustion alternatives are feasible, and
10 superior.

11 And, you know, from the perspective of
12 the CEC's commitment to doing a thorough
13 environmental analysis excluding this evidence
14 would be prejudicial.

15 MR. VESPA: And this is Matt Vespa from
16 Sierra Club. You know, I just wanted to echo
17 some of the comments and reemphasize that, you
18 know, CAISO did say in a stakeholder call on June
19 30th that it would not address costs. And then
20 its report comes out with cost numbers. And
21 those cost numbers were driven up by, you know, a
22 highly energy storage-centric solution with 9-
23 hour batteries.

24 And so it is completely reasonable in
25 response to the study to look at tweaks to some

1 of those solutions to lower cost. And that's
2 what Mr. Caldwell's and Mr. Karpa's testimony
3 does. And it is an appropriate response to
4 CAISO's study that should be included.

5 HEARING OFFICER KRAMER: Okay, thank you.
6 Mr. Carroll, wrap up?

7 MR. CARROLL: Very briefly. We are not
8 suggesting in any way that the parties should be
9 precluded from critiquing any aspect of the CAISO
10 study, including the costs. And there were a
11 number of other pieces of testimony and other
12 exhibits that were submitted that go to the cost
13 estimates and we have not objected to those.

14 Our objection is to the creation and
15 analysis of alternatives different than those
16 that were included in the CAISO study. The
17 entire purpose of this exercise, and it was
18 advocated by these very parties, and it was
19 promoted by these very parties for the purpose of
20 obtaining the independent expert assessment of
21 the CAISO on preferred resources alternatives.

22 And, therefore, to now admit evidence
23 that pertains to alternatives that were developed
24 by the parties and not reviewed by the CAISO is
25 outside the scope.

1 If the parties had alternatives that they
2 wanted reviewed, they could have advocated them
3 in the public process when the CAISO was deciding
4 which alternatives to evaluate. Or, they could
5 have evaluated these alternatives themselves a
6 very long time ago.

7 And so, for them to now be coming forward
8 within this limited scope and trying to advance
9 their own alternatives that haven't been reviewed
10 by the CAISO, we think is inappropriate.

11 But again, we have no objection to their
12 objections or their critique of the CAISO study
13 itself, including the cost information. And we
14 haven't objected to evidence that goes to that.

15 HEARING OFFICER KRAMER: So, the --

16 MS. FOLK: Can I just respond to that?

17 HEARING OFFICER KRAMER: Go ahead.

18 MS. FOLK: Sure. The only point I want
19 to make in response is these so-called
20 alternatives are really just a variation on what
21 CAISO has in its study.

22 And the parties, other than -- you know,
23 the parties were not involved in the actual
24 formation of the scenarios. It was just CAISO
25 and Edison.

1 And CAISO will be at the hearing so the
2 Applicant's free to ask some questions about the
3 scenarios that -- you know, Mr. Caldwell's
4 scenario 4. And if they want to, it's not as if
5 the Applicant's not going to have an opportunity
6 to respond to this.

7 HEARING OFFICER KRAMER: Okay, the last
8 word, Mr. Carroll.

9 MR. CARROLL: Just briefly in response to
10 the last statement from Ms. Folk. The point -- I
11 don't know that the CAISO is going to have
12 anything to say about the alternatives that were
13 developed and analyzed by the City and CBD. So,
14 I'm not sure what -- how our ability to question
15 the CAISO about the alternatives advanced by the
16 other parties addresses any of the issues that
17 we've raised here.

18 HEARING OFFICER KRAMER: Okay, thank you.
19 We'll take that under submission. Hold on a
20 second.

21 (Pause)

22 HEARING OFFICER KRAMER: Okay, those were
23 all the motions. So, let's then go back to the
24 question of timing, the review that falls under
25 the category of reviewing your prehearing

1 statements.

2 You've seen the -- I think it was
3 Friday's tabulation of all your estimates. And
4 then I put one out yesterday where I drew
5 subtotals for each of the parties.

6 And does anybody really think it's going
7 to take 18 hours? Or, is this one of those
8 things where it'll -- if we allow the time, you
9 guys will come up with stuff?

10 MS. WILLIS: This is Kerry Willis from
11 staff. I just wanted to clarify that David
12 Vidaver is not being -- is not representing staff
13 at this hearing. It will be Mark Hesters. And
14 there has been no testimony filed by staff.

15 Therefore, we're somewhat confused as to
16 some of the questioning of Mr. Vidaver that's
17 been included.

18 MS. FOLK: So, I can respond to that.
19 This is Ellison Folk. We're willing to drop
20 that. David Vidaver had done the initial so-
21 called review of Preferred Resources for the
22 Energy Commission. I mean he admitted at the
23 time they have not done an independent review.
24 But we don't need to question him.

25 MS. LAZEROW: This is Shana Lazerow. I

1 also reserved about 10 minutes of Mr. Vidaver for
2 that reason that he's the sponsor of the
3 analysis. And so, I'm not actually sure what the
4 process is for going back. I mean, given that we
5 do have an admission that it wasn't considered
6 before, I was just going to ask him a little bit
7 about, you know, his analysis.

8 But the substance of what we want to talk
9 about is the CAISO study, not the CEC staff's
10 analysis prior to the CAISO study. So, I'm fine
11 with not having him appear, as well.

12 HEARING OFFICER KRAMER: Does anybody
13 else need Mr. Vidaver there or feel they do and
14 want to make a case for that?

15 MS. WILLIS: He's not available. I don't
16 believe he's in -- I think he's not in the
17 country.

18 HEARING OFFICER KRAMER: Okay. Well, I'm
19 just asking if anybody else is going to express
20 horrible disappointment that they can't speak to
21 him and then --

22 MS. WILLIS: And my understanding is I
23 believe the Applicant has stated that this
24 portion of the hearings was focusing only on the
25 ISO study and Mr. Vidaver did not provide any

1 comments on that.

2 HEARING OFFICER KRAMER: Okay, I
3 understand that. I'm trying to get everyone to
4 commit to letting me draw a line through that row
5 on their spreadsheet.

6 CEJA, do you have a burning need to speak
7 to Mr. Vidaver, who sounds like is going to be
8 unavailable.

9 MS. LAZEROW: So, this is Shana Lazerow.
10 As I said, I don't have a burning need.

11 HEARING OFFICER KRAMER: Oh, that's
12 right. Sorry, I crossed out Dr. Chang's, instead
13 of yours. Okay, thank you.

14 Dr. Chang isn't here so far. Did you
15 join us, Dr. Chang?

16 And for that matter --

17 DR. CHANG: I did. Can you hear me?

18 HEARING OFFICER KRAMER: Yes.

19 DR. CHANG: I have no need to speak with
20 him, thank you.

21 HEARING OFFICER KRAMER: Okay.

22 DR. CHANG: I won't be disappointed.

23 HEARING OFFICER KRAMER: Okay. And then,
24 also, Robert Sarvey, did you by chance join us?

25 Okay. On the basis of Mr. Sarvey not

1 having filed a prehearing statement, we're not
2 really expecting to hear anything from him. And
3 conversely, he should not expect to have us hear
4 much from him at the hearing, either, because he
5 hasn't followed that requirement.

6 Okay, so 50 minutes saved. And what --
7 MS. FOLK: One other comment? Oh, I'm
8 sorry.

9 HEARING OFFICER KRAMER: Go ahead.

10 MS. FOLK: So, I was just going to say,
11 this is Ellison Folk again, on the issue of time
12 generally, I do believe that there will be some
13 overlap in the questioning. That's my sense.
14 And so, I don't believe that 18 hours is actually
15 -- you know, that we're going to take 18 hours to
16 do this, or 19, whatever.

17 HEARING OFFICER KRAMER: Yeah, it's
18 almost as if everyone assumed they were going to
19 be the only person asking questions and so -- and
20 then, as you say, you overlapped.

21 Let's see, aside from Mr. Vidaver and we
22 already know about the substitution of Andrew
23 Schwartz for Damon Franz, do we have any witness
24 availability problems we should highlight at this
25 point? Anybody?

1 MR. CARROLL: My understanding --

2 MR. PINJUV: Mr. Kramer, this is Jordan
3 Pinjuv from the ISO. Our witnesses are planning
4 on being there the full day on Thursday. They
5 were not planning to stay in Oxnard over the
6 night, into Friday.

7 So, I mean, our only request is that they
8 get up on the stand and finish in the course of
9 the single day, on Thursday.

10 HEARING OFFICER KRAMER: Okay, that's
11 certainly fair. And our initial thought was that
12 they would start the ball rolling by presenting
13 their report. And so, we should certainly be
14 able to get them out.

15 The one thing I'm still waiting to hear
16 about, and I'll check my e-mail again, is whether
17 the Edison folks were able to come on -- oh, I do
18 have an e-mail from her. Just stand by a minute.

19 Excellent. Ms. Reyes-Close, are you by
20 chance on the telephone? No, she's not on the
21 telephone. But she did tell me that they could
22 be available on Thursday from 10:00 a.m. to 3:00
23 p.m.

24 MS. FOLK: So, I actually do -- this is
25 Ellison Folk and we do have some concerns about

1 the request to have Edison participate, for a
2 couple of reasons. One is we have not seen any
3 testimony from Edison and so haven't had any
4 opportunity to respond to whatever -- have any
5 sense of what they might be asked about or what
6 they might say. And I think that makes it very
7 hard for us to prepare. And we went through this
8 in the last hearings with USGS, where we really
9 didn't have much opportunity to prepare at all
10 before we were able to ask some questions.

11 And the other thing is if Edison is -- if
12 the purpose is to have them talk about the
13 technical aspects, Edison was -- participated
14 with CAISO in developing the study and the
15 scenarios. They were the only entity that was
16 allowed to do that. And so, their views have
17 already been represented in the CAISO report.

18 And so, as to the technical aspects I
19 think that CAISO will be there and able to
20 respond.

21 But if Edison is going to testify about
22 other things, like procurement, or its view of
23 feasibility, then we really should have an
24 opportunity to know what their testimony is, in
25 the same way that all the other parties had to

1 submit testimony.

2 MR. VESPA: And this is Matt Vespa, from
3 Sierra Club. I'd also add that SCE is in a
4 contractual relationship with NRG with the Puente
5 contract. And, you know, they are not a
6 disinterested neutral party. And, you know,
7 there may be contractual issues around what
8 they're able to say about the project, given that
9 they do have a contract with them.

10 So, I am just a bit concerned about their
11 ability to speak freely, in addition to the
12 concerns Ms. Folk raised.

13 MS. FOLK: Yeah, if I could just
14 elaborate on that for a second. They do have an
15 obligation of good faith and fair dealing and so
16 they cannot -- I don't think they would be
17 allowed to say things, even if they believed them
18 to be true, that would undermine the contract.

19 MR. BUNDY: This is Kevin Bundy at the
20 Center for Biological Diversity. We share the
21 concerns specified by Ms. Folk and Mr. Vespa.

22 MR. CARROLL: And if I may, on behalf of
23 Applicant, we think it's very important that SCE
24 be provided an opportunity to participate in
25 these proceedings.

1 We have brought the CAISO into these
2 proceedings, which is highly unusual,
3 unprecedented in my view, and in doing so have
4 opened areas of inquiry to which SCE may be able
5 to provide some useful information. And I think
6 they're a sophisticated party. They know what
7 they can speak to and what they can't speak to.

8 In terms of their neutrality, I'm not
9 sure that there are any parties here who are I
10 think fair and unbiased was the characterization
11 was used earlier. I'm not sure that SCE is any
12 more tainted than any of the other parties in
13 that respect.

14 So, I think they're perfectly capable of
15 providing helpful information where they can, and
16 knowing the areas that they're not permitted to
17 go into and staying away from those.

18 And, obviously, they participated with
19 the CAISO in the development of the portfolios
20 for the study and that is at the heart of much of
21 the testimony that's been filed by the parties is
22 whether or not those were the appropriate
23 portfolios.

24 So, to exclude one of the two parties who
25 participated in, amongst other things, the

1 development of those portfolios I think would be
2 not -- not wise, and possibly precluding some
3 valuable information and insights with respect to
4 that issue, amongst others.

5 HEARING OFFICER KRAMER: Okay. Well,
6 we're not going to rule today about whether they
7 can come or not. It sounds like we may have
8 some, hopefully, concise and short back and forth
9 discussions regarding particular questions that
10 may be posed to them. But we'll have to wait
11 until the questions are posed.

12 At least they can be here on Thursday.
13 So, that will help.

14 And I'll - I'll docket that. You know,
15 in the interest of transparency I'll get that e-
16 mail filed in the docket later today, when we're
17 done.

18 MR. BUNDY: Mr. Kramer, I'm sorry, this
19 is Kevin Bundy again. I'm sorry to interrupt,
20 but I just have a clarifying question. I just
21 want to understand exactly what you're saying.

22 I mean, as everyone's aware, I think by
23 my read of the public docket the invitation to
24 Edison to come participate in the hearing went
25 out after the deadline for parties to submit

1 objections to testimony, which I believe was last
2 Thursday. I believe that the e-mail chain
3 inviting them to the hearing was dated either
4 late last Thursday, or Friday. So, nobody had
5 any opportunity -- not only did nobody have any
6 opportunity to review their testimony, but nobody
7 had any opportunity to object.

8 And I just want to make sure that none of
9 the parties are waiving their right to object to
10 any testimony at the hearing that Southern
11 California Edison or their witnesses might
12 present.

13 I certainly wouldn't want to waive that
14 objection. And I want it to be clear on the
15 record that those objections will be considered
16 timely and won't be ruled out of order if they're
17 raised at the hearing.

18 HEARING OFFICER KRAMER: Well, that's
19 certainly fair. And, yes, I would agree.

20 Okay, so I think the scope of the hearing
21 which, of course, scope equals time, more scope
22 is more time, is what we need to get down to
23 here.

24 On the one hand if it is just as one of
25 you said, accepting the ISO study and closing the

1 record, we should be able to do that in three
2 hours, the way we do things, but less.

3 But, of course, that's not it. Mr.
4 Carroll has said that questioning the ISO's cost
5 assumptions is perfectly appropriate and we agree
6 with that.

7 And then, I think there's a third aspect
8 of the ISO study. Number one being is it
9 technically possible for renewables, some
10 combination of preferred resources, to use the
11 correct term, to satisfy the LCR requirement. It
12 has attempted to answer that.

13 Of the criticisms of the study, I think
14 there's been very little of that. That seems to
15 be taken almost as a given by the parties, but
16 that's one aspect.

17 Number two is cost. Is there a package
18 of -- or, does the particular package that the
19 ISO identified, what are its costs relative to
20 the proposed Puente Project?

21 And then number three, which the ISO
22 didn't even tackle is whether preferred resources
23 can be made operational in time to meet the
24 objectives of the Puente Project, which are to be
25 there to replace the units that are going to have

1 to shut down because of the once-through cooling
2 phase out of those coastal power plants.

3 So, we have to talk about all three of
4 those.

5 The additional time comes from -- or the
6 possible additional time would be if we start
7 talking about other combinations of preferred
8 resources, which is part of some of the proposed
9 testimony. Specifically, the two subjects that
10 Mr. Carroll spoke about most recently, regarding
11 his objections.

12 So, I guess one way to ask this question
13 is to ask the parties to make the case that we
14 should be considering additional alternatives
15 beyond that described in the ISO study. In other
16 words, we should look -- I think the different
17 combinations of resources, for instance part
18 solar, part storage that we're hearing about was
19 an attempt to address the cost aspect. To say
20 that there's a lower cost way to do that than
21 what the ISO studied.

22 But why at this point do we need to do
23 that? We want to hear an argument that the scope
24 of the hearing should include those
25 considerations, alternative configurations.

1 So, Mr. Carroll, we'll let you go last
2 because I think you're going to be -- or, I
3 suspect you'll be arguing against that.

4 So, let's begin, staff, do you have any
5 position on that? And then, we'll go to the
6 other parties.

7 MS. WILLIS: This is Kerry Willis for
8 staff. As noted, we did not provide testimony on
9 this because we do believe there's another
10 process that handles these types of alternatives.
11 At this point, we don't have an opinion on moving
12 forward.

13 But we would like to not extend the scope
14 so broadly that we are spending more time arguing
15 on other alternatives where it could be an
16 unlimited number of combinations that could be
17 considered.

18 HEARING OFFICER KRAMER: Ms. Folk, for
19 the City?

20 MS. FOLK: Yeah, so I want to make a
21 couple of points. And one is the issue of the
22 alternatives. It really is more of a response to
23 the assumptions that CAISO made about what types
24 of preferred resources could meet the LCR need.

25 And we intend in our questioning to ask

1 questions about some of those assumptions. And I
2 know that the Committee's order specifically
3 indicated that the study could include presently
4 existing generation, contracted generation, and
5 preferred resources and storage that could be
6 online in the Moorpark subarea by 2021.

7 And so, the resources that we are looking
8 at are things like demand response, or energy
9 efficiency, or solar, photovoltaic.

10 And so, we would be asking questions
11 about those resources as part of our questioning
12 of CAISO, anyway. And then, the real issue is
13 because we believe those are feasible and are
14 cheaper than what CAISO specifically looked at,
15 they go directly to the ability to meet the LCR
16 need with a different -- a slightly different
17 package. It's not -- we're not opening up an
18 entirely new scenario here. It builds off the
19 scenario that CAISO, itself, looked at.

20 And so, I actually don't think that
21 adding this in is going to take that much more
22 time because it goes to, fundamentally, what
23 we're trying to do here which is assess the
24 ability to meet the need with preferred
25 resources, and then to assess its feasibility.

1 HEARING OFFICER KRAMER: Environmental
2 Coalition, Sierra Club.

3 MR. VESPA: Yeah, Matt Vespa speaking.
4 Yeah, I think on the cost issue, you really can't
5 take out this tweaking of the scenarios from it.
6 I mean, it really is about cost.

7 There's two aspects where, for example,
8 the energy storage price is accurate, I mean
9 that's something we all could talk about.

10 But also, just a -- a very quick overview
11 of the study you realize that the costs are
12 driven by 9-hour storage. And so, it does beg
13 the question could you tweak this suite of
14 resources? By example, by putting more
15 efficiency on or a little bit more solar to avoid
16 such a large storage buy to meet the LCR need.

17 And so, that is what the responsive
18 testimony gets to and it really is an outgrowth
19 of the overall cost estimate. So, I don't think
20 you could really break it up into a fourth
21 category. It's very much about cost.

22 So, you know, I do think it needs to be
23 included and I don't think it will take much
24 time, and it's just a natural outgrowth of some
25 of the assumptions in the study that will be

1 asked about.

2 HEARING OFFICER KRAMER: Okay, CEJA?

3 MS. LAZEROW: This is Shana Lazerow. We
4 agree with that.

5 HEARING OFFICER KRAMER: Center for
6 Biological Diversity?

7 MR. BUNDY: Thank you. This is Kevin
8 Bundy and I agree with what's been said before.
9 I mean, I kind of want to point out this idea
10 that there are these wholly, fully formed, new
11 alternatives being presented is really just the
12 Applicant's characterization. And from my
13 perspective it's not an accurate
14 characterization. These really are responses to
15 the assumptions that were made in the CAISO study
16 that led to a certain conclusion about costs in
17 the CAISO study.

18 As Mr. Vespa said, I mean it really does
19 beg the question that -- that I think should be
20 central to the Commission's inquiry. Which is
21 whether, you know, given that everybody seems to
22 agree, even given my recent testimony, is that if
23 preferred resources can meet the local capacity
24 requirement is there a way to do it in a cost
25 effective manner?

1 Costs are very important considerations
2 in the determination of feasibility, both under
3 CEQA and in terms of whether the Commission needs
4 to override a LORS conflict. And we should have
5 a very full record on that feasibility
6 determination to support that feasibility
7 determination.

8 The Commission hasn't decided, yet,
9 whether there are significant environmental
10 impacts or whether there are LORS conflicts in
11 this proceeding. At least I would hope the
12 Commission hasn't decided that, yet.

13 And this really goes to the heart of the
14 findings that would need to be made in those --
15 those circumstances. And again, I mean I know we
16 all want to have a quick hearing and we want to
17 get it done in one day. I really believe we can
18 if we adopt kind of a panel approach, and maybe
19 we'll talk about that.

20 But we can't let the desire for a short
21 hearing trump the need for an adequate record to
22 support findings this Commission has to make.

23 So, I think it's inaccurate to even be
24 thinking of these things as fully formed separate
25 alternatives. They really are responsive to and,

1 you know, very tight variations on the scenarios
2 studied in the CAISO report. And I think the
3 Committee should have that -- or, the Commission
4 should have that evidence in front of it.

5 HEARING OFFICER KRAMER: Okay. Just to
6 be clear, we're not trying to hit a one-day mark
7 here, but we are trying to be as efficient as we
8 can for the sake of everyone.

9 Dr. Chang?

10 DR. CHANG: Yes, I want to say that I
11 agree with my fellow intervenors. And I also
12 just wanted to say that from the perspective of
13 really trying to ensure public participation and
14 public process I think it's important to be able
15 to explore the cost efficiency issue fully. So,
16 that seems to be, honestly, such a driving factor
17 in these conversations. And I think it's
18 important that -- that conversation or that
19 discussion is allowed to be fully explored.

20 HEARING OFFICER KRAMER: Okay, thank you.
21 You're not a party, but Mr. Pinjuv you're
22 an important participant here. Any thoughts?

23 MR. PINJUUV: Yes. You know, I think in
24 general, I mean, honestly, the main purpose of
25 our testimony or our study was to identify

1 whether there were technically possible solutions
2 that involved preferred resources to meet local
3 capacity needs. And I think that's where the
4 bulk of the testimony should be.

5 We can't look at other alternatives,
6 necessarily, on the stand. But to if there are
7 questions about, you know, the assumptions we
8 made in our study we are open to answering those.
9 We don't have any problems doing that.

10 With respect to the cost, specifically,
11 you know, I think we said in our study that this
12 is just a starting point in the conversation. We
13 fully expect those costs be refined by the
14 parties and the Commission in this case because
15 they don't incorporate certain aspects of, you
16 know, ongoing lifecycle costs and things along
17 that line.

18 So, we don't have much more to offer as
19 far as costs go. It's just a starting point and
20 that's all it's going to be.

21 But I think to the extent there are
22 questions about the assumptions in our study we
23 can discuss those, and we anticipate any
24 questions that the parties have.

25 HEARING OFFICER KRAMER: Okay, thank you.

1 Mr. Carroll?

2 MR. CARROLL: Thank you. I think we've
3 largely made our case on this point in our
4 viewing the motions to strike the Caldwell and
5 Karpa testimony. I would just point out that if
6 those motions are granted, that will cut about
7 five or six hours out of the proposed testimony,
8 as we think they should be. And it would
9 certainly help in terms of the amount of time
10 that's spent.

11 The only thing that I would add is that
12 to the extent that the Intervenors want to
13 advance an alternative to the project, the burden
14 is on them to do that. And they have had two and
15 a half years to do that, including providing cost
16 information.

17 We saw very little in the way of
18 affirmative cost information in the testimony
19 that was filed. It was mostly a critique of the
20 cost information that the CAISO provided. It's
21 not incumbent upon the CAISO to come up with the
22 feasible alternatives for this project. And so,
23 I fail to see the value in beating the CAISO
24 staff up for multiple hours, on Thursday, about
25 their cost assumptions.

1 The burden is on the Intervenors to
2 advance a feasible alternative, including cost
3 effectiveness, if they have one. As I said,
4 they've had two and a half years to do that. And
5 I'm just not really clear what value is to come
6 out of grilling the CAISO on their assumptions.
7 The CAISO being high on their costs is not
8 synonymous with the alternatives being cost
9 effective. And so, even if everyone agrees that
10 the CAISO is high on their costs, the Intervenors
11 haven't made their case as to the cost
12 effectiveness or feasibility of any of the
13 alternatives that they've advanced.

14 So, I'm not sure what the value is in
15 spending a lot of time grilling the CAISO staff
16 over the costs. The CAISO staff stepped in and
17 did what they were asked to do. And, you know,
18 this is certainly an example of, you know, no
19 good deed going unpunished here and I just don't
20 see any value to it.

21 MS. FOLK: Can I respond to that? First
22 of all, we don't have any intention of grilling
23 CAISO staff, but we certainly do want to ask some
24 questions about their study. And particularly
25 because the study initially indicated -- the

1 CAISO initially indicated they would not include
2 cost at all and then they ended up doing it in
3 the end. So, I do think we should have an
4 opportunity to ask some questions.

5 And also, I don't think it's appropriate
6 for Mr. Carroll to, you know, prejudge the
7 testimony and the evidence that has been
8 submitted and will be the basis of the hearings
9 this week. Because we can have our questioning
10 and evaluate the evidence at that point. But
11 it's our view that we have put in information
12 about costs that's relevant. And the tweaking of
13 the Alternative Scenario 2 that we did goes
14 directly to the issue of the feasibility to cost.

15 And finally, like in terms of the format
16 of the hearing, I think we can talk about this,
17 but I do think there are ways to structure it
18 that would allow for much of this time to be
19 condensed. Because I think, as the Hearing
20 Officer recognized, there's going to be overlap
21 between the parties in terms of the questioning.

22 HEARING OFFICER KRAMER: Okay. On that
23 point, does anybody want to make an argument for
24 I've forgotten what we called it, but the
25 traditional format, direct and cross-examination,

1 over the panel format?

2 I think we have a lot of names, but I
3 think we'll have enough space to seat all these
4 people as a panel.

5 Mr. Carroll, your site planning people
6 will assure that, right?

7 MR. CARROLL: Yes.

8 HEARING OFFICER KRAMER: Does anybody
9 want to argue in favor, and I'm not encouraging
10 it, I'm just asking because it's one of our
11 obligations to solicit input on the choice of the
12 hearing format. So, does anyone want to argue
13 for what we've called the formal format in the --
14 I think it was in this notice, again.

15 MS. WILLIS: Mr. Kramer, this is Kerry
16 Willis from staff. I'm not arguing in favor of
17 the formal proceeding, but I would like to
18 request from the parties that when there's
19 objections made -- because it became kind of a
20 half and half. It was half informal and half
21 formal where there were numerous objections made.

22 Normally, at least in my 19 years, we
23 make them to the dais and then the Committee
24 directs the rest of that part of it. So, they
25 will ask the other party to comment as opposed to

1 the parties just arguing back and forth.

2 Having done these recent briefs,
3 reviewing the last hearing and transcripts, it
4 was very difficult to keep up with it. There was
5 actually testimony going on between a lot of back
6 and forth argument before a ruling and after a
7 ruling.

8 So, I would just request that the parties
9 would be respectful, follow a protocol, and ask
10 that the dais control that part of the hearing.
11 And that probably would move it along quite
12 nicely.

13 HEARING OFFICER KRAMER: Yeah, I would
14 say painful is probably a good word to describe
15 reading some of the transcripts. I agree there.

16 Okay, well hearing -- did someone else
17 want to speak?

18 MR. VESPA: Yeah, this is Matt Vespa.
19 Were you envisioning a single panel with CAISO
20 and the other witnesses or some hybrid? I was
21 thinking it might make sense to have CAISO go
22 first just to have questioning to sort of set a
23 baseline for the study, and the assumptions, and
24 then bring in the other panelists to have maybe
25 more back and forth from there.

1 HEARING OFFICER KRAMER: Yeah, I think
2 that -- I think we're leaning in that direction
3 as well.

4 MR. VESPA: Okay.

5 HEARING OFFICER KRAMER: We might have
6 everyone seated right away, though, just so we
7 can keep going.

8 You know, and what do people think about
9 trying to break the discussion into, say, the
10 three topics, the broad topic areas that I
11 identified? One being technical feasibility, the
12 second being cost, and the third being able to
13 being implemented, in effect implementation
14 feasibility.

15 Does that -- again, to help the
16 transcript, there will be some crossover, of
17 course, and depending on what we let in maybe it
18 makes sense to -- for instance, if we were to
19 allow testimony about some of these other
20 alternatives, scenarios 4, 5 and 6, for instance,
21 it might be good to describe those up front just
22 to have a common understanding.

23 And I don't know, does anybody want to
24 spend a lot of time again going over what project
25 site means? Are we done with that? Okay, good,

1 we're done.

2 Does that idea work?

3 MR. VESPA: Well, how would that work if
4 CAISO's seated? I guess I would rather just have
5 the questions come to CAISO, first, and then
6 finish whatever people have and then -- okay.

7 HEARING OFFICER KRAMER: No, no, I'm
8 speaking more -- but as far as the broader
9 discussions go talk about technical feasibility
10 and that's CAISO's wheelhouse in this one.

11 MR. VESPA: Okay.

12 HEARING OFFICER KRAMER: CAISO, you know,
13 has a little bit to say about cost and they've
14 stuck to their disclaimers. They have nothing to
15 say about implementation feasibility, at least in
16 their study. That's going to be something that
17 the Applicant, and Edison, and the other parties
18 are going to have more to say about.

19 I'm just trying to throw out an
20 organizational framework here to see if anybody
21 thinks that would help us focus and move along.

22 MR. CARROLL: This is Mike Carroll for
23 the Applicant. I think, with two caveats, that
24 that makes sense. First of all, I believe I
25 understand what you mean when you described the

1 first category. We would not attach technical
2 feasibility to that. We would attach theoretical
3 possibility to that.

4 So, with that caveat, our view is that
5 CAISO found that these alternatives were
6 theoretically possible, not technically feasible.
7 But I think that's a matter of semantics.

8 So, with that caveat, we would agree that
9 that structure of those three categories makes
10 sense. And then as we said earlier, you know, we
11 would be opposed to attaching a fourth category
12 which is getting into alternative scenarios
13 beyond those studied by the CAISO.

14 HEARING OFFICER KRAMER: Anyone?

15 MS. FOLK: I think it's going to be very
16 difficult to try and break these down into these
17 three separate pieces. You know, because some of
18 these things are going to be bound to each other.
19 And, you know, the issue of alternatives --
20 alternative ways to meet the need actually goes
21 to cost, technical feasibility and
22 implementation. I mean, it's not a fourth
23 category.

24 Just in terms of people's testimony, I
25 think it might be easier to just let them do

1 their testimony and then ask them questions.

2 MR. VESPA: Yeah, I agree. I think it's
3 going to be hard to keep these lines.

4 The other concern I have is I'm concerned
5 about being a little bit too boxed in. Just as
6 one example, I have some questions I'd like to
7 ask CAISO about the reliability implications of
8 Scenario 2. You know, I don't know what category
9 that falls in, but I do think it's worth probing
10 more. So, I just think we might end up in
11 trouble if we're trying to sort of draw these
12 lines where you might not really be able to.

13 HEARING OFFICER KRAMER: Okay, thank you
14 for your feedback on that.

15 MR. BUNDY: Mr. Kramer, I'm sorry, this
16 is Kevin Bundy. Before we move on from that, I
17 agree with Ms. Folk and Mr. Vespa that maybe just
18 having the panelists there to answer questions
19 might make sense trying to break it up. It might
20 be a little difficult now because I also just
21 have some real concerns about the way that this
22 third category is being described. This idea of
23 feasibility of implementing alternatives in time.

24 That's something that the CAISO study did
25 not actually address. I mean, if anything it's

1 actually outside the scope of the CAISO study.
2 It's probably that -- that the parties did not
3 have an opportunity to submit testimony on that
4 issue. And I think it would be highly
5 prejudicial to try to take testimony on the fly,
6 at a hearing, on something that complicated.
7 Particularly, when -- if I heard you correctly,
8 you're envisioning that that testimony would come
9 from the Applicant, CAISO, and Southern
10 California Edison.

11 I think if that's something that the
12 Committee decides that it needs evidence on and
13 needs to consider, the parties should have an
14 opportunity to submit testimony. I have a real
15 concern about the span of throwing that open at
16 the hearing when nobody's had an opportunity to
17 address it and it's not really part of the study
18 that we're responding to.

19 HEARING OFFICER KRAMER: Correct me if
20 I'm wrong, Mr. Carroll, Mr. Theaker discussed
21 this, correct?

22 MR. CARROLL: Yes, to some extent he did,
23 in his prepared testimony.

24 HEARING OFFICER KRAMER: Well, we started
25 with the issue of need. Do we need the project,

1 or would the need for Puente justify any
2 overrides, if overrides are found to be
3 necessary?

4 Whether -- and, that, you know, one of
5 the functions or the aspects of that equation is
6 whether there are feasible alternatives to the
7 project. And that's the override calculation
8 I'm speaking of.

9 And feasibility, an element of that is
10 can it actually be made to work?

11 So, this surprise that that was going to
12 be an element is surprising to me because that's
13 clearly a part of this equation.

14 We are not here to just engage in an
15 academic exercise. We're here to decide whether
16 or not to approve a power plant.

17 We're also not here to re-litigate the
18 system design decisions that are made in the
19 context of the PUC long-term procurement process,
20 or the procurement decisions that Edison made.
21 We're just here to decide if the Puente Project
22 should be approved.

23 So, I don't know what more I can say
24 about that.

25 MR. BUNDY: Well, Mr. Kramer, this is

1 Kevin Bundy, again. Let me clarify. I mean, I
2 take your point and I certainly didn't mean to
3 suggest that these aren't important
4 considerations or considerations that the
5 Commission really does -- must have in front of
6 it.

7 My point is that because these
8 considerations were not actually addressed in the
9 CAISO study, within the scope of the Committee's
10 June 20th order, we really -- you know, throwing
11 out opinions about this, I mean I wonder whether
12 we would have faced a motion to strike from the
13 Applicant based on that being outside the scope.
14 And I know the Applicant's expert has gone ahead
15 and opined about this.

16 But I don't think that everyone was on
17 notice that this specific topic would be a
18 subheading at the evidentiary hearing. My point
19 is only that if the Commission wants to have
20 evidence on this and if the Committee decides
21 that evidence is necessary, all the parties
22 should be able to submit it. Not simply have to
23 respond to one expert's, you know, opinion on
24 this in the context of an evidentiary hearing.

25 So, I mean I agree it's important, but I

1 think that the process should accommodate an
2 adequate record on this and not be rushed.

3 MS. FOLK: Just to follow up on Mr.
4 Bundy's point. I mean, you can see how there's a
5 bit of a catch-22 here where we have the
6 Applicant arguing, and we can't put in
7 information about alternatives because it's
8 outside the scope of the CAISO study. And yet,
9 feasibility, which is outside of the scope of the
10 CAISO study, is supposed to be considered. And
11 it does put the parties in a difficult position.

12 MR. CARROLL: May I respond to that?

13 HEARING OFFICER KRAMER: Okay, and then I
14 think we're going to start our closed session.

15 MR. CARROLL: Yeah, these are completely
16 different issues. This particular evidentiary
17 hearing is focused on the CAISO study. But these
18 entire proceedings are focused on, amongst other
19 things, whether there are other feasible and
20 prudent alternatives to the project. That's the
21 whole purpose of this exercise that we went
22 through. At least that's what I had understood
23 the advocates of this exercise to believe was
24 that the purpose of the CAISO study was to get
25 the CAISO's expert analysis as to whether or not

1 there were other feasible and prudent
2 alternatives to the proposed project.

3 So, for the other parties, including
4 those who advocated for the study, to now be
5 saying that they're shocked and dismayed that the
6 notion of whether or not these alternatives are
7 feasible and prudent would be a subject of
8 discussion is sort of baffling to me. And
9 whether it's not the same argument -- that the
10 number of alternatives that have been analyzed
11 are, in my view, dictated by the scope of the
12 CAISO study. But that doesn't mean that the
13 broader inquiry, whether or not there are other,
14 reasonable alternatives to the project is taken
15 off the table that's been part of the process
16 from the very beginning. And the CAISO study is
17 merely one subpart of that process.

18 You know, to the extent that the
19 Applicant submitted evidence on this issue is
20 largely defensive. You know, if there is no
21 evidence in the record to support an assertion
22 that any of these alternatives are feasible, then
23 the Intervenors have failed to carry their burden
24 on the alternatives and that would be fine with
25 us.

1 So, frankly, I would have thought that
2 this was the area that the Intervenors would have
3 been most focused on and prepared for at the
4 hearings later this week.

5 HEARING OFFICER KRAMER: Okay. Well, I
6 think we've heard enough on that.

7 Okay, before we go into closed session,
8 we're going to see if we have any public comments
9 for the convenience of any people who might be
10 attempting or are here to make a public comment.

11 In the room we just have CEC staff, the
12 Applicant, and the Committee.

13 So, do we have anybody on the telephone
14 that wishes to make a public comment?

15 MS. LAZEROW: I'm sorry, Mr. Kramer, this
16 is Shana Lazerow. I'm not sure when you wanted
17 to take up the question that I raised earlier
18 about the briefing deadlines, but I wanted to
19 make sure to jam that in there before you guys
20 went into closed session.

21 HEARING OFFICER KRAMER: Okay, good
22 point. Thanks for reminding me. Let me see if
23 we have any public comments, first.

24 One more time, does anyone on the phone
25 wish to make a public comment? Speak up.

1 Okay, nobody appears to want to make a
2 public comment.

3 Okay, so Ms. Lazerow had asked that the
4 reply briefs on all of the topics, except the ISO
5 study, that were due on I believe the 19th,
6 anyway early next week, that the deadline for
7 that be changed to coincide with the deadline for
8 a single round of briefs on the ISO study, which
9 is September 29th.

10 Does any party have any comment on that
11 request?

12 MR. CARROLL: Mike Carroll on behalf of
13 Applicant. If we can get some assurance from the
14 Committee that that change would not affect the
15 overall schedule, then we would not be opposed to
16 that request. It doesn't seem as though it
17 would. But if there are some implications that
18 are not occurring to me, then we might have some
19 concerns. But if there aren't any implications
20 for the broader schedule, then we would not
21 object to setting a single deadline.

22 HEARING OFFICER KRAMER: I'll come back
23 to you in a minute.

24 Anyone else? Staff?

25 MS. WILLIS: Yeah, this is Kerry Willis

1 from staff. We would not oppose that change.

2 HEARING OFFICER KRAMER: Would not
3 oppose?

4 MS. WILLIS: Would not oppose.

5 HEARING OFFICER KRAMER: Okay.

6 MS. WILLIS: We would support the change,
7 actually.

8 HEARING OFFICER KRAMER: Anyone else?
9 Any other parties?

10 MS. FOLK: So, this is Ellison Folk with
11 the City of Oxnard. We also would support the
12 request. And the only other comment I'd make is
13 that if there is a concern about extending the
14 schedule, you know, even a one week extension on
15 the reply brief would be very helpful given that
16 we're all going down to Oxnard this week and it's
17 very hard to write a brief and do testimony at
18 the same time.

19 HEARING OFFICER KRAMER: Okay,
20 understood. Anyone else want to speak?

21 MR. VESPA: This is Matt Vespa for Sierra
22 Club. We support the proposal.

23 HEARING OFFICER KRAMER: Okay.

24 MR. BUNDY: And this is Kevin Bundy at
25 CBD. We also support the proposal.

1 HEARING OFFICER KRAMER: Okay, we'll take
2 that under submission.

3 Mr. Carroll, what are the Applicant's
4 hopes lately, as far as the schedule goes? Let
5 me revisit that with you.

6 MR. CARROLL: We abandoned our hopes a
7 long time ago. But our expectations are that the
8 Committee intends to adhere to the schedule as
9 currently established. We are on it at this
10 point and haven't received any indications that
11 I'm aware of, that there's an intention to move
12 away from it.

13 Our hope would be, in all seriousness, to
14 get to a decision by the end of this year. A
15 final decision from the Commission by the end of
16 this year. And we think that that is doable
17 given the schedule that's been established, and
18 then filling in reasonable dates for the to-be-
19 determined.

20 HEARING OFFICER KRAMER: Okay, yeah,
21 because I was going to point out that there's an
22 awful lot of to-be-determined on the schedule.

23 MR. CARROLL: Sure. I'm sorry, I didn't
24 understand the question. So that would be our
25 expectation would be that we would maintain the

1 schedule for those dates that have been
2 specifically set, and that the TBDs would be
3 established in a manner that get us to a final
4 decision by the Commission by the end of the
5 year.

6 HEARING OFFICER KRAMER: Okay, TBDs, the
7 best I think I can say at this point is there's
8 an awful lot of information to be processed.
9 Including the volume of comments.

10 MR. CARROLL: Well, and that was really
11 my point. I don't -- you know, if the Committee
12 intended to get started on portions of the PMPD,
13 other than the CAISO study, once it had the reply
14 briefs on all other topics, and now we're going
15 to be losing a couple of weeks because you would
16 be changing that plan, that would be problematic
17 for us.

18 If the Committee's intention all along
19 was we're not going to get started on the PMPD in
20 earnest until we've got all of the briefing in,
21 then moving everything to the single date doesn't
22 really affect anything.

23 So, I would just ask that the Committee
24 keep that in consideration in evaluating the
25 request.

1 HEARING OFFICER KRAMER: Okay, thank you.

2 We can do that.

3 Okay, time for a closed session. And
4 that, again, will be for deliberation pursuant to
5 Government Code Section 11126(c)(3).

6 Let me see if we can give you a time that
7 we'll be back.

8 (Pause)

9 HEARING OFFICER KRAMER: We'll be back no
10 sooner than a quarter to 1:00, about an hour from
11 now. It will give you time to get lunch and --
12 see you then. Thank you.

13 (Adjourned into Closed Session at
14 11:42 a.m.)

15 (Reconvened into Public Session at
16 12:45 p.m.)

17 HEARING OFFICER KRAMER: Okay, this is
18 Paul Kramer reporting out of closed session.

19 There are some reportable decisions.

20 As to the motions, the documents that
21 were filed last week, and that's the subjects of
22 the Applicant's motions TN221104, that's the
23 exhibits of the Sierra Club, and the
24 Environmental Coalition, and Environmental
25 Defense Center. The document TN numbers are

1 listed on the agenda. Oh, no, I'm sorry they're
2 not. They're in the motion.

3 And then, also, 221105, which is the
4 Applicant's similar motion regarding the exhibits
5 proposed by the Center for Biological Diversity.

6 Those will be admitted for the purpose we
7 discussed earlier of -- they'll come in to the
8 extent and only to the extent that they are used
9 to impeach testimony of another party's witness.
10 But to be clear, not as a backdoor entrance for
11 testimony from that party. So, for impeachment,
12 to the extent that they're used the portions that
13 are used for impeachment will come in. And they
14 would be hearsay. Unless some foundation is laid
15 to authenticate them.

16 And as far as the next two motions,
17 221106, and that's to strike portions of James
18 Caldwell's testimony, and also 221107 to strike
19 the testimony of Dr. Doug Karpa, those will come
20 in to the extent that they are connected -- they
21 are relevant and connected to the ISO study. So,
22 a word of advice. They're more likely to be
23 admitted if the party draws a connection to the
24 ISO study's analysis and conclusions.

25 And then, the briefs, we will move the

1 briefing deadline that was next week for other
2 than the ISO topics to coincide with the single
3 brief that's going to come in on the ISO topics.
4 And that's September 29, I believe is the due
5 date.

6 And then, finally, we note that the City,
7 in its opening brief, questions staff's use of an
8 11 percent capacity factor in evaluating the
9 adequacy of CEQA mitigation. This is in the Air
10 Quality section. The final determination of
11 compliance analysis of the project, and the
12 limitation on annual operations in the condition
13 is based on a 24 percent capacity factor.

14 So, we wanted to make sure that the
15 City's question about why the difference and the
16 justification for the difference is addressed in
17 your reply briefs. We think, particularly, that
18 that applies to staff and the Applicant. But, of
19 course, everyone else's will offer -- or, can
20 weigh in on that topic.

21 With that, any questions?

22 MS. BELENKY: Yes, Mr. Carroll (*sic*),
23 this is Lisa Belenky. I'm not sure I understood
24 the ruling on the testimony. You said -- first
25 you said it comes in and then you said to the

1 extent it is relevant and connected to the ISO
2 study. But it's already been submitted and it is
3 relevant. And so, what is it -- I'm not sure I
4 understood the ruling.

5 HEARING OFFICER KRAMER: Well, you're
6 going to need to explain the relevance. For
7 instance, I think that applies especially, but
8 not exclusive --

9 (Telephone Operator interruption)

10 HEARING OFFICER KRAMER: I forgot where I
11 was in that sentence. Let me start over. So,
12 you need to draw a connection to the ISO study.
13 Specifically, an example would be alternative
14 scenarios or additional scenarios or variations
15 on the ISO study. What is it -- you need to
16 explain how it's relevant to our consideration of
17 the study, whether it's -- you know, one obvious
18 possibility is cost. You know, if it highlights
19 your apparent concerns that the ISO's cost
20 estimates are too high. But there could be other
21 ways.

22 In other words, we're not planning on
23 revisiting, as I said earlier, the global plan
24 for the electricity system in the area. We are
25 trying to determine if Puente is needed in the

1 current context, you know, that's before us.

2 And those comments apply also to the --
3 well, in my notes they were relating to the
4 scope, as well as to the documentary evidence.

5 MR. VESPA: And this is Matt Vespa, just
6 regarding the ruling on the exhibits. You know,
7 I have submitted -- you know, some of these are
8 CEC-authored documents, demand forecasts, and
9 things like that that are really -- there may be
10 questioning I want to ask CAISO just to kind of
11 add more color and context for the assumptions
12 that they make and where they're derived from.
13 Some of them are things that they actually cited
14 to.

15 So, they may not be impeached, you know,
16 for impeachment, but they may be to provide some
17 additional context to the assumptions that are
18 relied on.

19 You know, is that going to be an issue in
20 terms of their admission?

21 HEARING OFFICER KRAMER: We won't be able
22 to say for sure right today. But, you know, feel
23 free to -- oh, I don't want it to come out that
24 way. I was going to say feel free to explore the
25 limits of admissibility.

1 But we will have to address any specific
2 objections that come in as you ask the questions.
3 You know, without hearing the exact question it's
4 very difficult to predict how we'll rule. But as
5 you can imagine, any time you write a rule or try
6 to describe a rule, a specific application,
7 you're never going to exactly hit every possible
8 situation.

9 But the message is to focus on the ISO
10 study and those three aspects of it that we
11 described earlier.

12 MR. VESPA: Okay.

13 HEARING OFFICER KRAMER: Okay. And then,
14 finally, as a matter of -- unless there are other
15 questions. Just as a matter of practical aspects
16 of the hearing, Ms. Chester is going to bring, in
17 case the internet is wonky in the auditorium
18 again, she and I are both going to have hot
19 spots. So, I think the people that were sitting
20 on her side of the table can share that hot spot
21 and I'll have one that the Committee can use.
22 So, we should have better internet coverage, even
23 if the facility isn't helping us out in that
24 regard.

25 MR. CARROLL: So, Mr. Kramer, Latham will

1 also be bringing two hot spots, so we should be
2 pretty well covered.

3 HEARING OFFICER KRAMER: Okay, good.

4 MS. FOLK: And this is Ellison Folk.
5 This isn't Wi-Fi related, but I do have one
6 question about the format. And maybe I'm getting
7 ahead of you, but it sounds like we are going to
8 do a panel format, similar to what we did last
9 time.

10 HEARING OFFICER KRAMER: Yes.

11 MS. FOLK: And I guess my question would
12 be we just want to confirm we'll be able to ask
13 questions of the panelists and that our witnesses
14 will be able to make their -- like a brief
15 presentation, sort of similar to the prior
16 format.

17 HEARING OFFICER KRAMER: Yeah, a brief
18 summary of their testimony helps put everything
19 in context and helps us remember what we've read.

20 MS. FOLK: Yeah, okay.

21 HEARING OFFICER KRAMER: And then, we
22 also have to remember that we'll have some
23 members of the public there, so helping them to
24 follow it is a nice thing to do.

25 MS. FOLK: Okay.

1 MR. PINJUV: This is Jordan Pinjuv. Oh,
2 I'm sorry I have one additional question on the
3 paneling topic. And that was whether you had
4 given any more thought to the structure of how
5 the panels would operate? Whether the ISO would
6 be going first, on its own panel, or whether one
7 will be together?

8 HEARING OFFICER KRAMER: Well, I think
9 we'll probably seat everyone, but then the ISO is
10 definitely going to go first. Their report is
11 the star of the show, so we want them to explain
12 that, first, before the others.

13 MR. PINJUV: Okay, thanks.

14 MR. VESPA: So, just clarify, it's Matt
15 Vespa, CAISO will go first and present. Would
16 CAISO then be subject to specific questioning
17 before we introduce the remainder of the
18 panelists or would we then do openings for each
19 panelist, and then go back to specifics?

20 It would be helpful on my end to just
21 kind of go through CAISO first and just get some
22 established parameters for the study because that
23 may inform how our witnesses talk about their
24 testimony.

25 HEARING OFFICER KRAMER: Okay, the other

1 parties, how do you feel about that? I don't
2 know that we have a particular preference.

3 MR. PINJUV: Yeah, this is Jordan Pinjuv
4 here, again, from the ISO. I think that we would
5 agree with that, having our witnesses kind of up
6 first. Having our questioning to follow directly
7 after just kind of makes the most sense from our
8 perspective, as we kind of are setting the stage
9 there. And that will facilitate getting our
10 witnesses up and down the first day.

11 HEARING OFFICER KRAMER: Okay. Yeah,
12 that's a good consideration.

13 Does anybody have a different approach
14 they'd like to advocate?

15 Okay, so that's what we'll do, then. ISO
16 summarize and then we'll have questions directed
17 at them, and then we'll go beyond that. But the
18 ISO folks will stick around for a while, right?
19 Because inevitably there will be some follow ups
20 that are engendered by what the others say.

21 MR. PINJUV: Yes, they will be around all
22 day. I believe their flight leaves at 7:30, so
23 they'll be around until they leave for there.

24 HEARING OFFICER KRAMER: Okay, excellent.
25 Any other questions or --

1 MR. VESPA: I would just state -- I don't
2 want to beat a dead horse here, but just to re-
3 summarize just the way this is going to happen,
4 you know, CAISO introduces, CAISO gets
5 questioned, CAISO remains there. Each of the
6 other panelists then are able to introduce with a
7 couple of just introductory questions, and then
8 everything gets opened up. Is that about right?

9 HEARING OFFICER KRAMER: Yes.

10 MR. VESPA: Okay, thank you.

11 MS. LAZEROW: Hi, sorry, this is Shana
12 Lazerow. I am afraid I missed what the ruling
13 was on the briefing schedule.

14 HEARING OFFICER KRAMER: Oh, we're going
15 to combine them both. Refresh my memory. The
16 29th was the deadline for the ISO one, right?

17 MS. LAZEROW: That's right.

18 HEARING OFFICER KRAMER: Okay, yeah,
19 they're both going to move to the 29th then. I
20 suppose you could put them all in one brief.

21 MS. LAZEROW: That's great, thanks.

22 HEARING OFFICER KRAMER: Okay.

23 MS. BELENKY: I'm sorry, this is Lisa
24 Belenky. I just wanted to clarify, so this sheet
25 that you sent out with all the times on it, last

1 night, we're not going to use this because we're
2 probably using a panel. And is the expectation
3 that we're going to finish on Thursday?

4 I'm asking that because some of the
5 parties have many, many, many, many minutes for
6 each of these people to give their opening. You
7 know, 20 minutes for an opening, et cetera, or an
8 hour. I'm just trying to understand what we're
9 doing, now. Could you clarify a bit more?

10 HEARING OFFICER KRAMER: Sure. The
11 Committee is going to take the time that's
12 necessary. We want to be efficient, of course.
13 So, we are fully expecting and available, if we
14 don't finish on the first day, to go over to
15 Friday.

16 Now, what we'll want to keep an eye on is
17 if we have some witnesses, and the two I've heard
18 about thus far are the ISO, and then also the
19 Edison folks will not be staying over until
20 Friday. So, we'll want to be mindful of their --
21 you know, well, when they turn into pumpkins so
22 to speak.

23 MR. PINJUV: Yeah.

24 HEARING OFFICER KRAMER: And make sure
25 that we call that out and we have an opportunity

1 for any last-minute questions of them.

2 But otherwise, everyone who can stay, to
3 the extent we need to stay over on Friday to
4 complete things, we will.

5 MR. VESPA: And this is Matt Vespa for
6 Sierra Club. My witnesses, Mr. Schwartz and Mr.
7 Owens are only prepared to be there on Thursday.

8 HEARING OFFICER KRAMER: Okay. Please
9 remind us as we get towards the middle of the
10 afternoon on Thursday.

11 MR. VESPA: Okay, thanks.

12 MS. BELENKY: And again, could you
13 clarify the purpose of the Edison -- I don't
14 understand. They're not on the witness list, so
15 where do they fit in this?

16 HEARING OFFICER KRAMER: Well, they have
17 information, presumably, about how quickly some
18 of these other suggested alternatives to the
19 Puente Project could be implemented and
20 operational. And, as we've said, that's an
21 important consideration, potentially.

22 MS. BELENKY: But it wasn't submitted as
23 testimony and none of us have seen it, and we
24 have no idea what they're going to say or how we
25 would be able to either cross-examine them or ask

1 them questions. I don't understand how this is
2 coming in at the very end of the day here.

3 HEARING OFFICER KRAMER: Well, as I said
4 earlier, from the Committee's stand point this
5 was clearly a part of the package, you know, of
6 information that relates to the ISO study.

7 If it turns out that there's some
8 remarkable piece of information that's supplied
9 by Edison, and it's reasonable to allow either
10 later submission of responses, you know, you can
11 always ask the Committee to -- for additional
12 time to be able to respond. But you're going to
13 have to convince us that this is not foreseeable
14 evidence. And that may be -- will probably not
15 be -- well, I can't say for sure. But as I said,
16 the Committee, you know, believes that this is
17 part of the equation, it's part of the override
18 equation.

19 The feasibility, as Mr. Carroll pointed
20 out, I believe, of alternatives was -- is and was
21 on the table from day one, from the hearings in
22 February. You know, the parties were asked to
23 bring their evidence about overrides in February.
24 You know, it crosses over many -- many topics.

25 The Committee has twice now reopened the

1 hearings to take additional evidence, but that,
2 you know, has added significant time to this
3 process, and at some point it does have to come
4 to an end.

5 MS. BELENKY: I'm actually objecting to a
6 witness who does not -- there was never any
7 discussion of a witness who you've now put on the
8 witness list. They didn't submit testimony.
9 They didn't write the Cal-ISO study, and we have
10 no idea what they're saying. I'm not trying to
11 reopen something from February.

12 You have added a witness who is not on
13 the list and we have not discussed in the
14 prehearing conference statements. It did not
15 submit any testimony. I just don't understand
16 where it's coming from.

17 HEARING OFFICER KRAMER: Okay. Well,
18 you're free to raise an objection when we have
19 specific questions, but we are not going to make
20 any general ruling today.

21 MS. BELENKY: Thank you.

22 HEARING OFFICER KRAMER: Okay, thank you.
23 Anything else from anyone?

24 MR. CARROLL: Nothing from Applicant,
25 thank you.

1 HEARING OFFICER KRAMER: Okay, thank you.

2 We'll see everyone in Oxnard at --

3 MS. FOLK: Wait, I actually did want to
4 respond on the issue of Edison. And not -- all I
5 wanted to say is that, you know, we're not afraid
6 of the feasibility issue, but I do think there is
7 a fairness issue in terms of inviting someone to
8 testify that -- where we haven't had an
9 opportunity to see what they might say and have,
10 you know, a fair opportunity to prepare to ask
11 questions about it. You know, especially if the
12 issue is procurement, you know, Edison hasn't put
13 in anything on that so far.

14 And so, then, you know, depending on what
15 they say we may want to be able to ask them some
16 questions about other proceedings and other
17 procurement opportunities.

18 MR. CARROLL: I would just interject that
19 the Committee has, on a fairly regular basis,
20 invited parties that it believed might have
21 relevant information, to participate in these
22 proceedings. They're not parties to the
23 proceedings and, therefore, they're not under the
24 same obligations that the parties are to file in
25 advance.

1 But the two that come to mind from the
2 previous round of hearings are the Coastal
3 Conservancy, and the Coastal Commission, and the
4 USGS. As I recall, all of those were entities
5 that the Committee essentially invited to
6 participate because of their view that they might
7 have relevant information. And they showed up on
8 largely the same basis that Edison would, without
9 having filed any testimony in advance or anything
10 along those lines. So, this is not out of line
11 with the way the Committee has proceeded in the
12 past.

13 MS. FOLK: That actually is not true.
14 The Coastal Commission filed testimony, as did
15 the Coastal Conservancy. So, there was an
16 opportunity for the parties to prepare and ask
17 questions.

18 HEARING OFFICER KRAMER: All right. I'll
19 just note that most of you are -- were
20 participants in the LTPP process and so you're
21 not unfamiliar with it.

22 Anyway, it will serve no purpose to
23 discuss theoretical objections to hypothesized
24 questions for a witness who's not in front of us,
25 without the context of all of the other questions

1 that will have been asked before those are asked.

2 So, I anticipate this discussion will
3 continue on Thursday. But there's no purpose
4 served to continue it today.

5 So, anything else about -- for Thursday?

6 Just note that we've also, I'm sure
7 you're aware of it, we scheduled a Committee
8 conference for Monday, I think it is, the 18th,
9 yes. That is going to be pretty much, you know,
10 dedicated to Committee deliberation in closed
11 session. We don't expect -- you know, we will of
12 course have public comment, as -- as we are
13 required to do. But it will be, more than today,
14 truly deliberative.

15 So, with that one last time, anything
16 else?

17 If not, then we are adjourned.

18 (Thereupon, the Hearing was adjourned at

19 1:09 p.m.)

20 --oOo--

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25

REPORTER'S CERTIFICATE

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

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IN WITNESS WHEREOF, I have hereunto set my hand this 21st day of September, 2017.



Eduwiges Lastra
CER-915

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IN WITNESS WHEREOF, I have hereunto set my hand this 21st day of September, 2017.



Barbara Little
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