

COMMITTEE WORKSHOP
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:

Guideline Revisions for
Renewable Energy Program and
RPS Implementation

)
)
) Docket No.
) 02-REN-1038
)
)

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CALIFORNIA ENERGY COMMISSION
HEARING ROOM A
1516 NINTH STREET
SACRAMENTO, CALIFORNIA

THURSDAY, DECEMBER 13, 2007

2:04 P.M.

ORIGINAL

Reported by:
Peter Petty
Contract No. 150-07-001

COMMITTEE MEMBERS

John L. Geesman, Presiding Member

Jackalyne Pfannenstiel, Associate Member

ADVISORS, STAFF and CONSULTANTS PRESENT

Suzanne Korosec, Advisor

Timothy Tutt

Jason Orta

Fernando DeLeon

Heather Raitt

ALSO PRESENT

Julee Malinowski-Ball
California Biomass Energy Alliance

Bob Ellery
Sierra Pacific Industries

Kent Duysen
Sierra Power Corporation

Ed Cazalet
MegaWatt Storage Farms

Diane Fellman
FPL Energy Project Management, Inc.

Chris Trott
Thermal Energy Development Partnership

Dina Del Dotto
Covanta Energy

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P R O C E E D I N G S

2:04 p.m.

PRESIDING MEMBER GEESMAN: This is a meeting of the Renewables Committee of the California Energy Commission to discuss revisions to our guidelines for the existing renewable facilities program.

I'm John Geesman, the Presiding Member of the Committee. To my left, Jackalyne Pfannenstiel, the Commission's Chair and the Associate Member of the Committee.

To her left, Tim Tutt, her Advisor; to my right Suzanne Korosec, my Advisor.

Jason, do you have a presentation?

MR. ORTA: Yes, I do. Thank you.

Before I begin, I would like to inform those who are listening on the web or otherwise, of some additional information. If you would like to call in to the workshop, please dial 888-469-3052. When they ask for a call leader, please say Jason Orta. The passcode is workshop. And, as a reminder, written comments are due on Monday, December 17th.

I will go over the agenda for this workshop, which is basically to discuss proposed

1 existing renewable facilities program guidebook
2 revisions by staff.

3 First of all I will start with some
4 background information, a little bit as to how we
5 got here and where we are right now.

6 One of the proposed guidebook changes
7 will codify the award decision process on how
8 these funding awards are distributed.

9 Then the third part here is proposed
10 changes to the applications that facilities would
11 submit in applying for funds.

12 And then the next slide would be
13 discussion of other changes, including the change
14 in the program funding allocation per SB-1036.

15 We've also included as part of the
16 agenda various issues that we would like
17 stakeholders to comment on during this workshop.
18 And there will be time for additional public
19 comment by stakeholders.

20 I apologize to the audience for
21 forgetting to dim the lights so you can see the
22 presentation.

23 A little bit of background. SB-1250,
24 which was enacted January 1st of this year,
25 included Public Resources Code section 25742,

1 which requires the Energy Commission, in terms of
2 evaluating each -- well, it requires the Energy
3 Commission to evaluate each facility on an
4 individual basis to determine a target price
5 production incentive cap if the finding is that
6 the facility is eligible for funding.

7 From 1998 to 2006 target prices and
8 production incentive caps were established on a
9 technology basis. Public Resources Code section
10 25742 requires that the Energy Commission collect
11 the following information from each facility that
12 requests an award.

13 This includes the cumulative amount of
14 funds that the facility has previously received
15 from the Energy Commission and other state
16 sources. The value of any past and current
17 federal or state tax credits. The facility's
18 contract price for energy and capacity.

19 The market value of the facility. An
20 estimate of the incentive payment that is needed
21 above the energy payments that the facility will
22 receive during the year that they're applying for
23 funding for. And also each facility would be
24 required to provide an explanation as to why this
25 incentive level is needed.

1 And finally, Public Resources Code
2 section 25742 calls for an explanation of how the
3 incentive payments from the existing renewable
4 facilities program will allow the facility to
5 become cost competitive by the end of 2011.

6 Additionally the existing renewable
7 facilities program seeks to secure for California
8 the environmental, economic and reliability
9 benefits these facilities provide by continuing to
10 operate.

11 The fourth edition of this guidebook as
12 incorporated was drafted in response to the
13 changes in SB-1250, and that was adopted by the
14 Energy Commission on March 14th of 2007.

15 The next slide discusses our proposal,
16 staff's proposal for the award decision process.
17 The first step is that staff will review the
18 applications on a facility-by-facility basis. In
19 this step there may be requests by staff for
20 additional information by the facility.

21 For example, this year we've met with
22 most of the facilities on an individual basis; and
23 those meetings were helpful in providing us some
24 very useful information. And that may be a part
25 of this step, but there will also be, before that,

1 the facilities will need to complete an
2 application.

3 There will also -- the next step is that
4 based on the review and on the information
5 submitted in those applications staff's
6 recommendation will be taken to the Renewables
7 Committee for approval.

8 The step after that is the applicant
9 will be informed in writing of the Renewables
10 Committee's decision. And subsequent to that, the
11 Renewables Committee's decision will be submitted
12 to the full Energy Commission for approval at a
13 business meeting.

14 If there is dissatisfaction with that
15 decision the applicant may request reconsideration
16 from the Renewables Committee and appeal the full
17 Energy Commission's decision as specified in the
18 overall program guidebook.

19 The next slide basically discusses
20 staff's proposed changes to the funding award
21 applications. Before I go through this slide I
22 would like to give you basically a gist of where
23 we're going with this.

24 First of all, think of it as past,
25 present and future. Say for 2008 we would like

1 the applicants to help us look back at 2007 and
2 the funds that were awarded by the Energy
3 Commission, how those funds helped the facility
4 meet the goals of the program, such as increasing
5 generation, maintaining generation and helping the
6 facility become self-sustaining.

7 So, in other words, information that was
8 provided to us in previous years, say when we're
9 reviewing the 2008 applications, information from
10 2007 will be used in the analysis.

11 For the year that you're applying, say
12 2008, we're proposing to ask for a description of
13 the exact use and the allocation of the funds
14 requested to give us an idea of what kinds of
15 projects and investments the facility will make,
16 and how these funds would enable each facility to
17 make those investments to help further the program
18 goals.

19 We're also going to look back, as well,
20 you know, because one of the things that we want
21 to keep track of is what are the results. What is
22 the additional generation that could be attributed
23 to the various investments that the facility made
24 with the funding provided by the existing
25 renewable facilities program.

1 In looking ahead, one thing that we are
2 interested in finding out from each facility is
3 looking to the future. What are the kinds of
4 obstacles that the funding would expect to address
5 in the future. And, again, it's just basically
6 trying to get a holistic view, past, present and
7 future, from each facility to hear the facilities'
8 perspective on how the funds will help further the
9 goals of the program.

10 In addition to the proposed changes in
11 the funding applications, there are other proposed
12 changes to the guidebook, as well. As I mentioned
13 earlier, SB-1036 reduced the funds that are
14 collected by the renewable resources trust fund by
15 51 percent. In turn, it also revises the
16 allocation of funds to the existing account from
17 10 percent to 20 percent. Keep in mind that it is
18 20 percent of a smaller pie.

19 And in addition, there will also be
20 proposed conforming changes to forms and to the
21 draft funding award notice that's in the
22 guidebook.

23 And additionally, I didn't include it on
24 this slide, but one of the things that we are
25 proposing to do is to put a template for

1 confidentiality applications into the guidebook
2 because we are aware that what we are asking for
3 from each of the facilities may be considered a
4 trade secret, or the facility may want some
5 confidentiality protection.

6 And after the presentation I have asked
7 on of our attorneys, Fernando DeLeon, to give a
8 short talk on the confidentiality process.

9 As always, and this goes back to my
10 experience and other staff's experience in meeting
11 with these facilities, stakeholder input is always
12 appreciated. We really like everyone's input in
13 administering this program.

14 Among the various areas that we would
15 like stakeholder input are comments on the
16 proposed changes that I have presented to you
17 here, and also that were presented in the notice
18 that was sent out on December 3rd, some comments
19 on the award decision process, our proposed
20 process for having these award decisions approved.
21 And also changes to the funding award application.

22 The second bullet on this slide is
23 something that staff thinks is very important to
24 think about, because this is, as we all know in
25 this room, this has been a challenge to administer

1 this program, considering the newness and also the
2 diversity of information that we need.

3 One of the things that we are exploring
4 is what kinds of quantitative factors can we use
5 to help us with, you know, determining these
6 awards. What kinds of numerical information that
7 we can look at to help us make these decisions.
8 Among some of the factors that we may incorporate
9 in the forms, or we would also like your input on,
10 are basically include, for instance, number of
11 days that are lost because of maintenance needs.
12 Number of, you know, how long -- how much down
13 time each facility had because of major repairs
14 and investments needed to be made.

15 Other information such as possibly the
16 facility's net earnings and losses. What kind of
17 return does the facility owners expect on their
18 investment and that kind of thing. These are just
19 discussion points that we would appreciate
20 stakeholders' input on.

21 Another issue that we would also
22 appreciate the input of stakeholders is
23 suggestions on how the facilities and their fuel
24 suppliers could accurately attest that the fuel
25 procured for each facility meets -- conforms to

1 the restrictions imposed in the statute, in SB-
2 1250.

3 Again, I'd like reiterate the call-in
4 information. If you would like to provide
5 comments by the telephone, please call 888-469-
6 3052. And if they ask for the call leader it's
7 Jason Orta. The passcode is workshop.

8 And another reminder: Written comments,
9 which are greatly appreciated, are due on Monday,
10 December 17th.

11 If the Committee doesn't mind I would
12 like to turn to Fernando DeLeon, who will provide
13 a short discussion on confidentiality issues, and
14 to answer some of your questions, if you have any.

15 MR. DeLEON: Thank you. Good afternoon.
16 I am Fernando DeLeon. I am an attorney here at
17 the Energy Commission. One of my responsibilities
18 is to review applications for confidentiality.
19 Entities maybe wishing to submit an application,
20 and that application may have confidential
21 information.

22 Jason has informed me that they're
23 planning to include in their guidebook in their
24 guidebook our template application. We've
25 developed this over the course of years, and it

1 outlines the requirements that we look for here at
2 the Commission to designate certain data as
3 confidential.

4 In the past this has been a
5 controversial subject here. This past year when I
6 worked with Jason luckily we didn't have too many
7 problems with this particular program and people
8 seeking confidentiality designations for the
9 information they submitted.

10 The template is a very easy thing. You
11 fill it in; it asks you certain questions. You
12 have to label the data that you want confidential.
13 You have to state how long you want the data to be
14 confidential; the basis for that confidentiality
15 in the law. That's generally it's a business or
16 trade secret. Information that would harm the
17 submitter if it was disclosed to the public. It
18 would provide your competitors with an undue
19 advantage over you if it was to be made public.

20 These are some of the examples that you
21 can use to base your designation in
22 confidentiality.

23 You need to have a penalty of perjury
24 statement included on the application for
25 confidentiality. State the time, how long you

1 want it to be confidential and the reason for that
2 length of time. We've had anywhere from one year
3 to we want this information forever to be
4 confidential.

5 Let me state, when people ask for their
6 information to be labeled designated as
7 confidential forever, it's rarely, rarely granted.
8 Only in the case of say cultural resources, or
9 Indian burial grounds where we grant something
10 forever.

11 You can always ask for it, and you can
12 have a reason to ask for it. But please explain
13 why you want it for the length of time.

14 One of the biggest problems we have here
15 is people don't sign their application. Believe
16 it or not, we get applications, there is no
17 signature. We will return the application and
18 say, please sign it. Please send five copies of
19 the application, including the data that you want
20 confidential.

21 There is a preliminary determination.
22 The application goes to the Executive Director who
23 makes a determination of confidentiality. The
24 Executive Director sends that application,
25 including all the information seeking

1 confidentiality to our dockets unit.

2 The docket unit reviews the application
3 for fundamental things. Has it been signed; are
4 there a number of copies included; is there a
5 penalty of perjury statement included; is there a
6 docket number. Believe it or not, people do not
7 include the docket number, so we have no idea what
8 this information and what docket it's supposed to
9 be included.

10 And include the address of the
11 responsible party who's making the application.
12 We have, in the past, received applications where
13 there was no address. We had no idea. There was
14 no name for the person who submitted the
15 application, just the entity. No individual
16 person, no address. We had no idea where it was
17 to go. So, those are some fundamental issues.

18 It's a pretty simple process. Any
19 questions you might have?

20 Great. If you have any questions, Jason
21 can ask you the questions; he can forward them to
22 me if you have any specific questions later.

23 Thank you. That was easy.

24 PRESIDING MEMBER GEESMAN: Thank you,
25 Fernando. As is our tradition, we will go by blue

1 cards and take public comment. So if you'd care
2 to address us, please fill out a blue card and
3 someone will bring it up to me. I'll take the
4 people in the room first, and then I'll go to the
5 phones to see if there are any comments there.

6 The first one I have is Julee
7 Malinowski-Ball from the California Biomass Energy
8 Alliance.

9 MS. MALINOWSKI-BALL: Thank you,
10 Commissioners, Advisors, Staff. I appreciate
11 having the opportunity today to speak about this.
12 I'm Julee Malinowski-Ball; I represent the
13 California Biomass Energy Alliance, which is
14 comprised of 850 megawatts of existing solid fuel,
15 biomass and solar thermal generating facilities.

16 I know that it sounds weird that the
17 Biomass Alliance includes the solar thermal folks,
18 but we have a lot in common, including the
19 development of this guidebook and this program.

20 I want to give a little background, too.
21 I think that this year was definitely a
22 challenging year. Jason said it just right. It
23 was a challenging year and I just kind of want to
24 lay it out from our perspective, how it went, and
25 maybe how we can work to make it better.

1 2007 began wit a clear direction in
2 mind. The biomass and solar thermal industries
3 collectively worked with this Commission and this
4 Committee and staff to craft a new existing
5 account guidebook that took into account the new
6 direction that the Legislature set forward. And
7 that was requiring more detail of individual plant
8 assessments. Good or bad, it actually just added
9 another layer for you guys to take on.

10 And so you created an application
11 process that was much more cumbersome, but fine,
12 workable. And everyone put in their applications.
13 And all the applications came in with roughly two
14 sets of target prices requested by the facilities
15 with the required justifications as to the needs
16 of those individual plants.

17 And each and every one of those plants
18 then received what we now call draft award notices
19 denying their request to target prices and offered
20 no more than what they received in 2006.

21 Even though the increase in fuel prices,
22 alone, for the biomass industry was justification
23 enough to get more in 2007, everyone was summarily
24 denied.

25 You sought to rectify that, but really,

1 first was truly a lack of explanation across the
2 board for this denial with individual meetings.
3 Those individual meetings were very valuable.
4 Staff appreciated them; all the plants appreciated
5 them.

6 But at the end of that process, though,
7 which by the way, it still going on today -- just
8 unfortunate -- a whole host of target prices were
9 then awarded to all the plants whose
10 representatives came in and explain their
11 application, and in many instances provided
12 additional information.

13 This whole host target prices resulted,
14 in our opinion, in, we think, a process that
15 rewarded inefficiencies, divided historically
16 cooperative industries, a process that if we think
17 continues again unchanged this year will further
18 create inequities among these industries, and
19 produce fewer positive results, and not focus on,
20 you know, both goals of this program.

21 One thing SB-1250 didn't change was the
22 goals for this program. Current law states that
23 the distribution of funds will comply with both
24 long-term and short-term goals.

25 The short-term goals is, of course,

1 increasing renewable generation for the state. It
2 also is recognizing that you need to secure for
3 the state the environmental, economic reliability
4 benefits that these facilities provide.

5 And the long-term goals were always, and
6 continue to be, trying to put forward a fully
7 competitive and self-sustaining industry.

8 Now, I'm representing two industries in
9 which the vast majority of these representatives
10 don't favor the continuation of that same approach
11 this year.

12 We urge this Committee to support a more
13 balanced approach to appropriating what little
14 funds are left in the account. It's challenging.
15 I actually have in my notes it's a gargantuan
16 task. It may not be that big, but you have a big
17 task in front of you with roughly only \$22 million
18 for next year.

19 You're responsible for balancing --
20 finding a balance between short-term/long-term
21 goals that are mapped out in law. And you are
22 responsible for designing a program that not only
23 keeps the current level of generation, attempts to
24 increase the generation and tries to find some
25 balance that will make these plants then also

1 self-sustaining post-2011.

2 Now those may not be mutually exclusive,
3 but they are large tasks with little amount of
4 money. And historically this program, you know,
5 set forth in the guidebooks, set one or two sets
6 of target prices and caps for the plants to
7 qualify.

8 Now, we thought that this was a very
9 efficient and fairly effective program as long as
10 the prices were following, you know, the ebbs and
11 flow of the market.

12 Historically the program has shown
13 results. When the target prices were raised you
14 saw an increase in generation. And when the
15 target prices went down or didn't go up, you know,
16 or stayed steady for a long period of time, you
17 know, you saw a decrease in generation.

18 There's no reason you can't design this
19 program the same today with, you know, a few
20 tweaks. I think our first request would be, is to
21 do just that. You know, consult with our
22 industries and agree on a set target price and cap
23 or one or two sets of target price and caps.

24 Plants would apply for that;
25 applications would include clear justification for

1 what those funds mean to them in terms of their
2 need. They would prevent curtailment, possibly
3 increase generation. And what those funds would
4 do to, you know, self-sustaining past 2011.

5 And the CEC would continue to do what
6 it's required to do under statute now, and that is
7 do an individual plan assessment, you know,
8 whether or not they qualify for that target price
9 or cap seems simple enough. It worked before, it
10 could easily work again.

11 And the guidebook today even states that
12 that's within your realm of authority. The
13 guidebook states that you can set a target price
14 and cap if you so choose. And we urge you to
15 actually consider, you know, returning to that
16 method.

17 Ultimately we could look at it. If you
18 really want to focus on the long-term goal and the
19 short-term goal, you can set up two pots of funds,
20 which we recommend one pot being say your short-
21 term goal, trying to make sure that you don't lose
22 generation by denying plants what they requested
23 in their original applications.

24 What you were saying was -- our
25 interpretation -- was that generation, that

1 additional generation or that, you know,
2 maintaining that just wasn't worth the money.
3 That there was no incentive now for those plants
4 that weren't getting any incentive when the prices
5 were lowest.

6 We need that generation, whether it's
7 onpeak, offpeak or around-peak. That's important
8 generation for the state as I'm sure you would
9 agree.

10 But we could set up different pots of
11 money. We recommend, you know, 75 percent of the
12 pot be set up for a single target price where you
13 justify your need for that. And that need would
14 answer the simple question, you know, will this
15 present further curtailment. You have historical
16 information to say whether or not, in the future
17 years, whether or not that worked.

18 The second pot would be your quote/
19 unquote self-sustaining goal generation. You
20 know, where companies come in with special
21 projects that further that particular goal. We
22 think that's one way to do it.

23 But, again, I think the simpler way is
24 preferable for the majority of plants. I think,
25 you know, the first way is preferable and we just

1 think, you just get simply a bigger bang for your
2 buck on that.

3 PRESIDING MEMBER GEESMAN: Why don't you
4 take that argument to the Legislature.

5 MS. MALINOWSKI-BALL: I don't know where
6 in the statute it prevents you from doing that. I
7 would go back to the Legislature and say I need
8 more money. I think you guys have done a great
9 job of crafting a program over the years. And
10 1250 really didn't change how you went about doing
11 that. It --

12 PRESIDING MEMBER GEESMAN: Well, that
13 individualized analysis, which, as I think you'll
14 recall, was a very strong flavor coming from the
15 drafters of SB-1250, is something that we found
16 impossible to ignore. And I think the notion of
17 trying to set up a bifurcated process, or
18 bifurcated pools of funds runs pretty directly
19 contrary to that very strong flavor.

20 It may very well be an excellent idea,
21 but I think it's the sort of thing that the
22 Legislature ought to decide rather than have us
23 put ourselves in their shoes.

24 MS. MALINOWSKI-BALL: I don't think that
25 you absolve yourself of that responsibility when

1 you set a target price, or a set, or even doing
2 what you're doing right now. You still have to do
3 that individual facility analysis.

4 But even your guidebook today says that
5 you can set a single target price if you wanted
6 to. It's within your authority.

7 PRESIDING MEMBER GEESMAN: But there was
8 a pretty clear legislative dissatisfaction with
9 the way in which we were conducting the program
10 previously, and --

11 MS. MALINOWSKI-BALL: Because there
12 wasn't that deep analysis that you are currently
13 asking for in the guidebook for 2007 --

14 PRESIDING MEMBER GEESMAN: But it's the
15 deep analysis that you're saying is divisive and
16 creating problems for your members.

17 MS. MALINOWSKI-BALL: We have to figure
18 out exactly what Jason pointed out in his
19 presentation, is what are the right documents, how
20 do you quantify this. And, you know, we sat down
21 with your staff last week for, you know, several
22 hours and tried to hash out what that was. It is
23 a very challenging task.

24 This year I think you've put yourselves
25 in the position of being a PUC-like body --

1 PRESIDING MEMBER GEESMAN: Those are
2 fighting words here.

3 (Laughter.)

4 PRESIDING MEMBER GEESMAN: Watch out.

5 MS. MALINOWSKI-BALL: I understand, sir.
6 You know, you're now forced to take, you know,
7 analyze each individual facility, how they run,
8 what kind of investments they're making, are they
9 making economic investments, cost effective
10 investments.

11 I think you end up forcing plants this
12 year, if you don't, you know, rein in this process
13 I think you're forcing plants to go, well, I've
14 got this project on the shelf that looks good; it
15 maybe isn't cost effective. I'm going to put it
16 in my application this year and ask for more
17 money.

18 And how are you to know that that was
19 not a good application, you know, that was not a
20 good project to put down. I just don't think it's
21 within this body's role to look at it in that way.

22 PRESIDING MEMBER GEESMAN: I don't think
23 I disagree.

24 MS. MALINOWSKI-BALL: I could be wrong,
25 but --

1 PRESIDING MEMBER GEESMAN: But I don't
2 recall having sought out the responsibilities from
3 the Legislature to do this. In fact, as I recall,
4 the legislation was written pretty well over our
5 expressed concerns.

6 MS. MALINOWSKI-BALL: I think the Chair
7 of the Committee who requested this information,
8 she was very clear. She didn't know exactly where
9 the money was going. And I think this year when
10 you put together your analysis which is required
11 in this section, as well, I think you'll show that
12 the additional information, more than anything
13 this additional information, the valuable stuff,
14 not everything, you know, the fuel curves are
15 good, and some of the project stuff, I think
16 you're showing that you're getting a good bang for
17 your buck.

18 I just think there's an easier way to do
19 it, an easier way that doesn't create so much
20 divisiveness in the industry and spend another 12
21 months working on sending out award notices. I
22 just don't see --

23 PRESIDING MEMBER GEESMAN: So, can --

24 MS. MALINOWSKI-BALL: -- I don't see it
25 changing if we don't rein this in.

1 PRESIDING MEMBER GEESMAN: -- you
2 persuade the Legislature of that?

3 MS. MALINOWSKI-BALL: I guess we're
4 going to have to agree to disagree on that. I
5 just don't see that in statute what specifically
6 it says where you can't do that. When your own
7 guidebook tells you you can.

8 PRESIDING MEMBER GEESMAN: Our lawyers
9 tell us we can't.

10 MS. MALINOWSKI-BALL: So, are we
11 deleting that statement from the guidebook?

12 MR. ORTA: I'd just like to point out
13 that the guidebook does state that we can
14 recommend and this agency can approve target
15 prices and caps for groups of facilities. But
16 that takes into account the evaluation that has to
17 be done in order for us, the staff, to recommend
18 that finding to the Renewables Committee.

19 That can be done, but looking back at
20 what I have recommended this year, the findings
21 show that, you know, that different target prices
22 were warranted for some of the facilities.

23 MS. MALINOWSKI-BALL: I would have to at
24 least say that as hard as the staff worked on
25 making those determinations, I believe that they

1 were made inequitably. I think that those who
2 came in with better presentations, maybe those who
3 didn't come in but felt that their application was
4 complete all on its face, were treated
5 differently.

6 For example, there's, you know, one
7 facility that has a two-cent-lower energy price,
8 but has the same exact target price as a facility
9 with two cents more. So there doesn't seem to be
10 a lot of sense, sometimes, to the setting of the
11 target prices.

12 And it's not for me to know what
13 happened in all those meetings and to know the
14 evaluation of each of those individual plants.
15 But what I am seeing overall, when you start
16 talking to the plants and hearing who got what and
17 when, and who presented what, there does simply be
18 -- it's an imbalance.

19 And I'm suggesting that those that were
20 saying they would at least maintain their
21 generation with suggested target price, those
22 folks were left out of the game.

23 And that's why you're focusing on the
24 whole self-sustaining issue more than you're
25 focusing on the maintaining the generation that

1 you have.

2 It's a declining industry. And you have
3 this task, unfortunately, of trying to stop that
4 downward tide. We think it can be done.

5 PRESIDING MEMBER GEESMAN: Well, the
6 task that I think that the Committee has, and the
7 full Commission ultimately, is to try and
8 faithfully discharge the law. And with the
9 expenditure of public funds involved, we take a
10 fairly conservative approach. What does the law
11 say; what do we believe the Legislature intended
12 in the use of the words that they used; what's our
13 staff's technical recommendation.

14 And as you know, in this last cycle we
15 asked the staff to go back and take a second look
16 at a number of the projects.

17 But I don't think that we have the
18 unilateral authority to rewrite the law. And I
19 think your proposal for a bifurcated structure
20 really does run contrary to --

21 MS. MALINOWSKI-BALL: Well, that's my --

22 PRESIDING MEMBER GEESMAN: -- SB-1250.

23 MS. MALINOWSKI-BALL: -- that's plan B.
24 Preferably I'd like to see to take the whole pot
25 and set a set of target prices and caps instead of

1 bifurcating.

2 PRESIDING MEMBER GEESMAN: Let's
3 persuade the Legislature then.

4 MS. MALINOWSKI-BALL: My preference is
5 that.

6 PRESIDING MEMBER GEESMAN: Take our
7 discretion away. Say provide a one-size-fits-all.
8 If the Legislature thinks that that's the best way
9 to do it, you know, we know how to do that. But
10 we don't have the ability to tell the Legislature
11 that despite what they told us in SB-1250 we think
12 there's a better way and we're going to follow
13 that better way with no change in legislation.
14 That's beyond our authority.

15 MS. MALINOWSKI-BALL: Can I just ask for
16 a quick clarification? I'm sorry. Jason, did you
17 say whether or not we would remove that language
18 from the existing guidebook?

19 MR. ORTA: No, I did not propose
20 removing that language from the existing
21 guidebook.

22 MS. MALINOWSKI-BALL: That's all I have,
23 thank you.

24 PRESIDING MEMBER GEESMAN: Thanks,
25 Julee.

1 MR. TUTT: Yeah, Julee, I have a
2 question. The guidebook does say that you may
3 request that we establish a single target price
4 and cap for a group or category of facilities.
5 And you should accompany that request with an
6 explanation and justification of why these
7 facilities should be assigned the same target
8 price and cap.

9 MS. MALINOWSKI-BALL: Um-hum.

10 MR. TUTT: Have you provided that
11 justification and explanation at all?

12 MS. MALINOWSKI-BALL: It would be in the
13 individual applications. There's no role, of
14 course, for the Biomass Alliance to ask for that.
15 In the individual applications at the beginning of
16 this year, all the facilities did request two
17 different sets of target prices. And then went
18 ahead in those applications and justified why that
19 target price was appropriate for that facility.

20 So, we went down this path already. We
21 started down that path in the beginning of '07,
22 and we somehow deviated from it as the year went
23 on.

24 So I'm actually asking not so much that
25 this change, I just want to get us back to where

1 we were at the beginning of the year.

2 PRESIDING MEMBER GEESMAN: Thanks. Bob
3 Ellery, Sierra Pacific Industries.

4 MR. ELLERY: Commissioners, Staff, thank
5 you for inviting me to speak today. Sierra
6 Pacific has numerous cogeneration facilities in
7 California. But the one that we're most concerned
8 about that basically is running because of this
9 program is our Loyalton facility. It's a 10
10 megawatt, what used to be a cogen facility, which
11 is now a stand-alone power plant when the sawmill
12 was closed down a number of years ago.

13 Power contract at the time when the
14 sawmill was running was deemed adequate. Today
15 without a sawmill it doesn't work. And so, quite
16 frankly, without the funding from this program
17 that facility wouldn't exist today.

18 The concern we have with what happened
19 this year is -- and I think perhaps I learned a
20 few minutes ago that somewhere in the middle of
21 the program it changed. We all kind of assumed it
22 was a universal target, you know, price cap. And
23 then somewhere along the line it changed.

24 And, you know, nobody else was notified
25 of this change. It was just surprise when you see

1 all of a sudden these different caps coming out.

2 I guess our real concern is inadequate
3 funds in this account to fund everybody. And we
4 understand the program. It basically says, okay,
5 if we run out of money we just prorate a cut to
6 everybody. That cut's not going to be universal,
7 you know. That cut for a facility like our
8 Loyaltan facility is devastating.

9 You know, if I had a 9 cent target price
10 that cut's not going to really mean a whole lot to
11 me. Yeah, it would be nice to get nine cents,
12 but, you know, when I'm getting less than 6, it is
13 a much bigger issue.

14 And so our real driving concern is how
15 are you going to structure a program giving
16 individual awards without totally over-subscribing
17 it, and therefore giving me effectively a fake
18 award. Say we'll give you six cents, Bob, but you
19 know, when we get done with the program your six
20 is now down to five.

21 And so I guess that's what we don't see
22 in the program. Talking to Jason he's already
23 told me, you know, this year you're going to dip
24 into the rollover money by \$3 million. What
25 happens next year? Obviously it's not sustaining.

1 So, I guess, you know, the structure
2 that Julee was elaborating was kind of, you know,
3 how do we address the problem that there's
4 inadequate funds. And how do we keep the plants
5 like Loyalton, and we're not the only one, that
6 are in that category from going out of business
7 because we run out of money and everybody gets
8 cut.

9 And so maybe the lawyers can work on
10 some way of looking at it but we really think, you
11 know, this is a serious potential issue in the
12 future. When we get capped, you know, we're not
13 getting anywhere near these 8- or 9-cent deals.

14 I've told many of my associates, you
15 know, you want to trade your \$64 energy contract,
16 you know, bring it on. So it's just hard for me
17 to sit there and say, oh, great, they get 80 cents
18 -- \$80 a megawatt and we're struggling at less
19 than 60.

20 So, anyway I think my message is we've
21 got to be able to keep these other small projects
22 like us alive. And, you know, giving us an award
23 that ultimately is going to just be cut is just
24 not going to be good policy.

25 Okay, that's all I have to say. Does

1 anybody have any questions?

2 PRESIDING MEMBER GEESMAN: Thanks for
3 your comment, Bob. Kent Duysen, Sierra Power
4 Corporation.

5 MR. DUYSEN: Kent Duysen, Sierra Power
6 Corporation. I want to thank you for your time
7 today for putting this workshop together. We run
8 about an 8 to 9 megawatt plant; it's in the south
9 portion of the San Joaquin Valley.

10 And first of all, I'd like to say I do
11 support Julee's comments that she made for the
12 Alliance. And my comments are probably going to
13 run very very parallel to what Bob Ellery just
14 spoke of.

15 Unfortunately, I call it unfortunate,
16 when we brought out plant back online here about
17 five, six years ago we were in a position, as
18 Julee mentioned, we are one of those plants that
19 our energy payment is about 2 cents lower than the
20 bulk of the industry. We're commonly referred to
21 as the orphan plants.

22 And I guess I've urged the last couple
23 of years is we ask for some type of parity with
24 the bulk of the industry. I said, you know, 2
25 cents is huge. And as Bob said, you know, without

1 assistance from the CEC funding, we're not going
2 to be in existence. That's just too large of a
3 gap to pull together.

4 And you folks are going to have to
5 figure it out. SB-1250 really has made your life,
6 your staff's, and our job to put these
7 applications together much more difficult.

8 It almost -- what's --

9 PRESIDING MEMBER GEESMAN: To what
10 benefit, I mean I search to find what we've
11 accomplished by the current legislative structure
12 that we have now, but --

13 MR. DUYSEN: As you can see, I think I'm
14 a fairly simple person. I have a lot of things to
15 do, wear a lot of hats. But it almost seems like
16 to me it's the one who never has a staff person or
17 go out and hire a wordsmith to put the most
18 creative project together might go home with the
19 goods. The rest of us, again, without some fairly
20 significant funding as we've received the last
21 year and the year before, unfortunately we're not
22 just going to be here.

23 So, there's four others, plus Bob's.
24 We're asking for some type of parity --

25 PRESIDING MEMBER GEESMAN: Let me ask

1 you, and I don't want you to take this the wrong
2 way, --

3 MR. DUYSSEN: Sure.

4 PRESIDING MEMBER GEESMAN: -- but what
5 if the Legislature decided that was okay? What
6 if, embedded behind the words of SB-1250 was that
7 very intent?

8 MR. DUYSSEN: Help me out.

9 PRESIDING MEMBER GEESMAN: Well, you
10 know, I can't make money out of thin air.

11 MR. DUYSSEN: Oh. No, and I --

12 PRESIDING MEMBER GEESMAN: And I can't
13 violate the law that they've given me.

14 MR. DUYSSEN: No, I understand that, and
15 we're really putting our application in.
16 Although, in a sense, if funding is not going to
17 come forward there's, you know, we have still some
18 very significant maintenance issues that need to
19 be addressed. And, again, if we're not going to
20 make it through the long run, which I think with
21 your funding we can. I think we've demonstrated
22 over the years we have a relatively high capacity
23 on run time.

24 But we're not going to go out and spend
25 another half a million dollars if we know that 2

1 cents isn't coming, or, I'm not saying the full 2
2 cents, but a significant portion of that two
3 cents.

4 PRESIDING MEMBER GEESMAN: My fear is
5 that there may be an unexpressed or unarticulated
6 desire by the Legislature not to turn the water
7 off immediately, but just gradually turn it off,
8 and force us into a plant-by-plant extremely
9 specific, and I think unduly detailed, --

10 MR. DUYSSEN: Right.

11 PRESIDING MEMBER GEESMAN: --
12 calculation of well, how much pain can this
13 particular project take and still make it another
14 six months or another 12 months.

15 MR. DUYSSEN: I understand your question
16 now. And I wish there was a better solution and
17 maybe we can work together on it and come up with
18 a better program for the out years.

19 PRESIDING MEMBER GEESMAN: I think
20 that's worth thinking about. Thanks for your
21 comments.

22 MR. DUYSSEN: Thank you.

23 PRESIDING MEMBER GEESMAN: Ed Cazalet.

24 MR. CAZALET: Thank you --

25 PRESIDING MEMBER GEESMAN: Still another

1 new role.

2 MR. CAZALET: Still another new role,
3 and I'm not here representing the Cal-ISO, make
4 that clear.

5 PRESIDING MEMBER GEESMAN: MegaWatt
6 Storage Farms.

7 MR. CAZALET: Yeah, so MegaWatt Storage
8 Farms, our objective is to build, own and operate
9 large-scale storage farms on the grid across the
10 country primarily for renewables integration.

11 We're, of course, aware of the CEC work
12 in this area, and the Cal-ISO report that just got
13 published and the other activities you have
14 ongoing at the Commission to facilitate solving
15 the renewables integration problem. And one of
16 the potential solutions is storage.

17 Well, I'm here for a very narrow purpose
18 right now, and that is to perhaps understand and
19 maybe get to think about what is the definition of
20 a renewable resource. Does that include storage
21 or does it not?

22 And I noticed in this guidebook on page
23 22, section 3C, include pump storage, hydro pump
24 storage as a renewable resource eligible for
25 funding. Does that extend -- this is a question,

1 does that extend to other forms of storage such as
2 battery-based storage, or you know, what is the
3 rule?

4 Now, I know storage is new and perhaps
5 these rules haven't been sorted out, so not just
6 for this program, but other programs, the question
7 is what is the definition of a renewable resource,
8 does storage that would assist in the integration
9 of the renewable resource qualify?

10 PRESIDING MEMBER GEESMAN: I think those
11 are good questions, and I believe that our RPS
12 eligibility guidebook has a procedure for making
13 that determination on a technology-by-technology
14 basis, either a sponsor's request, or perhaps on
15 our staff's own motion. Heather, were you going
16 to say something?

17 MS. RAITT: Yeah, I was just going to
18 add that I think you're referring to the RPS
19 eligibility guidebook, and we can help you with
20 that. We can work with you on that. But I think
21 what it says basically is that the energy that is
22 produced that's stored is what would be the
23 renewable resource; and the storage device,
24 itself, at least as currently crafted in the
25 guidebook, would not be considered a renewable

1 resource.

2 MR. CAZALET: But that doesn't apply to
3 hydro, I guess.

4 MS. RAITT: So I think what it's saying
5 there is that if the hydro was a small hydro
6 facility then that energy that was stored could be
7 considered RPS eligible.

8 MR. CAZALET: And so next, would a small
9 battery receive the same consideration? I don't
10 need an answer to it right now. We'd be happy to
11 work through that process. Thank you.

12 PRESIDING MEMBER GEESMAN: Thanks, Ed.
13 Diane Fellman, FPL Energy.

14 MS. FELLMAN: Good afternoon,
15 Commissioners, Committee, Staff. I'm here today
16 on behalf of FPL Energy Project Management, Inc.,
17 just to be clear.

18 Our company, our affiliate is the half-
19 owner and full operator of the SEGS facilities.
20 Ms. Malinowski-Ball referred to those solar
21 facilities as part of the Biomass Energy Alliance.

22 And I wanted to comment specifically on
23 our challenge in dealing with the existing funds.
24 The challenge that we have is that we cannot,
25 under penalty of perjury, state that our facility

1 will go out of business without these funds.

2 What we have requested is to utilize
3 this money for increasing the output of our
4 facilities, to stop the natural degradation of the
5 aging solar facilities. As the Committee knows,
6 we're investing \$70 million in a re-tubing
7 project.

8 I'm not here to talk about -- next week
9 we'll talk about that specific funding request.
10 But rather I'm here to underscore that part of the
11 criteria for evaluating projects, as the staff
12 says in here, is to increase the capacity factor
13 and generation, and to mitigate foreseeing future
14 risk to self sustainability.

15 If the intent of these funds is to wait
16 until a facility is becoming unprofitable and then
17 bolster operations, I know that was initially a
18 focus of it, I would implore the staff to
19 consider, and the Committee to adopt an approach
20 that also creates an incentive for investment in
21 these existing facilities.

22 The existing facilities are 5000
23 megawatts of renewables in California. They're
24 the core of the RPS compliance. I'm sure both of
25 you Commissioners and your Advisors have been

1 tracking the PUC compliance reports. You know,
2 RPS compliance is declining in the state based on
3 load growth.

4 To keep every megawatt hour of
5 production in place is absolutely essential. And
6 if our facilities, solar facilities and other tier
7 one facilities, are forced to allow our output to
8 degrade, to put our projects in economic peril,
9 and then come in and get the funds to build it
10 back up, it really creates a perverse incentive
11 for our operations.

12 So, we want to underscore that each
13 megawatt hour of renewable coming out of our solar
14 project specifically reduces -- that we are
15 allowed to increase, reduces the amount of natural
16 gas that we have to generate. So it's not only
17 increasing the RPS eligibility output, it's also
18 decreasing the amount of fossil fuel that's burned
19 to meet our capacity requirements under our power
20 purchase agreement.

21 So that --

22 PRESIDING MEMBER GEESMAN: So what's
23 your desired remedy?

24 MS. FELLMAN: Well, we are unclear with
25 respect to -- because, and I'll, if I may, use the

1 example of our funding award experience this year.
2 We didn't hear from you, Jason, you know, exactly
3 why our award was what it was, but what we would
4 recommend is that as one of the criteria for
5 evaluating projects that increased eligible output
6 is given equal weight to financial sustainability
7 of the project.

8 PRESIDING MEMBER GEESMAN: So, if I'm
9 correct, though, it's a zero-sum game. That means
10 we take money away from one of these projects
11 that's about to shut down?

12 MS. FELLMAN: No, that can be -- there's
13 an allocation, there's funds. Each project --
14 Julee Malinowski-Ball put forth another way of
15 looking at it. I do not want to address the
16 particulars of setting one target price. But if
17 you look at projects on a case-by-case basis, you
18 make decisions for each project.

19 And then the staff is in the unique
20 position of looking at once it makes those
21 decisions, doing a balancing of how to allocate
22 the money.

23 PRESIDING MEMBER GEESMAN: If we can't
24 add to the pool of money, more money for one
25 project means less money for the others

1 presumably.

2 MS. FELLMAN: That's correct. And I
3 wanted -- I jotted that down at the top of my list
4 of points to make, that we supported or opposed,
5 however you -- the decrease in these funds because
6 we consider in the Legislature we would be more
7 than happy to go hand-in-hand with whomever is
8 advocating that the Energy Commission, other --
9 CBA, other biomass tier one projects.

10 Because, again, the existing facilities
11 are the cornerstone today of RPS compliance in the
12 state, 5000 megawatts versus, if I'm generous, 500
13 megawatts of RPS projects.

14 PRESIDING MEMBER GEESMAN: So how long
15 are your existing contracts still to run?

16 MS. FELLMAN: Our existing contracts go,
17 I think the start tapering off in, I think 2015,
18 2015 and 2016.

19 PRESIDING MEMBER GEESMAN: So your
20 projects aren't in danger of a near-term shutdown.
21 I mean it seems to me the Legislature's created
22 this lifeboat circumstance. Jason's got the
23 water. He gets to determine who gets to drink.
24 And then Commissioner Pfannenstiel and I are
25 supposed to review his judgment and determine

1 whether he made the right choice or not.

2 You come in and you want more water, but
3 I think you need to acknowledge that you're going
4 to take water away from somebody else under the
5 way that the program is currently structured.

6 And perhaps that's a good thing, but
7 you're about seven, eight years away from
8 collapsing, yourself, if the contract doesn't get
9 renewed. Some of these other guys collapse much
10 more quickly.

11 Have I got that right?

12 MS. FELLMAN: You do. You do.

13 PRESIDING MEMBER GEESMAN: Why aren't we
14 thinking more in terms of some kind of tariff
15 arrangement where the utilities are required to
16 pay you an appropriate price. You're not going to
17 like, I suspect, the level of transparency in
18 evaluating your business to determine an
19 appropriate return. But it would seem to me that
20 would make a lot more sense than this year-to-year
21 welfare payment that we're supposed to administer
22 under rules that the Legislature creates that
23 aren't especially workable.

24 MS. FELLMAN: We'd support that.

25 PRESIDING MEMBER GEESMAN: I think you

1 ought to initiate it.

2 ASSOCIATE MEMBER PFANNENSTIEL: Even if
3 the price went down on a regular basis and you
4 knew that five years from now it would be
5 significantly less than it is today, and at some
6 point would go away?

7 MS. FELLMAN: The challenge we have is
8 specifically for the solar projects. If you look
9 at how the funds of what it costs is allocated on
10 a time-of-use basis, which is how we're paid,
11 we're under fixed price contracts, that's public.
12 And the cost of operating is the same for every
13 kilowatt hour.

14 So our challenge is that during the --
15 the peak periods are fine and we're not asking for
16 funds during the peak periods. And that's when we
17 feel we have the greatest value to the --

18 PRESIDING MEMBER GEESMAN: Right.

19 MS. FELLMAN: -- system. We're asking
20 for support when that -- during that shoulder
21 period when the fixed price dips below the target
22 price that we're going to be paid and there's
23 insufficient funds during that time. So we can
24 cover the costs of operation during that specific
25 time.

1 Our costs of operation have gone up, you
2 know, just as everyone else's. With respect to
3 what you just asked, Chairman Pfannenstiel, if we
4 had a fixed price in decline, as you know our
5 company's perspective in California is we
6 understand there's regulatory changes, regulatory
7 uncertainty, but we want to be able to understand
8 what the risks are, what the rules of the game
9 are, and then manage to those risks.

10 PRESIDING MEMBER GEESMAN: I think we've
11 got to change the current program. This makes no
12 sense.

13 MS. FELLMAN: And I heard your
14 invitation, and I will take that back to our
15 management to consider initiating that as part of
16 the 2008 legislative session.

17 PRESIDING MEMBER GEESMAN: Yeah, I'd
18 strongly encourage it.

19 MS. FELLMAN: We would also, as you
20 know, like the Energy Commission to have
21 discretion to move pots of money around when
22 they're not spent out of certain accounts.

23 So, if that's something you're
24 interested in, too, we'll throw it in as a
25 freebie.

1 PRESIDING MEMBER GEESMAN: The
2 Legislature took about \$350 million of our
3 discretion away from us last year, so that may not
4 be a real winner of an argument.

5 MS. FELLMAN: We can try. We
6 understand, you know, in the era of a \$14 billion
7 deficit that any money that is taken away from the
8 general fund and other purposes is, you know,
9 every penny counts.

10 However, we understand that the Governor
11 of the State and we heard the Commissioners of
12 both Commissions on, was it Tuesday? I feel like
13 we're in a space ship just sort of moving around
14 from venue to venue, and you know, President
15 Peevey, you know, pounding the dais in San
16 Francisco saying we need solar, we need something
17 other than business-as-usual in a carbon-reduction
18 environment, which will -- you know, we see
19 renewables, both existing and RPS, because, of
20 course, we're committed to development, as well,
21 as a cornerstone of that carbon reduction policy.

22 You know, the state is going to have to
23 make some choices about the funds.

24 PRESIDING MEMBER GEESMAN: Well, put
25 President Peevey to a test. You know, maybe it's

1 time to reform all of these tariffs and must-buy
2 obligations. And try and create actual purchase
3 commitments for projects that will be there in a
4 way that would make our rhetoric real. Put us to
5 a test. Maybe it doesn't require legislation.

6 MS. FELLMAN: Well, we definitely
7 support that. And we participate in the RPS. On
8 Monday there was a prehearing conference on MPR
9 reform. I hope the Energy Commission is
10 participating in that conversation. And, you
11 know, we certainly are.

12 Because it's more than just pumping that
13 up. It's really looking at what gets renewables
14 built. And I think the IEPR recommendation on the
15 feed-in tariff is an appropriate message and
16 position to insert into that MPR reform
17 conversation.

18 PRESIDING MEMBER GEESMAN: Hold our feet
19 to the fire.

20 MS. FELLMAN: That's what I've been
21 trying to do.

22 PRESIDING MEMBER GEESMAN: Keep it up.

23 MS. FELLMAN: All right, thank you.

24 PRESIDING MEMBER GEESMAN: Thank you,
25 Diane.

1 Chris Trott, Thermal Energy Development
2 Partnership.

3 MR. TROTT: Good afternoon. My name's
4 Chris Trott; I'm representing Thermal Energy
5 Development Partnership, a 20 megawatt plant near
6 Tracy, better known as Tracy Biomass. It's been
7 there since 1990.

8 I've been in this biomass business for a
9 long time, nearly 20 years I guess, maybe, in the
10 fuel procurement side of things. And I've seen a
11 lot of changes come and go in this industry.

12 But one thing that is alarming to me
13 that I just want to say right off the bat is
14 you've heard it said over and over that the
15 existing biomass industry in California is in
16 decline. And it's true.

17 There seems to be a little bit of a
18 misunderstanding on how the economics of this,
19 among some, that how the economics of the biomass
20 industry works.

21 From 2001 to 2006 most of the biomass
22 plants in the state had a fixed 5.37 cent energy
23 price contract; no inflation, nothing. This same
24 program was in place during that period of time.
25 The target price was set at 5.37 cents, which was

1 helpful, especially at first. But unfortunately,
2 our costs during that period of time increased way
3 faster than inflation.

4 As you probably know, biomass in
5 particular is particularly vulnerable to diesel
6 prices. Okay. And when the target price was
7 increased to 5.87 in late 2005, that equated to a
8 diesel price at that time of about \$2.50 a gallon.
9 And today it's \$3.50 a gallon, okay.

10 And it takes about four gallons of
11 diesel to make a bone dry ton, to gather, process
12 and transport a bone dry ton of wood chips to a
13 power plant. And then the power plant uses diesel
14 to move it around, as well.

15 And so four gallons per BDT is pretty
16 close to four gallons of diesel per megawatt hour,
17 okay. So a dollar increase in the diesel price is
18 \$4 per megawatt hour increase just in diesel alone
19 in the production costs and procurement costs for
20 fuel.

21 And that's not just the only thing that
22 has gone up, of course, you know.

23 PRESIDING MEMBER GEESMAN: Let's focus
24 on that fuel input because if I had the natural
25 gas fired plant, maybe one of the peaker plants

1 out around Tracy, I would wager the contract I had
2 with the utility would allow me to simply pass
3 through my fuel costs to the utility's customers.
4 My contract arrangement with the utility has the
5 utility pick up that fuel obligation.

6 And my costs have gone up probably even
7 at a greater rate in some years than diesel costs,
8 not this last year perhaps, but they've greatly
9 exceeded general inflation.

10 But state policy is trying to encourage
11 you guys, they're trying to discourage us fossil
12 fuel guys, but I get my fuel costs. How does this
13 make any sense?

14 MR. TROTT: It doesn't make any sense to
15 me whatsoever. I mean people say to me all the
16 time, well, everybody's talking of biomass, you
17 know, because it's friendly, it's environmentally
18 friendly, it's renewable, it's a good thing. Are
19 you guys getting a bunch more money or, you know,
20 something. And I just say, you know, --

21 PRESIDING MEMBER GEESMAN: You get a
22 bunch more talk. Talk is cheap.

23 MR. TROTT: -- all talk and no action,
24 yeah. When it's all -- when all is said and done,
25 more is usually said than done, okay. So, that's

1 my probably biased view.

2 But getting back to my point, this fixed
3 energy price from 2001 to 2006, and costs
4 continuing to go up, really resulted in heavy
5 deferred maintenance at these aging facilities.

6 And so what you have is not only an
7 industry in decline, but the plants that are
8 operating are just barely hanging on; and they're
9 ready to fall off another cliff really, if they
10 don't get an infusion of cash.

11 And it's not coming from the energy
12 price, okay. There was an infusion in cash in
13 that the energy price went up to the 6.45 starting
14 in late 2006. But if you take into account
15 inflation, beginning in 2001 to 2006, it comes
16 right out to 6.4 cents.

17 So I mean it's nothing more than just an
18 adjustment to inflation. So I wanted to point
19 that out to start with.

20 Secondly, having gone through this what
21 I would consider very frustrating process this
22 year, and I'm sure staff would say it's was very
23 frustrating for them, too. My first suggestion is
24 even though there's lots of information that's
25 required under the law, to simplify, simplify,

1 simplify as much as possible.

2 One of the frustrating things for us
3 when we started going through this process after
4 the first award letter that we got denying our
5 request for the target price that we asked for and
6 thought we supported in our application, is that
7 there didn't appear to be any set way to score the
8 individual applications.

9 And so for staff they couldn't really
10 say, well, what -- I mean the first meeting that
11 we had was to explain well, this is why we decided
12 what we did. But, I didn't really understand why.
13 Because there was no kind of way to compare all of
14 the applicants across the board, even though
15 there's individual information. People supplied
16 that information that was asked for.

17 So, that would be very helpful if no
18 matter what guidebook you decide on, what rules,
19 to decide in advance kind of how you're going to
20 score all the applications. That would be so
21 helpful so that it could actually be explained to
22 us why the decision was made that was made.

23 PRESIDING MEMBER GEESMAN: I think
24 that's a good point.

25 MR. TROTT: Secondly, one of the things

1 that we ran into was kind of staff's not really
2 understanding how the biomass industry works. Not
3 only the process, but how the contracting works
4 and things like that.

5 And I would suggest that, and I'd like
6 to invite CEC Staff to come and visit several
7 operating plants early in the year, right after
8 the first of the year. I think this will help you
9 guys to be more informed on how things work and
10 kind of when we talk about certain things you'll
11 be able to have a picture in your mind what we're
12 actually talking about. So you can make better
13 decisions; so you can kind of get an idea of where
14 the fuel comes from, how it's produced, you know,
15 why it costs so much. And some of the challenges
16 that are facing existing operations.

17 So, --

18 PRESIDING MEMBER GEESMAN: I'd suggest
19 you try and get Julee to find some legislative
20 staff to go along on that same trip.

21 MR. TROTT: We have no problem with
22 that, but, you know, if any Legislator wants to
23 come we'll be --

24 PRESIDING MEMBER GEESMAN: Well, their
25 staff are the important ones.

1 MR. TROTT: Staff, yes. But I'm
2 specifically speaking about Jason and his people.
3 You know, because any knowledge that they can gain
4 will be helpful. So if you could approve their,
5 you know, I mean, Jason, if you want to come visit
6 Tracy, please just give me a call. I'm inviting
7 you and whoever you want to bring. Okay.

8 MR. ORTA: I appreciate that
9 opportunity. I'd like to take --

10 MR. TROTT: Okay. Well, good. And
11 lastly, I think I just want to say the California
12 Biomass Energy Alliance has done a lot to bring
13 along the existing industry and to keep it from
14 completely falling apart.

15 So, I just urge you to try, in whatever
16 is done here, to try to keep the industry, kind of
17 as a whole, solvent. Because I think it's been --
18 the point has been made before that if the
19 existing industry can't continue to operate, if
20 its continuing decline, how do we expect banks to
21 ever finance new biomass industry in the state to
22 help meet the RPS.

23 Okay, that's -- if anybody has any other
24 questions for me.

25 PRESIDING MEMBER GEESMAN: Thanks,

1 Chris.

2 MR. TROTT: Okay.

3 PRESIDING MEMBER GEESMAN: Dina Del
4 Dotto, Covanta Energy.

5 MS. DEL DOTTO: I'm going to pass.

6 PRESIDING MEMBER GEESMAN: Okay. Those
7 are all the blue cards I have. Is there anyone
8 else in the audience who cares to address us? Is
9 there anyone on the phone? No one on the phone.

10 Okay, difficult subject. I don't think
11 we have any clear solutions, but I think we've got
12 a general sense as to the direction we need to
13 push.

14 Thank you all very much. We'll be
15 adjourned.

16 (Whereupon, at 3:15 p.m., the Committee
17 workshop was adjourned.)

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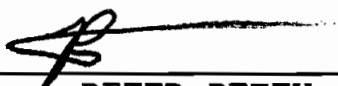
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CERTIFICATE OF REPORTER

I, PETER PETTY, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Energy Commission Committee Workshop; that it was thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said workshop, nor in any way interested in outcome of said workshop.

IN WITNESS WHEREOF, I have hereunto set my hand this 18th day of December, 2007.



PETER PETTY