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PRE-HEARING CONFERENCE

PALEN SOLAR ENERGY GENERATING SYSTEMS

BEFORE THE CALIFORNIA ENERGY COMMISSION

In the matter of,)
) Docket No. 09-AFC-07C
Palen Solar Electric Generating)
Systems Amendment)

CALIFORNIA ENERGY COMMISSION

HEARING ROOM A

1516 NINTH STREET

SACRAMENTO, CALIFORNIA

WEDNESDAY, July 23, 2014

1:00 P.M.

Reported by:

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APPEARANCES (*present via telephone)

COMMISSIONERS (AND THEIR ADVISORS) PRESENT:

Karen Douglas, Presiding Member

Eli Harland, Her Advisor

Jennifer Nelson, Her Advisor

Gabriel D. Taylor. Advisor to Commissioner Hochschild

Eileen Allen, Commissioners' Technical Advisor for
Facility Siting

HEARING OFFICER:

Kenneth Celli, California Energy Commission

STAFF PRESENT:

Christine Stora, Project Manager

Jennifer Martin-Gallardo, Staff Counsel

Eric Knight

Blake Roberts, Public Advisor's Office

PETITIONER PALEN SOLAR HOLDINGS:

Scott Galati, Esq., Galati & Blek, LLC

Matt Stucky, Abengoa Solar-Palen Solar Holdings

Andrea Grenier, Centerline

INTERVENORS

Center for Biological Diversity (CBD)

*Lisa Belenky

*Ileene Anderson

Basin & Range Watch

*Kevin Emmerich

APPEARANCES (*present via telephone)

California River Indian River Tribes (CRIT)

*Winter King, Shute, Mihaly and Weinberger, LLP

*Nancy Jасulka

Californians for Renewable Energy (CURE)

*Tanya Gulesserian, Adams Broadwell, et al.

INTERESTED GOVERNMENT AGENCIESNational Parks Service

*Deborah "Dee" Bardwick, Office of the Solicitor

County of Riverside

*Tiffany North

PUBLIC:

Amy Howard

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1

P R O C E E D I N G S

1

2 JULY 23, 2014

1:07 P.M.

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COMMISSIONER DOUGLAS: This is a Prehearing
Conference for the Palen Solar Electric Generating
System,

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Before we begin, I'll start by introducing the
Committee and then ask the parties to identify
themselves for the record. My name is Karen Douglas.
I'm the Presiding Member of this Committee.

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To my left is our Hearing Officer, Ken Celli.
To his left, Gabe Taylor, he is Commissioner
Hochschild's Advisor. And to my right is Eli Harland
and Jennifer Nelson, my Advisors.

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So, with that, we see the Public Adviser's
office is here, so Blake Roberts, hello

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Petitioner, could you please introduce
yourselves for the record?

MR. GALATI: Scott Galati representing Palen
Solar Holdings.

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MR. STUCKY: And I am Matt Stucky with Palen
Solar Holdings.

COMMISSIONER DOUGLAS: Thank you.

Staff please?

MS. MARTIN GALLARDO: This is Jennifer Martin
Gallardo, representing staff.

1 MS. STORA: Christine Stora, Compliance Project
2 Manager representing staff.

3 COMMISSIONER DOUGLAS: Thank you.

4 Intervenor Center for Biological Diversity.

5 MS. BELENKY: Yes, hi. This is Lisa Belenky
6 representing the Center, and I believe Ileene is also on
7 the phone.

8 MS. ANDERSON: Yes, I am. Good afternoon.

9 COMMISSIONER DOUGLAS: Good afternoon.

10 Intervenor Kevin Emmerich, Basin & Range Watch.

11 MR. EMMERICH: Yes, this is Kevin Emmerich,
12 Basin & Range Watch.

13 COMMISSIONER DOUGLAS: Thank you.

14 Intervenor Alfredo Figueroa, are you on the
15 phone?

16 All right, is anyone on the phone from CURE?
17 Tanya Gulesserian or Elizabeth Klebaner?

18 MS. GULESSERIAN: Yes, Tanya Gulesserian on
19 behalf of CURE.

20 COMMISSIONER DOUGLAS: Great, thank you.
21 Welcome.

22 MS. GULESSERIAN: Thank you.

23 COMMISSIONER DOUGLAS: Is anyone on the phone
24 from LIUNA, either Hidelberto Sanchez or Eddie Simmons?
25 LIUNA?

1 Okay, how about is anyone on the phone, or could
2 you introduce yourselves? I know you're on the phone,
3 from Colorado River Indian Tribes?

MS. CLARK:

4 MS. JASCULKA: And good afternoon, Commissioner,
5 this is Nancy Jasculka and I'm Deputy Attorney General
6 with the Colorado River Indian Tribe.

7 COMMISSIONER DOUGLAS: Great, thank you.

8 At this point, I will ask if there are agencies
9 here, Federal Government agencies on the phone. I know
10 we just heard from U.S. Fish and Wildlife Service. Any
11 other Federal Government agencies on the phone?

12 MR. CELLI: Are they unmuted? Everyone is
13 unmuted? Good, thanks.

14 MR. VAMSTAD: This is Michael Vamstad and I'm
15 from Joshua Tree National Park.

16 COMMISSIONER DOUGLAS: Thank you.

17 MS. BARDWICK: Hi. Deborah Bardwick, Office of
18 the Solicitor.

19 COMMISSIONER DOUGLAS: Great. Anyone else from
20 Federal Government agencies? What about State or local
21 government agencies? I know we heard from Riverside
22 County, Tiffany North. Any other State or local
23 government agencies?

All right,

24 All right, I think we're through with
25 introductions, then. Go ahead.

1 HEARING OFFICER CELLI: Thank you, Commissioner
2 Douglas.

3 I just want to acknowledge that Commissioner
4 Hochschild is not here today, was unable to make it, but
5 Gabriel Taylor, who is his Advisor, is at the podium
6 with us today so I just wanted to make that clear. The Commit

7 I want to remind everybody -- yeah, you can go
8 ahead now, Garrett, and start muting any unwanted noise
9 from the phone -- I want to remind everyone we've
10 noticed July 29th, 30th, and 31st as evidentiary hearing
11 dates at the Palo Verde College Campus in Blythe,
12 California.

13 We have also reserved Hearing Room B for August
14 4th, and we're doing that just in case we have problems
15 with the WebEx while we're down in Blythe, so that if we
16 need to take any additional evidence, telephonic
17 testimony, we may have a more stable location and a
18 better WebEx connection here, then we would take care of
19 that on August 4th. So we reserved that date.

20 Today is a Pre-Hearing Conference. The
21 Evidentiary Hearing that will start on the 29th will be
22 limited to the following issues: Avian impacts, impacts
23 to flying and invertebrate species which I have in
24 parentheses as ("Insects"); curtailment provisions in
25 the Bio section; Avian deterrent strategies; glint and

1 glare effects on aviation, which could be traffic or
2 visual, depending; alternatives which would be PPA
3 milestones status and economic feasibility issues;
4 overriding considerations, which would include project
5 benefits, natural gas consumption, and cultural
6 resources mitigation limited to Condition Cul 1 as
7 proposed by the various parties.

8 And as explained in the Notice, the basic
9 purposes of today's Pre-Hearing Conference is to assess
10 the project's readiness for hearings, to clarify areas
11 of agreement or dispute, to identify witnesses and
12 exhibits, to determine upon which areas parties need to
13 question the other parties' witnesses, and to discuss
14 associated procedural matters.

15 To achieve these purposes, we require that any
16 party seeking to participate at this conference, or
17 present evidence, or question witnesses at future
18 Evidentiary Hearings file a Pre-Hearing Conference
19 Statement by July 21st, 2014. Timely Pre-Hearing
20 Conference Statements were filed by all parties except
21 Intervenors Californians for Renewable Energy and LIUNA.

22 Staff published its Supplemental Staff
23 Assessment on June 23, 2014, which has been marked as
24 Exhibit 2017. Staff's Rebuttal Testimony was filed on
25 July 18th, and is marked as Exhibits 2018 through 2028.

1 Petitioner's Supplemental Testimony was timely
2 filed on June 23rd, marked as Exhibits 1126 through
3 1166, and timely Rebuttal Testimony was filed by the
4 Petitioner on July 18th, and marked for identification
5 as Exhibits 1167 through 1193.

6 The Center for Biological Diversity's Opening
7 Supplemental Evidence was timely filed and marked as
8 Exhibits 3091 through 3140, and that was on June 23rd.
9 And then Rebuttal Evidence was timely filed and
10 identified as Exhibits 3141 through 3149.

11 Basin and Range Watch timely filed its Opening
12 Testimony identified as Exhibits 4001 through 4006. And
13 Rebuttal Testimony as Exhibits 4007 and 4008.

14 Californians for Renewable Energy has not filed
15 any exhibits, nor has LIUNA.

16 Intervenor CURE filed no Opening Testimony, but
17 filed timely Rebuttal Testimony identified as Exhibit
18 6000.

19 And Intervenor Colorado River Indian Tribe,
20 which we refer to in these proceedings as CRIT,
21 identified its Opening Testimony as Exhibits 8028
22 through 8035, and identified Exhibit 8036 as Rebuttal
23 Evidence.

24 We're getting a -- Garrett, can you figure out
25 who that is? Thanks.

1 For you on the phone, folks, Garrett is helping
2 us out on the WebEx, so if I'm talking to Garrett, he's
3 with staff and he's helping out.

4 So all CRIT's evidence was timely filed.

5 As to the procedure for today, today's Agenda is
6 divided into seven parts. First, the Committee is going
7 to ask some questions that rise from a new round of
8 evidence and handle any housekeeping matters; second, we
9 will discuss the order of the topics at the hearings;
10 third, we will discuss the parties' Exhibit List;
11 fourth, we will discuss the parties' Witness Lists;
12 Fifth, we will discuss the informal process that the
13 Committee will utilize in the conduct of the Evidentiary
14 Hearings; sixth, we will discuss the Briefing Schedule;
15 and seven, we will provide an opportunity for public
16 comment. So that is the way we're going to proceed
17 today.

18 I just want to make sure, okay, I need you to
19 unmute Basin and Range Watch, I need you to unmute
20 Ileene Anderson and Lisa Belenky, I need you to unmute
21 Tanya Gulesserian, Winter King, and keep going, I think
22 there was somebody else from CRIT, I think that's
23 everyone.

24 So you know, I'm just going to -- I don't have a
25 way of knowing whether Alfredo Figueroa or anyone from

1 LIUNA has decided to show up late on the phone, so if
2 you wouldn't mind tracking that the parties we need to
3 hear from, and you need to be unmuted at all times, are
4 Basin Range Watch, Tanya Gulesserian, Lisa Belenky,
5 Ileene Anderson, and Winter King.

6 Okay, so what I want you to do is I'm going to
7 have you unmute everybody and I'm going to just check
8 and see if Alfredo -- so everybody who is on the phone,
9 is Alfredo Figueroa on the telephone? Or anyone from
10 Californians for Renewable Energy? Please speak up now.

11 Okay, is there anyone from LIUNA, Laborers
12 International Union of North America? Okay, thanks
13 Garrett. You can go back and just make sure those
14 people I told you to stay unmuted stay unmuted, okay?

15 Thank you. So with Item 1 on our Agenda, the
16 first question, Ms. Belenky, you asked the Committee to
17 take official notice of the CAISO website and I actually
18 clicked through to that hyperlink, that URL that was
19 provided in your Pre-Hearing Conference Statement, and
20 I'm not sure what it is because I don't really know what
21 the relevance is yet of that website. But I'm not sure
22 it's the kind of thing we want to take official notice
23 of. It's probably better if you actually take
24 screenshots of the pages that you want and put those in
25 as evidence.

1 And the reason I'm saying that is because
2 websites are subject to change. So, Ms. Belenky, would
3 you care to comment on that, please? Ms. Belenky, are
4 you on the phone?

5 MS. BELENKY: I was muted, I got confused. Yes,
6 I can do that. I will go back and check the testimony
7 and see exactly which part of the database was used and
8 see if we can find a way to download it and set in there
9 for separate exhibits if that is what the Committee
10 would prefer.

11 HEARING OFFICER CELLI: That would be great,
12 thank you. The other, I don't think there's a problem,
13 if there is we'll handle it at the Evidentiary Hearing,
14 if there's an objective to taking official notice of the
15 other two websites. But I just couldn't figure that one
16 out. So thank you for that verification.

17 As to the Petitioner, we have a note that the
18 Petitioner -- or we need to know whether the Petitioner
19 has agreed to provide the information sought by staff
20 with regard to gas consumption. Mr. Galati, my sense
21 from reading the Pre-Hearing Conference, or the evidence
22 as it came in, is that there is not going to be a change
23 to gas consumption. But why don't you clarify that for
24 us?

25 MR. GALATI: Yeah, there's not going to be a

1 change to gas consumption. And if you look at the
2 exhibit in our Opening Testimony, I don't know the
3 number right now, we state that clearly. And then we
4 answered staff's questions in our Rebuttal Testimony.

5 HEARING OFFICER CELLI: Okay. Go ahead, Ms.
6 Martin-Gallardo.

7 MS. MARTIN-GALLARDO: Yes. I can provide a
8 little bit of information as far as staff's position.
9 They have reviewed the Responses in Rebuttal Testimony
10 and at this time do agree that it's not possible to
11 determine whether or not the P-6 facility will require a
12 change in the amount of natural gas proposed by the
13 Applicant to be used each year because the tower
14 technology is in its early stages of development, and
15 staff believes that it will have to be built and
16 operated for a limited amount of time, before the
17 Applicant could verify the adequacy of the amount of
18 natural gas.

19 HEARING OFFICER CELLI: Okay. I just want to be
20 clear to everybody that we're not taking this off the
21 table, this is still a subject for the Evidentiary
22 Hearing, I was just really asking whether the questions
23 that staff had asked in their Opening Testimony was
24 answered, and I get the sense that it was.

25 MS. MARTIN-GALLARDO: That's correct.

1 HEARING OFFICER CELLI: Okay, thank you. Also,
2 there was a question from staff to the Petitioner about
3 the accelerated construction schedule. Can you bring us
4 up to date on that, Ms. Martin-Gallardo?

5 MS. MARTIN-GALLARDO: I think that Mr. Galati
6 may want to start as far as how they have changed their
7 phasing schedule, but staff has reviewed that phasing
8 schedule and can speak to any questions the Committee
9 has on those changes.

10 HEARING OFFICER CELLI: Okay. Well, let's hear
11 about that, then, Mr. Galati.

12 MR. GALATI: Exhibit 1166 responds to the
13 schedule question by proposing revising the phasing
14 since we will not be able to build both towers on the
15 timeline originally contemplated. In 1166, we explain
16 that and we explain that we are willing to move forward
17 and build the first project and take it conditioned --
18 excuse me, the first westernmost phase. And so we
19 revised the phasing plan. If you remember, the
20 Commission already had a phasing plan that they
21 evaluated and it was one that would allow us to build
22 both power blocks first and then build a solar field
23 later, so that would allow us to time our Desert
24 Tortoise clearance fencing and activities in a way that
25 large projects need to do.

1 We've now revised that phasing plan to not do it
2 that way, to build the westernmost unit, the Gen-Tie
3 Line, the access road, the linear facilities, the common
4 area, and the construction lay down area, all as part of
5 Phase 1.

6 And Phase 2 would be the easternmost unit, and
7 we've agreed to take -- we've proposed a Condition of
8 Certification called PD-1, which is in 1166, which says
9 we would not commence construction of that easternmost
10 phase until we filed an amendment and got approval from
11 the Commission to incorporate thermal energy storage
12 into that easternmost unit. So we believe that the
13 impacts of the entire project have been evaluated and
14 with phase 2 being foreseeable, and the first phase we
15 believe that this has basically reduced the impacts in
16 half.

17 We also proposed in 1166, in accordance with
18 that Revised Phasing Plan, there were three conditions
19 that needed to change. The first condition was Biology
20 29. Biology 29 includes the mitigation acreage, the
21 acres of disturbance. We've revised that to reflect the
22 current phasing.

23 The second was Soil and Water 3 which basically
24 authorized an X amount of construction for both projects
25 on a yearly basis and on a total basis for water, and

1 what we did was we reduced that proportional to the
2 acreage so that now half of the construction water can
3 be used for Phase 1, roughly, and half could be used for
4 Phase 2, and then we also had an operational restriction
5 how much you could use, well, that was for both units,
6 so we cut that in half as well.

7 And actually, I apologize, I think those are the
8 only two that changed as a result of the phasing. So
9 that's what 1166 is, and 1167 is the plan, and 1168 is a
10 construction schedule with Kraft to show what Phase 1
11 will look like.

12 HEARING OFFICER CELLI: Okay.

13 MR. GALATI: So we believe we've answered
14 staff's questions because staff's questions were
15 primarily aimed at the PPA with the earlier date, and as
16 we said, it's improbable for us to be able to make that
17 date.

18 HEARING OFFICER CELLI: Right. And I wasn't
19 really sure how we were going to fit that whole question
20 into the evidentiary hearing anyway, but is staff
21 satisfied that the question posed in staff's 2017, I
22 think it was marked, were satisfied?

23 MR. MARTIN-GALLARDO: Yes.

24 HEARING OFFICER CELLI: Okay. Thank you, then.

25 The next question, this is to anyone, with

1 regard to the -- we saw some complaints come through in
2 terms of the evidence so far, and that has been marked
3 for identification, regarding complaints from what
4 looked like, if not the FAA, then some sort of
5 subsidiary of the FAA, people saying, you know, "We're
6 flying over and we couldn't see," and I thought there
7 were two of them, at least, of complaints.

8 But I wanted to know whether there were any
9 comments received directly from the FAA related to
10 PSEGS.

11 MS. MARTIN-GALLARDO: I do have Traffic and
12 Transportation staff here. I do not believe so, but
13 they can verify that, perhaps.

14 HEARING OFFICER CELLI: Because I don't think we
15 did. I didn't see anything like that.

16 MS. MARTIN-GALLARDO: They're shaking their
17 heads --

18 HEARING OFFICER CELLI: He's shaking his head --

19 MS. MARTIN-GALLARDO: -- that's right.

20 HEARING OFFICER CELLI: -- in the negative, no.
21 Okay. And we did receive some evidence, I think from
22 Basin and Range Watch, regarding the Solar Glare Hazard
23 Analysis Tool, the SGHAT, I guess you would call it, S-
24 G-H-A-T. But I don't think I saw anything in the record
25 that such an analysis was done at ISEGS. Does anyone

1 know if we're going to see any of that modeling tool,
2 the Solar Glare Hazard Analysis Tool used at Ivanpah?

3 MS. MARTIN-GALLARDO: I believe that staff has
4 addressed that in their Rebuttal Testimony in a segment
5 discussing that. Eric Knight is coming up to discuss
6 that.

7 HEARING OFFICER CELLI: Mr. Knight, hello.

8 MR. KNIGHT: I believe that tool presently only
9 addresses PV facilities.

10 HEARING OFFICER CELLI: Okay, not towers, all
11 right. So in any event, at this time we don't have any
12 such evidence that's proposed to be in the record?

13 MR. KNIGHT: No.

14 HEARING OFFICER CELLI: Okay. Will staff have
15 representatives from the USFWS available to testify at
16 the Evidentiary Hearing?

17 MS. MARTIN-GALLARDO: No, unfortunately, Fish
18 and Wildlife Service, they are not able to testify. In
19 the past, they have been able to attend and provide
20 comment and perhaps there's a Fish and Wildlife person
21 who can give more detail on that.

22 HEARING OFFICER CELLI: You know what? We'll
23 hold off on that until we get to comment. I just wanted
24 to know whether you're going to call anybody and the
25 answer is no?

1 MS. MARTIN-GALLARDO: Correct.

2 HEARING OFFICER CELLI: Now, Mr. Galati, Exhibit
3 1151 has attached to it a resolution from the CPUC, and
4 then attached to that are attachments that say
5 "redacted," a PPA was redacted. And the Committee is
6 very interested in seeing, or wonder whether the
7 Petitioner would be willing to put into evidence the
8 PPA. And the reason the Committee wants to see it, a
9 redacted PPA, but enough of it to see what the
10 milestones are in the PPA.

11 I mean, what we have in that resolution is a
12 table that just shows when it needs to be operational
13 and the Committee was interested in knowing what all the
14 milestones were.

15 MR. GALATI: I don't know the answer to that
16 question. I haven't reviewed that PPA to determine if
17 it has such milestones or if it has the commercial
18 operational date. I thought that the issue was can you
19 come on in time with your current schedule, of which we
20 now told you one of the PPAs, it's improbable, so we're
21 actually telling you we're not going to build that
22 easternmost unit because of that. So we basically have
23 one PPA that we're trying to satisfy with the commercial
24 operation date of December 2017 -- excuse me, June 2017
25 -- July? I'll have to look, I think it's July 2017.

1 HEARING OFFICER CELLI: So what the Committee
2 would like to see would be, if you would, is a redacted
3 version of the PPA. We understand that a lot of it is
4 privileged, and all that the Committee wants to see are
5 any things mentioning deadlines, "We have to do such and
6 such by X date." The date information is very important
7 to the Committee, and we would request that, if you
8 would, we would leave the record open and allow you to
9 put that into evidence.

10 MR. GALATI: Yeah, can I answer the Committee
11 once I talk to my client to see what -- because I'm
12 working as usual with half the knowledge and not that
13 much wisdom.

14 HEARING OFFICER CELLI: Okay. I will make a
15 note to get back to this. But staying with Petitioner,
16 I didn't see any evidence in the record so far that
17 looked at the comparative costs of construction for
18 photovoltaic or a trough technology compared to the
19 solar power tower technology, and I'm just asking
20 whether it's in there and I didn't see it, or whether
21 it's coming, or what.

22 MR. GALATI: No, it's not in there and it's not
23 coming. We're not making an economic infeasibility
24 argument, we're making an infeasibility argument, as you
25 know, economics is one possible way to be infeasible,

1 we're making an infeasibility argument that that project
2 does not meet the project objectives and doesn't come on
3 line in time, and that is our argument on infeasibility,
4 not economics.

5 HEARING OFFICER CELLI: Very clear. Now, the
6 parties have had a chance to workshop, I think there was
7 at least one workshop since the PMPD was published --
8 one, right?

9 MS. MARTIN-GALLARDO: Two.

10 HEARING OFFICER CELLI: Two workshops, okay. So
11 the question I have right now is, are there any topic
12 area for which testimony would be submitted by
13 Declaration only and we don't need live witnesses? Have
14 the parties come to any agreement on any topic areas
15 that we can --

16 MS. MARTIN-GALLARDO: I would say I have two
17 questions, one with the Revised Phasing Plan, staff is
18 uncertain whether the Committee needs to hear any
19 testimony on storage because a new Amendment would have
20 to be filed in order to discuss storage issues and
21 obviously it would be addressed and analyzed at that
22 time of a new Amendment.

23 HEARING OFFICER CELLI: Right.

24 MS. MARTIN-GALLARDO: So we question whether or
25 not we even need to have a storage discussion at this

1 Evidentiary Hearing. Natural gas, again, I don't think
2 that staff is in any disagreement with PSH on that
3 issue. I do believe that the other issues we will need
4 to have live witnesses for.

5 HEARING OFFICER CELLI: Okay, and just to be
6 clear, the storage came up in the context of benefits of
7 the project, so it was really not so much like project
8 description as it came up in the context of override and
9 project benefits.

10 The gas issue, I'm going to ask the other
11 parties because we raised it, we said we were going to
12 have here testimony on it if we needed to, and I just
13 want to see if the other parties, where they're at with
14 regard to the gas issue. Basin and Range Watch, Mr.
15 Emmerich, are you there? Can you hear me?

16 MR. EMMERICH: Yes.

17 HEARING OFFICER CELLI: Okay, so right now
18 Applicant and staff seem to believe that there's no need
19 to take any evidence on the question of the usage of gas
20 and I just wanted to know whether you intended to put in
21 evidence or call witnesses on that question.

22 MR. EMMERICH: No, we did not.

23 HEARING OFFICER CELLI: Okay. Lisa Belenky from
24 Center for Biological Diversity?

25 MS. BELENKY: Yes, we did have a couple of

1 questions about the natural gas. I think I put it in
2 our Pre-Hearing Conference Statement. I think we put 10
3 minutes, but I hate to drive someone to hearings for an
4 amount of time for 10 minutes of questions.

5 HEARING OFFICER CELLI: Well, so did you want to
6 cross staff witnesses or Petitioner witnesses on that?

7 MS. BELENKY: Primarily the Petitioner would
8 just be clarifying what they're actually proposing.

9 HEARING OFFICER CELLI: Okay, and as I recall,
10 wouldn't that be Matt Stucky and Charles Turlinski on
11 the gas question?

12 MR. GALATI: That's correct and what we're
13 proposing is the same thing we've been proposing.

14 HEARING OFFICER CELLI: Okay.

15 MR. GALATI: We haven't changed natural gas
16 consumption, air quality, or anything. The question, as
17 you remember, came up because Ivanpah came in with an
18 amendment and we were asked, "Hey, if they need an
19 amendment, do you?" And the answer to that is no.

20 HEARING OFFICER CELLI: Right.

21 MS. BELENKY: Okay, well, I'll talk to my client
22 and double-check, but I think we should be able to pull
23 that off.

24 HEARING OFFICER CELLI: Well, you know, one of
25 the things I do believe is that Mr. Turlinski and Mr.

1 Stucky will be there throughout the three days of
2 hearings, and they're nodding in the affirmative over at
3 the Petitioner's table, so they're available. And
4 because we noticed that, we would certainly give you the
5 opportunity to ask them questions on that, Ms. Belenky.

6 MS. BELENKY: You know, it may have been a
7 little bit of confusion because in the context of the
8 idea of potentially having storage, then there would be
9 additional gas usage, and something that we had looked
10 at. And so there may be a little bit of overlap in
11 those two pieces. Now, with this new proposal by the
12 company which I'm slightly confused about and would like
13 to have some clarification today, what is the project
14 description? What is the actual application at this
15 time? And what are we actually going to hearing over?

16 HEARING OFFICER CELLI: Those are great
17 questions, those are the perfect segue into my next
18 group of questions, but before I get to it, I just want
19 to check in with CRIT and ask Winter King whether she
20 had any interest in witnesses dealing with the gas
21 issue.

22 MS. KING: Yeah, so I think we're in a similar
23 situation to Center for Biological Diversity. We had
24 put in our Pre-Hearing Conference Statement that we had
25 some sort of minimal questions about the natural gas

1 issue, but it sounds like the Petitioner's witnesses on
2 that issue are going to be there, so I guess I would
3 like to just keep open the possibility of asking some
4 questions. It wouldn't take much time as long as
5 they're already going to be there.

6 HEARING OFFICER CELLI: That's fine and since,
7 again, as we noticed it, let's leave that on the table
8 and we will continue. I was really looking to see if
9 there was anything that everybody unanimously thought we
10 could basically say "we will submit it on our written
11 testimony," but it doesn't really sound like that.

12 MS. GULESSERIAN: This is Tanya Gulesserian from
13 CURE. We proposed to submit our witnesses' testimony by
14 Declaration; in fact, there was a Declaration attached
15 and this is on, you know, the hours of construction and
16 types of construction skills involved. And I didn't
17 read that there was any crossed plans for our witness,
18 so I would propose, if there is no objection, that we
19 submit it by Declaration if that's acceptable.

20 HEARING OFFICER CELLI: Well, you know, it did
21 come in in rebuttal and so the other parties didn't even
22 -- we're necessarily --

23 MS. GULESSERIAN: Right --

24 HEARING OFFICER CELLI: -- aware of --

25 MS. GULESSERIAN: -- in the Pre-Hearing

1 Conference Statements.

2 HEARING OFFICER CELLI: Right. I'm trying to
3 remember the name of your witness, Ms. Gulesserian.

4 MS. GULESSERIAN: William J. Perez.

5 HEARING OFFICER CELLI: Okay, William Perez.
6 And he was going to testify about the number of jobs and
7 sort of the specialties that were required by this
8 project, as I recall. Do I have that right?

9 MS. GULESSERIAN: Yes. Yes, hours of
10 construction and the types and number of construction
11 skills involved.

12 HEARING OFFICER CELLI: And that would fall
13 under overrides and the benefits of the project, I
14 imagine.

15 MS. GULESSERIAN: Correct.

16 HEARING OFFICER CELLI: So let me just go
17 through the parties and see whether they want to have
18 the ability to cross-examine Mr. Perez. Petitioner?

19 MR. GALATI: No. We would prefer to have him be
20 there if at all possible if the Committee has any
21 questions for such a witness.

22 HEARING OFFICER CELLI: Okay. We'll get to the
23 Committee. Staff?

24 MS. MARTIN-GALLARDO: No.

25 HEARING OFFICER CELLI: Mr. Emmerich, the

1 question is do you need the presence of William Perez
2 for cross-examination. And his testimony is relevant to
3 the work force and the kind of workers that would be
4 there.

5 MR. EMMERICH: Actually, no.

6 HEARING OFFICER CELLI: Ms. Belenky?

7 MS. BELENKY: We have asked to cross-examine all
8 witnesses on the overriding issues and I don't think at
9 this time we're prepared to waive our rights.

10 HEARING OFFICER CELLI: Okay, that's fine. So
11 since I'm not going to have unanimity here, Ms.
12 Gulesserian, I believe we need to have Mr. Perez present
13 at the hearing.

14 MS. GULESSERIAN: Okay.

15 HEARING OFFICER CELLI: Okay?

16 MS. GULESSERIAN: If we can talk about a
17 particular day when we're going to go over -- have
18 hearings on overriding considerations, that would be
19 wonderful.

20 HEARING OFFICER CELLI: Yeah, right now
21 tentatively we're sort of looking at override being
22 towards the end of the testimony, but it all depends on
23 whose witnesses are available when, so we're going to
24 have to work that out today, which is where we're
25 getting to.

1 So thanks for bringing that up, Ms. Gulesserian,
2 because I did forget about that one. But, yeah, the
3 consensus is I guess we need to have Mr. Perez there.

4 Ms. Martin-Gallardo?

5 MS. MARTIN-GALLARDO: Yes, before we leave the
6 discussion of natural gas and which witnesses need to be
7 available, would everyone be amenable to having our
8 natural gas witness available by telephone -- given that
9 nobody has indicated a desire to cross-examine them?

10 HEARING OFFICER CELLI: Who is that witness?

11 MS. MARTIN-GALLARDO: Yeah, Shahab Khoshmashrab.

12 HEARING OFFICER CELLI: Okay, any objection from
13 the Petitioner?

14 MR. GALATI: No.

15 HEARING OFFICER CELLI: Mr. Emmerich, any
16 objection to having Shahab Khoshmashrab testify by
17 telephone regarding gas issues?

18 MR. EMMERICH: No.

19 HEARING OFFICER CELLI: Ms. Belenky, do you have
20 any objection to telephonic testimony from the gas
21 witness for staff?

22 MS. BELENKY: No, and we don't have any
23 objections to anyone testifying by telephone.

24 HEARING OFFICER CELLI: Okay, thank you. And
25 Winter King, do you have any objection to the telephonic

1 testimony of any witnesses? Let's start that.

2 MS. KING: No.

3 HEARING OFFICER CELLI: Okay, thank you. Well
4 then, Mr. Khoshmashrab can testify by telephone and
5 then, as these things come up, we'll have others.
6 Although I did have a concern because it seems to me
7 that the feasibility, the alternatives issues are going
8 to be very important to the Committee, and that the
9 staff had asked for Mr. Vidaver and Mr. Hesters to
10 appear telephonically, and I was going to ask whether
11 the Petitioner wanted them in person for purposes of
12 cross-examination.

13 MR. GALATI: No, we're fine with them testifying
14 telephonically.

15 HEARING OFFICER CELLI: Okay. And I'm going to
16 ask Basin and Range Watch. Mr. Emmerich, everyone --
17 well, not everyone, at least Winter King for CRIT and
18 CBD have said that they have no objection to anybody
19 testifying by telephone. Is that the same case with
20 you? Are you okay, or shall I say do you have any
21 objection to parties testifying by telephone?

22 MR. EMMERICH: No, we have no objection to that,
23 that's good.

24 HEARING OFFICER CELLI: And I'm asking *any*
25 witnesses, really. Just for clarification sake, Mr.

1 Emmerich, so you don't have any objection to any
2 witnesses testifying by telephone?

3 MR. EMMERICH: No.

4 HEARING OFFICER CELLI: Okay, thank you. And
5 then, Ms. Gulesserian, do you have any objection to
6 witnesses testifying by telephone?

7 MS. GULESSERIAN: No, I do not.

8 HEARING OFFICER CELLI: Okay, thank you.

9 MR. GALATI: The Petitioner doesn't have any
10 objection to any witness for any subject area testifying
11 by telephone either.

12 HEARING OFFICER CELLI: Okay, that's good
13 because then we don't have to ask that, I don't think,
14 from anybody, I got them all.

15 MS. MARTIN-GALLARDO: Staff agrees.

16 HEARING OFFICER CELLI: Okay. Unless the
17 parties that didn't show up today show up, and then they
18 can probably raise that objection, but I think that
19 today was their day to have that heard, so we'll cross
20 that bridge if we have to come to it.

21 So if you wouldn't mind taking a moment, Mr.
22 Galati, just to confer with your client and I want to
23 get back to that PPA question, what the Committee is
24 asking for is a redacted PPA for purposes of
25 establishing all of the timeline deadlines within the

1 PPA.

2 MR. GALATI: Can we take a second and go
3 outside? I would like to, I guess, while I have the
4 floor, I just want to clarify the Notice of the room
5 change, just to remind you to remember for the
6 Evidentiary Hearings, the Notice said Room 101.

7 HEARING OFFICER CELLI: Yes.

8 MR. GALATI: We ultimately changed for the
9 benefit of the parties and the Committee in a better
10 room, which is 123 and 124, and we'll have a sign on the
11 door saying we're in 123 and 124, but I certainly didn't
12 want any of the parties being late because of the Notice
13 saying Room 101, and it is Room 123/124.

14 HEARING OFFICER CELLI: And my recollection was
15 that isn't that just right across the way? It's right
16 near there, so it shouldn't be a problem.

17 MR. GALATI: Yeah, it is near, I just didn't...

18 HEARING OFFICER CELLI: Thank you. I'll make a
19 note, I'll post some sort of memorandum to that effect.

20 MR. GALATI: Thank you.

21 HEARING OFFICER CELLI: Room change. So if you
22 wouldn't mind just taking about five minutes or less on
23 that, we would appreciate it. At this time, ladies and
24 gentlemen, I'm not going to go off the record, we'll
25 stay on the record, but people on the phone, you should

1 be aware that the Petitioner and the Petitioner's
2 entourage, like four people, went outside to discuss the
3 question of whether they'd be willing to submit a
4 redacted PPA. And so that's what we're waiting to hear
5 on and that's why there's no activity happening right
6 now.

7 But for the rest of you who are on the phone,
8 the other parties, we're about to talk about the order
9 in which we will be taking evidence and I guess I'm just
10 going to have to wait for the Petitioner to get back
11 before I can launch into this, too. So hang in there
12 and let's take a five-minute break. So we will go off
13 the record for five minutes. It's ten to two, we will
14 resume at five to two.

15 (Recess at 1:47 p.m.)

16 (Reconvene at 1:53 p.m.)

17 HEARING OFFICER CELLI: It's five of, so thanks.
18 We'll hear from the Petitioner on the question of
19 whether the Petitioner is willing to put in that
20 redacted PPA.

21 MR. GALATI: The answer to the question is yes,
22 we'll try. Let me understand -- make sure everybody
23 understands we're under a Confidentiality Agreement with
24 PG&E, and in order to resolve that, we are going to need
25 to propose to PG&E what we're going to docket and how

1 we're going to redact it, and whether we can get that
2 into the record.

3 Now, I just wanted to be real clear because what
4 we're going to propose to PG&E is just a redacted
5 version of the PPA, so there would be nothing in the PPA
6 except milestones.

7 HEARING OFFICER CELLI: Correct.

8 MR. GALATI: What I can tell you from talking to
9 the client is that all of the milestones have different
10 cure provisions except the one we gave you, which was
11 COD. So I'm not sure that would be that helpful to the
12 Committee to know that, if we missed a particular
13 milestone by a month, we could cure that one. But I can
14 tell you we cannot cure the commercial operation date.
15 To avoid the confidentiality issues we found public
16 documents with that date in it, and we docketed those.
17 But we will have the conversation with PG&E and, you
18 know, it's a long document, it will be mostly black
19 except for milestone provisions. Is that acceptable --
20 if they say yes?

21 HEARING OFFICER CELLI: Yes, that's exactly what
22 we're looking for. So thank you for that.

23 MR. GALATI: Now, and just -- it will be one PPA
24 because the second PPA it's improbable we're going to be
25 able to meet those timelines, which we've said in our

1 testimony, so it will be one Power Purchase Agreement.

2 HEARING OFFICER CELLI: Thank you. But that's
3 the 2017, the one that had a COD date of 2017?

4 MR. GALATI: Correct, that's correct, and I know
5 that in our testimony, or in those exhibits which I
6 don't have in front of me right now, there is the
7 correct date and I believe it's July 1, 2017, but we'll
8 have to double-check whether it's June 30th.

9 HEARING OFFICER CELLI: Okay. Thank you very
10 much. And then, Ms. Belenky, we're back on the record
11 and you had a question, so go ahead.

12 MS. BELENKY: Yeah, I guess before we get to the
13 point of people talking about exactly how much time they
14 want to cross-examine which witness, it appears that
15 there is a different proposal on the table, a different
16 project being described, and a different project that is
17 going to be the subject of the hearing.

18 There is also an assumption that I'm hearing
19 from the Applicant, or Petitioner in this case, that
20 everything about that should then have a linear -- that
21 there's sort of a linear difference if it's only one
22 tower everything is half. And I think that, its self,
23 is a question that would need to be discussed.

24 So first, I feel like all of the parties need to
25 understand what is being asked for in this Amendment at

1 this time, the Amendment has clearly changed. And we
2 need to have that very clearly stated so that we know
3 what we're going to be hearing about.

4 HEARING OFFICER CELLI: Okay. Petitioner, would
5 you respond to that, please?

6 MR. GALATI: Again, what has happened is the
7 Revised Phasing Plan. There was a Phasing Plan that the
8 original conditions were tailored to, and there was a
9 construction schedule that the original conditions were
10 tailored to.

11 The Phasing Plan has been revised, it's Exhibit
12 1167, it's very clearly laid out. The description of
13 which conditions need to change due to the Revised
14 Phasing Plan are out, as well. As to the idea that
15 there is a different proposal in front of the
16 Commission, we absolutely disagree with.

17 The proposal is to be able to evaluate and to be
18 able to get a decision for two towers in the exact
19 configuration that was proposed. We're willing to take
20 a condition on building the second tower to allow
21 thermal energy storage, as we've also identified in our
22 testimony. We don't believe that the appropriate market
23 mechanisms are in place to do that at this time. And we
24 thought that that would talk about our true intentions,
25 especially in light of the deadline of the first PPA.

1 So it would actually be inappropriate for us to not tell
2 you our desire to build the second unit, and that's been
3 fully evaluated.

4 And from our perspective, whether the impacts
5 are exactly cut in half, and I said that is a roughly
6 half, or not, we think that the Commission has enough to
7 be able to evaluate the envelope of impacts and how the
8 mitigation works.

9 Again, it's very simple if you look at Bio 29,
10 all of the habitat acreages are reduced according to the
11 Revised Phasing Plan and all of the mitigation is
12 reduced to Phase 1 and Phase 2 in that Revised Phasing
13 Plan. But the total number of mitigation acres add up
14 to the same as they added up to under the previous
15 Phasing Plan for both towers.

16 So I don't believe this is a new application,
17 we've done this before, we've had projects where we've
18 dropped a turbine in a number, let's say we had five
19 LM6000s and we dropped to four, we've done that before,
20 and I would think that this is a benefit and that's how
21 we proposed it. We do not believe there is new
22 analysis, and I think staff confirmed that today.

23 HEARING OFFICER CELLI: Ms. Martin-Gallardo, go
24 ahead.

25 MS. MARTIN-GALLARDO: Yes. I can just let the

1 Committee know that we have put this proposal to change
2 the Phasing Plan in front of each and every subject
3 matter area, and everyone except Bio for BIO 29 and Soil
4 and Water 3 agree that there is no Changes to
5 Certification required and that this Phasing Plan would
6 reduce impacts as far as it relates to how this is done
7 for at least Phase 1 at this time.

8 Now, we've also had Soil and Water witnesses
9 review Soil and Water 3 changes and they do concur with
10 the changes that were proposed. The Biology staff has
11 reviewed BIO 29, and I did just receive word that they
12 verified the numbers that were put in and will be able
13 to provide Table 3 to the Committee that talks about the
14 security measures, and we can put those in shortly. So
15 staff does agree with the Petitioner that this does not
16 change the project, would not require new analysis,
17 anything like that.

18 HEARING OFFICER CELLI: And so, Ms. Belenky, the
19 reason I said this was a perfect segue into the next
20 section is because we're going to be talking about what
21 topic areas we're going to be talking about and in what
22 order, and what we're talking about right now is under
23 the heading of Project Description.

24 And so Petitioner is going to have to put in
25 some evidence that explains all of this, I think we've

1 seen some of it already, whatever they're putting in, I
2 saw the proposal somewhere in the exhibits. And so that
3 is where we'll be tackling this issue. Does that work
4 for you, Ms. Belenky?

5 MS. BELENKY: You know what, I don't want to
6 hold up this Pre-Hearing Conference, I don't -- I
7 actually heard two different things from the Petitioner
8 this morning. One was that, for Phase 2, they would
9 need a separate approval with the storage, and now what
10 was said was that it would be approved now with a
11 condition requiring storage. So those are actually two
12 very different things.

13 I am still confused about what they're asking
14 for, and I do think Project Description will now have to
15 be a topic at the hearing to clarify exactly what is
16 being sought at this time, and that it has clearly
17 changed again.

18 HEARING OFFICER CELLI: Right. The Project
19 Description was going to be a topic anyway because we
20 were going to have to deal with the gas and all of that
21 sort of stuff in that original storage conversation, but
22 just to be clear, and correct me if I'm wrong everybody,
23 but my understanding, then, it sounds like they are
24 proceeding on Phase 1 under this Amendment, and Phase 2
25 would have to be -- the Petitioner would come in with a

1 new Amendment for Phase 2. Do I have that right?

2 MR. GALATI: That's correct. And again, I just
3 want to be absolutely clear, thermal energy storage must
4 be incorporated into an Amendment into the second unit.
5 We want to build the first project without thermal
6 energy storage, we still think the benefits of that
7 project is thermal energy storage could be added later
8 to the first project, of which would require an
9 Amendment to the Commission.

10 But at this stage, the Commission has evaluated
11 the entire disturbance acreage and the entire impact of
12 two towers, which we clearly want to build the second
13 one. We recognize we cannot build that second tower
14 until we file an amendment incorporating thermal energy
15 storage into that Revised Phasing Plan.

16 So I'm surprised that anybody is opposed to
17 this.

18 HEARING OFFICER CELLI: Well, the questions --

19 MS. BELENKY: Well --

20 HEARING OFFICER CELLI: Go ahead, Ms. Belenky.

21 MS. BELENKY: I'm sorry, it's just like really
22 people are missing each other in our language. What the
23 Petitioner is saying that they're asking for is the
24 Committee to approve a second tower that they have no
25 intention of building in the way that they have

1 currently laid it out, that they are going to come up
2 with a different second tower with storage in it, and at
3 that time they'll ask for a second small amendment. But
4 in fact they are asking to have the Committee approve
5 both towers now.

6 HEARING OFFICER CELLI: Oh, I see what you're
7 saying. Because of that -- you're saying that because
8 of the Project Description condition that would require
9 that if they amended to build the second tower, it would
10 have to include thermal storage, that that's some sort
11 of tacit approval of the second tower. Is that what
12 you're saying?

13 MS. BELENKY: No. They aren't saying -- the
14 Petitioner is saying they want the approval of both
15 towers now. That is what I hear them saying. And you
16 and I are thinking they mean opposite things.

17 HEARING OFFICER CELLI: Okay, I thought I made
18 it clear, but maybe not. My understanding, Mr. Galati,
19 is that the Petitioner is going to come in with this
20 Petition and reduce essentially down the project to
21 Phase 1, which was the westernmost solar field and
22 tower, and linears, and so forth, and that the second
23 phase of it is not a part of this Amendment at all, and
24 would require a new Amendment, you would have to file a
25 new Petition to Amend on Phase 2.

1 MR. GALATI: The practical effect of what we
2 have proposed is exactly that. But we are not going to
3 come back in and file a new application with a new
4 project description for one tower. It would be
5 inappropriate for us to tell you we're only going to
6 build one tower, and we'll think about filing an
7 Amendment later. We want to build the second tower and
8 we will come back and ask approval to build it with a
9 full Amendment analysis like this one, after we make an
10 amendment to put in thermal energy storage.

11 We already have FDOCs for the equipment for both
12 towers, and we think the practical effect is the same.
13 But also, we think this is the appropriate way to do it
14 under CEQA because we're telling you what our intentions
15 are. This is no different than what the Committee
16 approved for actually -- actually it's even -- let me
17 tell you, it's similar to what you approved for Palen
18 the first time. We had Alternative Configuration 3 and
19 Alternative Configuration 4, we didn't have to come back
20 and ask the Committee for both.

21 What we're telling you is we'll come back and
22 ask you for permission to build the second tower and, to
23 show that we really mean what we're saying, we won't do
24 it until we come back and put in thermal energy storage
25 as an amendment to that.

1 But if the Committee were to entertain such a
2 project as that one, why wouldn't it look at the thermal
3 energy storage in any changed circumstances? Why would
4 it start over on a Phase 2 tower?

5 HEARING OFFICER CELLI: So you are asking the
6 Committee to make a determination on both towers, both
7 fields, in this Amendment?

8 MR. GALATI: Correct.

9 HEARING OFFICER CELLI: Okay, so Ms. Belenky, it
10 sounds like you do have it right, that they are making
11 -- that the Petition pretty much stands as it is and the
12 only change, then, is the phasing by which they will
13 pursue the construction. But the Amendment is for the
14 whole of the project, which is the two towers -- the two
15 fields, Phase 1 and Phase 2. And Petitioner is nodding
16 in the affirmative.

17 MR. GALATI: Yeah. It's a legal distinction
18 with no practical effect. Since we are giving you a
19 condition that we will not build until we put thermal
20 energy storage, we are preventing ourselves from
21 building the second tower until such an amendment is
22 approved. We thought that was the most honest,
23 straightforward way to tell you what our intentions are.

24 HEARING OFFICER CELLI: Ms. Belenky?

25 MS. BELENKY: Yeah, but there is a difference

1 because that is not the only thing that may change
2 between those times, and so if the approval at a second
3 date of the -- it is unclear what would have to be
4 approved at that time, but there would already be an
5 approval for a tower there. And so that actually is a
6 very -- I feel like this is getting very confused as to
7 what is being requested. And there may be many things
8 that will change in the time before the company decides
9 to come back with a thermal storage project on the
10 second field, but they will already have had some
11 approval for that area, and I do think that is very
12 different than what was initially proposed in the
13 Amendment, and it is most importantly, regardless of
14 what was initially proposed, we need clarity, the
15 parties need clarity on exactly what is being asked for
16 and how that would work and what the timing might be
17 because it is a significant change.

18 HEARING OFFICER CELLI: So that's what I see
19 really is that this is the same Amendment that we've
20 been dealing with since we've filed the original PMPD to
21 begin with. And there's some change in the way they'll
22 go about it, they are going to have to put this evidence
23 into the record and they'll do it under the topic of
24 Project Description, and at that time, Ms. Belenky, then
25 you and your witnesses will be able to get into the

1 particulars so we can really get to the bottom of what
2 the changes are and what the effects really will be.

3 MS. BELENKY: Thank you.

4 MR. GALATI: We believe that we provided the
5 clarity in our Project Description and our Maps and we
6 think we've provided that clarity. I would just point
7 out to the Commission that we've been in this process
8 for two years on an already approved piece of ground, so
9 who is to think that the second Amendment to build a
10 second tower somehow authorizes the Commission to not do
11 an Alternative Analysis, to not do the same thing we're
12 doing right now in this proceeding that's taken almost
13 two years?

14 HEARING OFFICER CELLI: Okay, well, I think
15 that's clear. What I'd like to do now is I want to talk
16 about the scheduling of the hearing because, Ms.
17 Belenky, I understand that Sean Smallwood is only
18 available either Tuesday or Thursday, according to your
19 Pre-Hearing Conference Statement. Is that still the
20 case?

21 MS. BELENKY: Yes, those are the dates that he
22 is available.

23 HEARING OFFICER CELLI: Does that mean that he
24 would not be available by phone on Wednesday? Because
25 initially when I looked at staff's proposed schedule of

1 taking the topics, we were going to take BIO on
2 Wednesday, which is the only day that Sean Smallwood
3 can't be there. So I was just wondering whether he
4 would be available by phone, or is he just completely
5 unavailable.

6 MS. BELENKY: I would have to check --

7 HEARING OFFICER CELLI: Sorry, say it again, you
8 broke up.

9 MS. BELENKY: I would have to check with him
10 again. That was what I understood. I'm sorry, I didn't
11 see where staff -- did they send us all the schedule
12 that you're talking about?

13 HEARING OFFICER CELLI: In their Pre-Hearing
14 Conference Statement, they proposed that we --

15 MS. BELENKY: Okay --

16 HEARING OFFICER CELLI: -- okay, yeah.

17 MS. BELENKY: I talked to my experts weeks ago
18 about the schedule, so those were the dates that I was
19 given.

20 HEARING OFFICER CELLI: Okay. So just so we're
21 all on the same page, everybody, staff is proposing that
22 on Monday we start with Project Description Storage and
23 Gas in the morning, and go into the afternoon for Glint
24 and Glare and Cul 1, with BIO on Wednesday, and
25 Alternatives and Override on Wednesday afternoon, but

1 that is no longer going to work. And what I'd like to
2 see is where we could move BIO over to Tuesday.

3 MR. GALATI: I think if you look at CBD's Pre-
4 Hearing Conference Statement, I thought they said he
5 would be available Wednesday by telephone. Do I have
6 that wrong?

7 MS. BELENKY: Yeah, I think --

8 HEARING OFFICER CELLI: I don't remember that.

9 MS. BELENKY: Yeah, it doesn't say that.

10 HEARING OFFICER CELLI: So he's not available by
11 phone -- or I guess we could find that out, but rather
12 than mess with that, if we know that everybody's Biology
13 witnesses can be there on Tuesday instead of Wednesday,
14 and we can start Biology on Tuesday, then maybe we can
15 solve the problem that way.

16 MR. GALATI: As you know, we proposed also and
17 all our witnesses are available on Wednesday for
18 Biology, staff's witnesses are all available on Biology.
19 I will have to get back to you, but we again would
20 prefer to go on Wednesday for Biology and have Dr.
21 Smallwood call in.

22 HEARING OFFICER CELLI: Well, we're on notice
23 that Dr. Smallwood is not available on Wednesday.

24 MS. BELENKY: That is what he said and, so, yes,
25 I mean, this is the problem of course with having the

1 Pre-Hearing so close to the dates; our experts also have
2 other obligations. So --

3 HEARING OFFICER CELLI: But we do know that Dr.
4 Smallwood isn't available on Tuesday.

5 MS. BELENKY: And Thursday.

6 HEARING OFFICER CELLI: All right, but it's
7 possible, Ms. Belenky, you know, if I can we may not
8 have to go all three days, and so I would be loath to
9 put Biology on Thursday if I can get it finished on
10 Tuesday, and finish everything else up by Wednesday
11 night. And then we've saved everybody a day of
12 testimony.

13 MS. BELENKY: But we said he could be there
14 Tuesday.

15 HEARING OFFICER CELLI: Right, that's correct.
16 I'm polling staff and Petitioner now to see whether I
17 can get their witnesses for Bio on Monday -- I'm sorry
18 -- Tuesday.

19 MS. MARTIN-GALLARDO: So I'm under the -- you
20 know, I don't know which would be simpler, to find out
21 if Dr. Smallwood is available by phone on Wednesday, or
22 for me to poll all of my staff when I go back to find
23 out what kind of rearrangement is going to work with
24 everyone's schedule because, if we put Bio into Tuesday,
25 it's going to push other people into Wednesday.

1 HEARING OFFICER CELLI: Well, let me just say
2 that, as far as I know, we don't have any other power
3 plant matters going that same week concurrently where
4 witnesses have to be somewhere else. I mean, we're
5 talking about Tuesday and Thursday, it's not like
6 they're all flying to Huntington Beach on Wednesday.

7 MS. MARTIN-GALLARDO: Well, I do have
8 consultants, Greg Irvin, and we do have a potential
9 Department of Transportation witness, we do have Lori
10 Cachora who I do know is planning on being there all
11 three days anyway, so he's not an issue. But I just
12 need to verify that that wouldn't be causing any
13 problems.

14 HEARING OFFICER CELLI: Okay. And, Petitioner,
15 do you have someone that you know cannot be there on
16 Tuesday who is part of the BIO --

17 MR. GALATI: No, I don't, but I have people
18 flying from Wyoming and driving from Las Vegas, and
19 calling in from Israel, so I have a lot of witnesses, as
20 you know.

21 HEARING OFFICER CELLI: Right.

22 MR. GALATI: So again, if you read the Pre-
23 Hearing Conference Statement, it looks like there's a
24 possibility that he's available by phone. Can't we wait
25 until Ms. Belenky could check to see if he is absolutely

1 unavailable Wednesday by phone? Because he's the only
2 witness.

3 HEARING OFFICER CELLI: That's true. Ms.
4 Belenky, I know that -- are you in the same room as
5 Ileene Anderson?

6 MS. BELENKY: No. I don't know that I can get a
7 hold of him during this conference, so let me see if I
8 can do that. Do you want to take a break or --

9 HEARING OFFICER CELLI: What I was going to
10 suggest was to see if Ileene Anderson could try to
11 contact him and find out while you stay on with us, so
12 we can talk about this scheduling. Would that work with
13 you, Ms. Anderson?

14 MS. ANDERSON: I can try him, yes.

15 HEARING OFFICER CELLI: Okay, good. Then
16 hopefully this way if we tag team like this, we can find
17 out. But let's just assume for our purposes right now
18 that he cannot make it on Wednesday, then what that
19 would mean is that we would have Bio -- if we took Bio
20 starting on Tuesday first thing, I suspect that Bio is
21 going to take up a big chunk of the day, it would go
22 past lunch. We have Avian impacts, the insects, I don't
23 know how long that's going to go, we've got curtailment,
24 there's a lot of evidence on curtailment that I've seen,
25 and we have the Avian Deterrence that we have to talk

1 about. All of that is under Bio. I'm not sure, I'm
2 hoping that there's going to be a lot of overlap with
3 witnesses, so we don't have to have people getting up
4 and moving around a lot, but if we did start on Tuesday
5 with Bio, my guess is we would probably take up the
6 whole morning with Bio. Maybe we can get three out of
7 four of those topics done.

8 So without tying it to a particular day, let's
9 just look at how long Bio is going to take because it
10 looks to me like, on whatever day we take it, if we're
11 going to tackle all of those issues, that that is pretty
12 much our morning and half of our afternoon. Would you
13 agree?

14 MR. GALATI: It's hard to say in the informal
15 hearing process. It depends how engaged the Committee
16 is in asking questions. If the Committee is very
17 engaged in asking questions, I agree.

18 HEARING OFFICER CELLI: Okay. And does that
19 seem reasonable?

20 MS. MARTIN-GALLARDO: It does. I think that the
21 curtailment will be quick, insects will be quick, and
22 deterrence will be pretty quick from staff's
23 perspective, so I do think the chunk will be in the
24 Avian Impacts area.

25 HEARING OFFICER CELLI: Really, Ms. Belenky,

1 since CBD's main thrust is the Biology, and I recall
2 seeing, I think, about four or five articles from Dr.
3 Smallwood, do you think that it's reasonable to assume
4 that we could finish Bio if we take up the whole
5 morning, break for lunch, and finish by mid-afternoon?
6 Or do you think it would go much longer than that, Ms.
7 Belenky?

8 MS. BELENKY: I think if we put in our part that
9 Dr. Smallwood's testimony could take up to an hour and a
10 half, and then we have our Invertebrate testimony which
11 I think could be quite a bit shorter if there isn't a
12 lot of controversy, and that our cross-examination, I
13 believe we asked for -- I'm trying to find the exact
14 amount -- 45 minutes. You know, it's hard to estimate
15 with the panel format because sometimes it's just very
16 hard for me to estimate. I'm also not entirely clear if
17 you're saying the panel would do all three of those
18 issues, or four of those issues together, or the Avian
19 and Deterrent would be one and the Invertebrates would
20 be a second one, I'm really confused as to what you're
21 proposing.

22 HEARING OFFICER CELLI: Well, what I would
23 propose to do is that, when it comes to Bio, you only
24 have three witnesses today, and so --

25 MS. BELENKY: We have four witnesses.

1 HEARING OFFICER CELLI: Okay, you have, that's
2 right, Gordon Pratt, Sean Smallwood, Ileene Anderson,
3 and Dr. Powers, but isn't Dr. Powers on Alternatives?

4 MS. BELENKY: His part is on Alternatives and
5 Project Description.

6 HEARING OFFICER CELLI: Right. So for purposes
7 of Bio, my initial intention would be to call everybody
8 at once, bring them all up there, that's I think about
9 20 people, and I would probably seat, because Petitioner
10 has the most number of witnesses, sort of stack
11 witnesses sitting behind each other so people can get up
12 and speak into the microphone.

13 But the plan would be, because Avian Impacts are
14 probably going to be the same witnesses as the
15 Invertebrates, and so far as Curtailment and Avian
16 Deterrence, I don't know that there is going to be a big
17 change over witnesses in that whole section. So I think
18 we would probably call them all. And we would do it in
19 that order, Avian Impacts, Insects, Curtailment, and
20 Avian Deterrence. So I think -- what I'm proposing is
21 that if we took on, let's just say Day 1, Bio, we could
22 get through Bio, we could probably get through Project
23 Description, and we had Storage and Gas there, but it
24 sounds like Storage and Gas is really nothing, it's not
25 going to take much time at all, maybe it will take 10 or

1 15 minutes with it, and that's only to provide cross-
2 examination to the Intervenors. And then we move to the
3 next thing. So I don't even think that Storage and Gas
4 would take a lot of time.

5 What that means, then, is we could probably
6 start Cultural, well, no, or Glint and Glare -- go
7 ahead, Ms. Gallardo, you have a question.

8 MS. MARTIN-GALLARDO: I'm probably jumping the
9 gun a little bit here, but if you were about to say
10 Glint and Glare on Wednesday, I just got word that one
11 of our witnesses is Jim Adams, he has retired as an
12 employee of the Energy Commission, but we are working on
13 paperwork to get him on as an RA before the usual rules
14 allow. Now, assuming he is available, and our witness,
15 he does have to be back in Sacramento on Tuesday night,
16 so Tuesday is the only day that he would be available
17 for Traffic and Transportation.

18 HEARING OFFICER CELLI: Okay, so Glint and Glare
19 would fit, certainly we could do that immediately
20 following Bio, Glint and Glare. Glint and Glare is such
21 a singular issue, it's not like we've got, you know,
22 everybody is talking about the same thing, so I'm
23 thinking that we could get Bio, Glint and Glare, Storage
24 and Gas done on Day One, we might even have some time to
25 spare there, I mean, if we work efficiently.

1 Well, but the problem with that is that what
2 we're left with, then, is Cultural on Day Two if we were
3 to do it in that order, Alternatives and Override.

4 MR. GALATI: Yeah, I would point out that the
5 Cultural issue is what do we do with Cul 1.

6 HEARING OFFICER CELLI: That's true.

7 MR. GALATI: It's not all the impacts and
8 discussions that we went before. I'm hoping that the
9 Committee looks -- the Committee gave great direction
10 and said here's what we'd like to do with Cul 1 and you
11 hear both proposals, and hear the Intervenors comment on
12 it, and pick one.

13 HEARING OFFICER CELLI: Right. You know, the
14 big think about Cultural is I expect a lot of comment, a
15 lot of people comment.

16 MR. GALATI: Which is one of the reasons why we
17 also wanted to put it on Monday, so that it could go
18 into the evening and accommodate public comment for
19 people that might have to work. I know we've been
20 criticized in the past for that, and that's why we're
21 bringing in dinner -- excuse me, I said Monday, I meant
22 Tuesday, on the first day, that's why we're bringing in
23 dinner, as well, so if we wanted to go late.

24 And I also just wanted to say for the record,
25 the Petitioner is going to meet any schedule you say

1 because we're the only ones that get hurt if we don't,
2 and that is if we can't get our decision in time as we
3 are now at the last minute to get our decision again, we
4 need to get that decision, so we will come together with
5 every biological witness we can get, and if we can't get
6 one, he won't come. But we will accommodate whatever
7 you want. I would point out, though, this is the second
8 time that's being accommodated for us delaying our
9 schedule for one witness, CBD, I still think I want
10 someone to pick up the phone and call him because it
11 does work for us and staff with no changes, the proposal
12 --

13 MS. BELENKY: I'm not delaying your entire
14 schedule by having someone testify on one of the pre-
15 determined three-day hearings.

16 HEARING OFFICER CELLI: No, that's not really an
17 issue, Ms. Belenky. I wouldn't worry about that. But
18 what I would ask you to do, please, is unmute Ileene
19 Anderson there and let's see if she -- Ileene Anderson,
20 are you there?

21 MS. ANDERSON: I am, but I haven't been able to
22 get a hold of Dr. Smallwood yet.

23 HEARING OFFICER CELLI: Okay, because we need
24 resolution on this. If Dr. Smallwood is available on
25 Wednesday by phone, then I think we can probably

1 accommodate everybody's schedule. I haven't heard from
2 everybody yet, I haven't heard from Basin and Range
3 Watch, but I assume they could make any of the three
4 days.

5 MS. ANDERSON: I understand that. I can't make
6 him pick up the phone.

7 HEARING OFFICER CELLI: No, I understand that,
8 too. But I appreciate your efforts. Let me ask Winter
9 King, if we started Cultural on Tuesday evening, then
10 it's possible that we would have to split it into two
11 days if we couldn't finish. Does that present a
12 hardship?

13 MS. KING: I think that's okay, I mean, we have
14 interests in a variety of these topic areas, so when I
15 was looking at staff's proposed schedule and trying to
16 think if there was a way of getting all of our interests
17 on one day, I'm not sure there is, I think what I'm
18 saying is we'll probably be there for both days if it's
19 just the two-day hearing.

20 HEARING OFFICER CELLI: Here's what I'm
21 thinking. If it turns out that Dr. Smallwood cannot
22 make it, we do know that he could be there on Tuesday,
23 we do know that people are amenable to taking testimony
24 telephonically. So if we start the day with Bio, we get
25 the Storage and Gas, or rather the Glint and Glare

1 handled, and again, I don't think that would go more
2 than an hour or hour and a half, then Storage and Gas is
3 going to be a short one, I think; we could then launch
4 into Cul 1 that evening, or Project Description.

5 Okay, if we launched into Cul 1 that evening and
6 took evidence, maybe we could finish it that night. But
7 if we couldn't, we don't want to drag everybody through
8 this thing until midnight, I mean, we would like to end
9 at a reasonable hour. I just want to make sure that if
10 we have to split it and come back the next day, that
11 that doesn't pose a problem for any of your witnesses,
12 Ms. King.

13 MS. KING: I think that's okay, I mean, I would
14 not like it to be that our witnesses stay there until
15 super late and then have to be in first thing in the
16 morning, so if there could be some sensitivity to that,
17 obviously.

18 And just one thought though, it does seem to me
19 to make logical sense to do Project Description if not
20 first, then early on because I think that might have
21 bearing on all the other issue areas, as Ms. Belenky was
22 saying earlier. So I guess my suggestion or idea would
23 be that we not push that over until the end since that's
24 kind of an important fundamental discussion.

25 HEARING OFFICER CELLI: That's a good point. I

1 think that we could do that. The biggest concern I have
2 right now, the only witness that I'm informed that has
3 an absolutely can't be there, that was communicated to
4 us, was Sean Smallwood on Wednesday, he can't be there
5 on Wednesday. And so what I'm trying to do is get
6 through taking all of the testimony and being finished
7 in an efficiency way so that we can -- yes, you are
8 right, Project Description is something we probably
9 would need to tackle first thing, before Bio, take
10 Project Description because I don't think that would
11 take too long, launch into Bio, take care of Glint and
12 Glare because the only other witness we've heard from
13 was Jim Adams can't be there past Tuesday, so we would
14 take Glint and Glare immediately following, and then we
15 could either deal quickly with Storage and Gas, and if
16 we go longer, and if I'm too over-optimistic, then we
17 would put Cultural into the next day, first thing, or
18 start Cultural and rollover, depending on how late we
19 go. How do you feel about that, Ms. King?

20 MS. KING: Well, I mean, I guess Mr. Galati
21 raised the issue of public comment, as well, not just
22 our witnesses, and I'm not entirely sure how many tribal
23 members may be interested in coming and making public
24 comment on cultural resource issues, but for those
25 people, I mean, I can speak for our witnesses, that it

1 would be okay to roll over from Tuesday to Wednesday, or
2 just start on Wednesday. But I think it would be
3 helpful to have some certainty that, yes, those people
4 can just come the afternoon of Tuesday to make their
5 comments and not have to make the trip twice, even
6 though it's not a tremendously long trip because it's in
7 Blythe, but maybe if we could just for sure take public
8 comment on Tuesday evening on Cultural Resources, that
9 would be helpful on our end.

10 HEARING OFFICER CELLI: Okay, and clearly the
11 reason we're doing this down in Blythe is because the
12 largest number of people interested and who have shown
13 up in the hearings throughout the proceedings for the
14 Palen matter have been the Native Americans, so it's for
15 them that we're going there.

16 MS. KING: Uh-huh.

17 HEARING OFFICER CELLI: And what I'm thinking,
18 what I'm hearing you say, then, because what we would
19 probably be better off doing, we will notice, we will
20 have a five o'clock public comment period every day, we
21 might on Tuesday and probably we could even do -- okay,
22 so on Tuesday it would be five o'clock, on Wednesday it
23 would be the close of proceedings, whatever time that
24 would be, assuming we could get this through.

25 So what I'm hearing right now is if we go

1 Project Description, Bio, Glint and Glare, Storage and
2 Gas, that we would start Wednesday morning cleanly with
3 Cul 1, and then get to Alternatives and Override. Am I
4 missing anything?

5 MR. GALATI: I think it would be more efficient
6 if you look at our Pre-Hearing Conference Statement, we
7 think Gas and Storage are part of Project Description,
8 just handle it all at that time, we have the same
9 witnesses there, if anybody has any questions on thermal
10 energy storage, they can ask them, and if anybody has
11 any questions on Natural Gas, it's the same witness,
12 they're also answering Project Description. We get that
13 all out of the way, I think it's quick and easy, we
14 didn't hear a lot of -- we heard a few questions from
15 the Intervenors, but no additional competing witnesses
16 on those points. And then if we went right to Bio, took
17 a break for public comment at 5:00, to accommodate
18 anybody, including Cultural, we have at least an evening
19 where tribes can come, but maybe not get to Cultural
20 that day, finish Bio that evening, and then get to
21 Cultural in the morning.

22 HEARING OFFICER CELLI: So how that would
23 actually work is this: we would do Project Description
24 which is included in Storage and Gas first thing, we
25 would then do Bio, after Bio we would have to do Glint

1 and Glare because we have to get Jim Adams done, and
2 then after that, I mean, that actually is a complete
3 day. Then we start on Day two -- no, Glint and Glare is
4 going to be a big deal, there's a lot of evidence. Go
5 ahead, Ms. Anderson. Yes.

6 MS. ANDERSON: I was able to finally connect
7 with Sean, Dr. Smallwood, and he said that, you know,
8 it's possible for him to do Wednesday instead of
9 Tuesday, and at this point it's not clear if it will be
10 telephonically or in person.

11 HEARING OFFICER CELLI: Okay. Is that
12 acceptable to everybody?

13 MR. GALATI: Yes, and we would propose the
14 schedule that you see in our Pre-Hearing Conference
15 which is very similar to staff's.

16 HEARING OFFICER CELLI: Okay. Now, Basin and
17 Range Watch, you've been listening to this discussion,
18 do you have any questions or problems with the way we're
19 talking about the scheduling?

20 MR. EMMERICH: Well, I just have a couple things
21 here. We're pretty flexible as far as the first two
22 days which sounds like everything is going to happen in
23 the first two days. So we don't -- we're actually
24 flexible to accommodate whatever schedule can be worked
25 out.

1 Our priority is, I mean, we are both witnesses
2 and so if Glint and Glare and Biology were in those
3 first two days and didn't have to spill over into the
4 next day, the third day, that would be good for us.

5 My only other comment would be, for public
6 comment perhaps you should consider if you're going to
7 do Tuesday Cultural in the morning, have more than one
8 public comment period.

9 HEARING OFFICER CELLI: We could probably do
10 that. We probably have a lunch comment period and then
11 a close of evidence comment period, as well. So we
12 probably have two there. But I want to be clear with
13 you that the Glint and Glare, because of the limitation
14 on staff's witness, Mr. Adams, has to be done on
15 Tuesday. But it doesn't sound like that's a problem for
16 you?

17 MR. EMMERICH: No, that's good for us.

18 HEARING OFFICER CELLI: Okay. So, Ms. Belenky,
19 if it sounds like Mr. or Dr. Smallwood can appear on
20 Wednesday, probably telephonically, then if we go back
21 to staff's original proposed schedule, it would be
22 Project Description, Storage and Gas, followed by Glint
23 and Glare, followed by Cul 1, and then on Day Two,
24 Wednesday, we spend the day on Bio and end the day with
25 Alternatives and Override.

1 MS. BELENKY: Well --

2 HEARING OFFICER CELLI: Is she muted? I want to
3 make sure -- okay, good.

4 MS. BELENKY: Sorry. Yeah, I got confused
5 because now the Project Description, I heard someone say
6 nobody else had witnesses on Project Description, but
7 actually it was only at the time of the rebuttal that
8 the Project Description was raised as a separate thing
9 with this change, to potentially changing to the
10 phasing, which I do think is relevant, and we may
11 actually have our witness address that. So I --

12 HEARING OFFICER CELLI: Would that be Mr.
13 Powers?

14 MS. BELENKY: Yes, Bill Powers. So we may have
15 a witness for that if he's available, which is Tuesday
16 morning, which I think is a difficult time for him, but
17 I can check. And then you're moving Alternatives to the
18 end of the day on Wednesday, is that what you --

19 HEARING OFFICER CELLI: Right, Alternatives and
20 Override would be the last two topics.

21 MS. BELENKY: And I'm not certain -- just given
22 how these hearings have gone before, that could be late
23 in the evening, so I guess we'll just have to see what
24 happens, but I actually am concerned that the three days
25 of hearings were actually noticed and now we're trying

1 to jam everything into two days of hearings, which is
2 making it a little bit hard for me to know if my experts
3 will really be able to be there and what time they
4 should be there.

5 HEARING OFFICER CELLI: Well, this is why we're
6 having this conversation now. I actually don't think
7 it's a jam, I think given the way that these hearings
8 have gone on the past, we're going to get a lot more
9 done. I think we're giving ourselves generous
10 allowances here. I'm not saying we're not going to use
11 Thursday, but what I'm trying to do is save people's
12 time and trouble and travel time, etc., by trying to get
13 it done before Thursday if possible. So that's sort of
14 the go for.

15 MS. BELENKY: But it's possible, then, that
16 someone who now is being told it will be the end of the
17 day Wednesday, and changes everything to get there by
18 then, it will actually be Thursday morning, and I guess
19 that's where I'm --

20 HEARING OFFICER CELLI: That's a reasonable
21 concern and I think that's true, but now is Mr. Powers,
22 or Dr. Powers, going to be testifying by telephone?

23 MS. BELENKY: He was hoping to appear in person
24 this time, but I'm not sure that he can appear in person
25 at the end of the day on Wednesday, I would have to

1 contact him. And by the end of the day, my experience
2 with this Committee has been that that could be quite
3 late in the evening.

4 HEARING OFFICER CELLI: Well, we're trying not
5 to have it be tortuous. We'll see if we can't finish in
6 a reasonable hour. I'm really, as I'm sitting here
7 looking at the first day, which is Project Description,
8 Storage, Gas, Glint and Glare, and Cul 1, I really think
9 that we can get this thing done by dinner time on Day
10 One.

11 And Day Two, which is Bio, Alternatives and
12 Override, I suspect we'll be finished in the afternoon.
13 But then again, I'm not clairvoyant and anything can
14 happen, and things can go long, and I don't know, so we
15 have the room for things to spill over into Thursday,
16 but it's quite possible that we'll be done Wednesday
17 afternoon.

18 MR. GALATI: Mr. Celli, I added up all the time,
19 as well, and I just want to remind everybody that we've
20 already had three days of hearings on this project, and
21 that what we're having hearings on are very focused
22 issues related to reopening the evidentiary record in
23 these particular areas. We're not opening up all of
24 these subject areas, just like with Cul 1, we have 15
25 minutes of testimony to provide you in Cul 1, staff

1 doesn't have very much, the Committee has some questions
2 about the proposals, and then you'll open it up to
3 public comment. This is not going to be the way the
4 Cultural hearing went last time, which took most of a
5 day.

6 HEARING OFFICER CELLI: Right. See, that's the
7 thing, we're are only talking about Cul 1, but Cultural
8 is going to, see, that's the wild card, is how much
9 public comment are we going to get, and that's why it's
10 hard to say how much time this is all going to take.

11 MR. GALATI: And Traffic and Transportation are
12 what have we learned from Ivanpah that changes the
13 analysis that was already done for Palen, and it isn't
14 reopening all Glint and Glare issues, and all of the
15 visual issues, we're not going through all the things we
16 had to go through before.

17 HEARING OFFICER CELLI: No, it's just Aviation,
18 but we do have a lot of evidence that has come through
19 on that, so we expect robust discussion on that.

20 MR. GALATI: Correct, but I still think that,
21 you know, you will be with Traffic and Transportation
22 done in an hour and a half.

23 HEARING OFFICER CELLI: Yeah. Well, that's
24 pretty much how I'm seeing it, but again, we'll see,
25 there could be a lot of public comment, we'll have to

1 deal with public comment as we get it.

2 MR. GALATI: Yeah, we support the schedule that
3 you're talking about now, which is as laid out in our
4 Pre-Hearing Conference and staff's, and we think we'll
5 be able to make it so Mr. Adams can leave on Tuesday,
6 and we think that this will accommodate all the Biology
7 witnesses on Wednesday.

8 HEARING OFFICER CELLI: Okay. It's really
9 important that Sean Smallwood, because we want to hear
10 from him, and he's a very important witness, that he has
11 a good phone connection because we're going to need to
12 be able to hear him very clearly.

13 MS. BELENKY: Well, I'm hoping he can just
14 appear in person, that is our preference, that is what
15 we had intended, he couldn't appear in person on Tuesday
16 or Thursday, he's trying to change his schedule and be
17 able to come on Wednesday.

18 HEARING OFFICER CELLI: Well, I do appreciate
19 that, Ms. Belenky. That would be a big help. And I
20 think that we really do need to spend a big chunk of
21 Wednesday on Bio, I mean, that is really a big one here.
22 So with that, then, let me see, Ms. Winter King,
23 anything further on scheduling? Because I think it
24 sounds like we've got a plan here.

25 MS. KING: Uh, nope. It sounds all right to me.

1 HEARING OFFICER CELLI: So what that means then,
2 Ms. King, is that Cul 1 would be on Tuesday afternoon,
3 rather than Wednesday.

4 MS. KING: Yes, I understand. Thank you.

5 HEARING OFFICER CELLI: Very good.

6 MS. ANDERSON: Excuse me, Hearing Officer Celli?
7 This is Ileene Anderson. And with regards to Bill
8 Powers' availability, he is really only available on the
9 morning of the 30th or the morning of the 31st.

10 HEARING OFFICER CELLI: And so is the 30th
11 Tuesday or Wednesday, I'm sorry.

12 MS. ANDERSON: The 30th is Wednesday.

13 HEARING OFFICER CELLI: Okay. And he would be
14 there for Project Description?

15 MS. ANDERSON: I believe yes, with the changed
16 circumstances, so to speak, yes.

17 HEARING OFFICER CELLI: Would he be available by
18 telephone for Tuesday?

19 MS. ANDERSON: He did not state that he was
20 available, I can try to double-check with him.

21 HEARING OFFICER CELLI: Here's what I was
22 thinking. Originally we were going to start with
23 Project Description, Storage and Gas, first thing on
24 Tuesday the 29th. And then he's going to testify about
25 Alternatives and Overrides, which is the last thing on

1 the 30th.

2 MS. ANDERSON: You know, I can check with him.
3 He said he wasn't available on the afternoon of the 30th
4 when I last talked to him.

5 HEARING OFFICER CELLI: Okay. Can you check in
6 again --?

7 MS. ANDERSON: Yeah.

8 HEARING OFFICER CELLI: Great. Thank you. All
9 right, if that's the case, then I would probably, I
10 don't know, I should probably -- there are bigger minds
11 than mine out there, you probably have better ideas than
12 mine, but I'm thinking that if we have to move Project
13 Description, Storage and Gas over to Day Two --

14 MR. GALATI: Again, I'm confused as to why Mr.
15 Powers would have comments on Project Description. The
16 testimony that he has provided is the infeasibility of
17 alternatives --

18 HEARING OFFICER CELLI: Don't forget that all of
19 this Project Description came in rebuttal, all of the
20 parties testimony came in --

21 MR. GALATI: No, it didn't. Natural gas
22 consumption is Project Description, thermal energy
23 storage is Project Description, we had it on the list,
24 so the only issue is the Revised Phasing Plan --

25 HEARING OFFICER CELLI: Right.

1 MR. GALATI: -- that's all, that is the change
2 in Project Description.

3 HEARING OFFICER CELLI: That is correct.

4 MR. GALATI: And I want to understand what Mr.
5 Powers might be testifying to or about, other than I
6 don't like the Revised Phasing Plan. That's a legal
7 argument of whether or not you should approve one tower
8 or two towers.

9 HEARING OFFICER CELLI: Right. I can't guess as
10 to what Mr. Powers is going to testify about, but what I
11 would say is that, because this came late in the game,
12 we would certainly give him the opportunity to testify
13 in rebuttal to what came in on Project Description since
14 there wasn't an opportunity to do that. So I don't want
15 to cut him short, I want to give him every opportunity,
16 the question is, what is his availability right now? I
17 don't think it would take that long, frankly, it's not
18 that big a topic, Project Description, but we want to
19 give him that chance.

20 MS. BELENKY: This is Lisa Belenky, I'm sorry, I
21 feel like there's a little bit of mixing here that's
22 going on. The issues around storage were also mixed in
23 with the question of Overriding Considerations and
24 Alternatives. And so all of those actually are somewhat
25 tied together, and Mr. Powers did provide testimony on

1 alternatives, on the feasibility of storage, on the
2 feasibility of alternatives that do or don't have
3 storage, other kinds of storage; so those issues which I
4 think you've now tried to push back and subsume into
5 something called Project Description, those storage
6 issues, are something that he has provided testimony on,
7 and the overriding considerations topic area also
8 included this issue of the storage, which now there is a
9 new proposal from the company, that I still don't know
10 that I completely understand, but it is to somehow push
11 the storage into a later date for a new, some sort of
12 condition, as opposed to being part of the project, or
13 potentially part of the project. So all of those
14 questions are issues that Dr. Powers, Bill Powers, has
15 looked at, and would be potentially testifying about.
16 And by breaking it up in these ways, it means that
17 perhaps he's going to need to be available two days,
18 which may or may not be fine, we're trying to find out.
19 I am a little bit confused with the tone of this whole
20 conversation as though this schedule was put out ages
21 ago and we all could have lined up all our experts for
22 this potential schedule, which is not true. It was put
23 out a day ago.

24 HEARING OFFICER CELLI: That's correct.

25 MR. BELENKY: And that expert we've been working

1 with for months, who gave us dates, and we put them in
2 our Pre-Hearing Conference Statement. It is very
3 typical that during the Pre-Hearing Conference, we have
4 to negotiate to change things around for different
5 people's witnesses, which is one reason that Glint and
6 Glare is going on Tuesday.

7 HEARING OFFICER CELLI: Right, that's what we're
8 doing right now and, you're right, none of this is
9 etched in stone yet because we're trying to iron out all
10 these wrinkles and figure it out. We've got to
11 accommodate Jim Adams, we've got to accommodate Sean
12 Smallwood, and we have to now accommodate Bill Powers.

13 MR. GALATI: I could provide some clarity
14 because I think something that Ms. Belenky had said
15 provided clarity for me. We put storage here in Project
16 Description specifically to answer staff's questions
17 about is the current project designed to be able to take
18 storage later. That is a Project Description question.

19 We also have Storage in Overrides, and also
20 Storage comes up in Alternatives. So if Mr. Powers
21 wants to testify in Project Description on Storage that
22 we did not design the project to take storage later,
23 that's an engineering question that I didn't see any
24 testimony filed on that. So when I said he didn't file
25 any testimony on Project Description, in my mind this

1 thermal energy storage is not *only* in Project
2 Description, it's just this limited question that staff
3 had for us, "Did you really design the project layout to
4 accommodate storage in the future?" And we are prepared
5 to answer that question, we actually filed testimony on
6 that point.

7 We also discussed storage and the benefits of
8 storage in the future in our overrides and in our
9 infeasibility, so maybe that helps?

10 MS. BELENKY: This is Lisa Belenky. It helps to
11 the extent that you think that Mr. Powers did not
12 provide testimony on the storage issue, which he in fact
13 did, as to whether the heliostat field as designed was
14 sufficient for storage. That is in his rebuttal, I
15 believe. So, yes. So those are all issues in which we
16 would want to be able to have him testify as part of the
17 panel.

18 MR. GALATI: When we talk about storage, if it
19 accommodates him to talk about storage on Monday, or
20 Tuesday, we can talk about storage altogether or
21 individual, however the Committee would want.

22 HEARING OFFICER CELLI: We could. One moment.
23 So one of the things that I think might accommodate
24 everybody would be to -- and Ms. Belenky, or Ms.
25 Anderson, either one of you, with regard to Dr. Powers'

1 testimony, if we moved project description which
2 includes storage and gas over a long with alternate
3 alternatives and overrides on Wednesday afternoon, after
4 Bio, then that would be essentially all of the areas
5 that Dr. Powers would be needing to address. Correct?

6 MS. ANDERSON: Yes, I think that's correct,
7 except he isn't available on Wednesday afternoons that I
8 know of, so I have tried to contact him and I'll wait
9 for a call back.

10 HEARING OFFICER CELLI: Or we could do it first.
11 We could do it before Bio, and do it in the morning.
12 So, Ms. Belenky, then, if we had Alternatives and
13 Overrides, Project Description, Storage, and Gas in the
14 morning, he's available for that?

15 MS. BELENKY: Yes. Yes, he is available on
16 Wednesday morning, we know that for sure.

17 HEARING OFFICER CELLI: Okay.

18 MS. BELENKY: But I believe other parties have
19 expressed a desire to do the project description on
20 Tuesday morning, so I'm just trying to figure it out,
21 what we're doing.

22 HEARING OFFICER CELLI: Well, actually I'm
23 trying to go witness by witness because, as we raise
24 these, people are telling me their witnesses aren't
25 available. Mr. Powers, or Dr. Powers is available

1 Wednesday morning. If I put Project Description because
2 Turlinski and Stucky are going to be there for Storage
3 and Gas and Project Description and Alternatives and
4 Overrides, all week anyway, I believe, then if we put
5 that over to Project Description, Storage, Gas,
6 Alternatives and Overrides go on Wednesday morning,
7 followed by Bio, into the night as late as we need to,
8 then we would have Glint and Glare and Cultural on Day
9 One. And that's everything with nobody left out because
10 Jim Adams would be available for Glint and Glare on Day
11 One, right? The Cultural people are available for Day
12 One, Sean Smallwood is now available if at least by
13 phone for Bio on Day Two, and Dr. Powers is available
14 Wednesday morning for Project Description, Storage, Gas,
15 Alternatives and Overrides. So I think I've got
16 everybody accommodated. Right? Someone speak up if I'm
17 missing something here.

18 MR. GALATI: No, the only thing I'll speak up is
19 I think that Tuesday will be a pretty short day.

20 HEARING OFFICER CELLI: Yeah?

21 MR. GALATI: And Wednesday will be a pretty
22 packed day. And we're having, if the Committee is
23 comfortable with that, we're comfortable with that.

24 HEARING OFFICER CELLI: Well, this is what we
25 do. So I think it'll be okay. We'll make this work.

1 Wednesday looks like it's going to be a long day, but in
2 doing it this way, we will have accommodated everybody.
3 So if there's anything further on that before we move
4 on, Petitioner or staff, on scheduling of the hearings,
5 the order of the topics, go ahead.

6 MS. MARTIN-GALLARDO: Staff would just like to
7 make, well, has one question. Do you anticipate when an
8 Order -- do you know when we could anticipate an Order
9 on this Schedule just so that --

10 HEARING OFFICER CELLI: There will not be an
11 Order. This is our Pre-Hearing Conference. I supposed
12 I can send a memo out that says "this is the order that
13 we're going to be doing these things," and in fact I
14 need to do that because I have two Intervenors that
15 aren't here, so I will put out a memorandum that says
16 "per our Pre-Hearing Conference, this is the proposed
17 order that we're going to take the topics in."

18 MS. MARTIN-GALLARDO: That sounds great. Thank
19 you.

20 HEARING OFFICER CELLI: Okay, so let me make a
21 note about that. Anything from Basin and Range Watch?

22 MR. EMMERICH: No, we really don't have any
23 specific requests now.

24 HEARING OFFICER CELLI: Okay. Ms. Belenky,
25 anything further on the order?

1 MS. BELENKY: I don't think so. I was just
2 trying to make sure all of the categories -- so Glint
3 and Glare -- because some people have talked about
4 traffic and other people call it visual, and you're
5 calling it Glint and Glare. I just want to make sure
6 we're talking about the exact same thing.

7 HEARING OFFICER CELLI: Correct, it's both.
8 It's whatever the parties need it to be. What we're
9 really talking about are the Glint and Glare effects on
10 Aviation. So I think it's more properly in Traffic and
11 Transportation because visual is really about the
12 aesthetics and the look of the project, and we've
13 already pretty much tackled that. So, really, I think
14 the focus is Traffic and Transportation. So anything
15 further with regard to the order of the topics from
16 Center for Biological Diversity?

17 MS. BELENKY: No.

18 HEARING OFFICER CELLI: Okay, let's hear from
19 Winter King, then. Anything further on the order of
20 topics?

21 MS. KING: Nope, nothing from us.

22 HEARING OFFICER CELLI: Okay, thank you. That
23 covers everybody who is here today.

24 The next discussion is about the Exhibit List.
25 I'm not going to take time to talk about it right now

1 other than to say that, with the new eFiling system, you
2 go online and you will see how we have -- we hope we got
3 it right, but we expect the parties to do their own
4 proofreading and make sure that we attributed your
5 exhibit with the exhibit number you wanted us to use.

6 Okay?

7 So that's really it on Exhibit Lists. Is there
8 any question about exhibits from any of the parties?

9 MR. GALATI: I have a comment.

10 HEARING OFFICER CELLI: Yes.

11 MR. GALATI: Staff in its rebuttal had done a
12 new analysis and a risk assessment associated with Avian
13 that we have not seen. We will be handling it in
14 surrebuttal orally, but we may have a few exhibits of
15 charts and data that's already been either filed or just
16 visual aids that we will use. We will docket all of
17 those by Friday, and I just wanted to let everybody
18 know. I know I complain the most when I come to a
19 hearing and there is something going up on the screen
20 I've never seen before, so I just wanted to let
21 everybody know that won't happen from us, we'll docket
22 everything by Friday. We will probably call them
23 exhibits, I don't know if the Committee wants to take
24 them, we can decide whether they'll be admitted at --

25 HEARING OFFICER CELLI: Well, you will move them

1 at the hearing and we will hear objections if they come
2 up.

3 MR. GALATI: Okay, but we will file some charts
4 and tables and graphs, specifically surrebuttal to what
5 staff recently did in their Appendix for their new risk
6 assessment for Avian.

7 HEARING OFFICER CELLI: Staff, anything on
8 exhibits?

9 MS. MARTIN-GALLARDO: I just wanted to mention
10 that we noted from the Exhibit List that the Hearing
11 Office put out on the Web that staff will be using the
12 Petitioner's numbers as exhibits in some areas. We
13 noted that we marked as exhibits things that had already
14 been marked as exhibits, so we used the prior number.

15 HEARING OFFICER CELLI: Right.

16 MS. MARTIN-GALLARDO: Also, similarly to what
17 Mr. Galati just said, staff is docketing today a couple
18 of things, one being a Cultural Resources Opening
19 Statement Powerpoint, so that everybody can see that
20 before. And there may be one or two other issues that
21 are docketed that we may mark as exhibits, for example,
22 we are now anticipating Mr. Vidaver and Mr. Hesters as
23 being sworn in to give testimony will need to put in
24 their resumes, etc., things like that.

25 HEARING OFFICER CELLI: Okay. There's a

1 distinction I want to draw right now, which is sort of
2 what I would consider housekeeping, which is the
3 foundation of your witnesses' resumes and whatnot, and
4 new evidence.

5 And this Committee is adamant that new evidence
6 will not be received into evidence if nobody has seen it
7 until the Evidentiary Hearing because everybody should
8 be on notice, everybody should have received everything.
9 So we understand that these things do happen, and it's
10 sort of exhibit by exhibit, we'll have to figure it out
11 as to each one, but this Committee disfavors late filed
12 evidence. So that said, again, you will make your
13 motion, if there are people who are going to object to
14 anything that you want to put in, we'll hear those
15 objections, and we will make a ruling at the Evidentiary
16 Hearing.

17 Any other questions from Basin and Range Watch
18 regarding exhibits or the Exhibit List?

19 MR. EMMERICH: No, not at this time.

20 HEARING OFFICER CELLI: Okay, Center for
21 Biological Diversity about exhibits?

22 MS. BELENKY: No, not at this time. I hadn't
23 seen that there was a separate list, so I'll double-
24 check that list.

25 HEARING OFFICER CELLI: Please do. That's the

1 whole point of this section, I want to make everybody
2 clear. In the past, I've put together an Exhibit List
3 and passed it around and sent it to everybody to look
4 at, now we're on this new system with eFiling and you
5 just need to go on the eFiling and make sure that we got
6 your numbers right because it's the Hearing Office that
7 puts in the exhibit number, and if we've got something
8 wrong, then you need to let us know so we can correct it
9 before the Evidentiary Hearing. So thank you, Ms.
10 Belenky.

11 Ms. King, anything on exhibits?

12 MS. KING: Nope.

13 HEARING OFFICER CELLI: Okay, thank you. Then
14 we're into really the next two. In this case, I have
15 everybody's witness list, I don't see a problem with any
16 of the witnesses. I want to be clear that I know Sean
17 Smallwood has from outside of this arena he used to be
18 an umpire in Little League where I was a coach for many
19 years with my son, I've never talked power plants with
20 him, I've never talked environmental law, or anything
21 like that with Dr. Smallwood, but I do know him from
22 before. That wouldn't prejudice me or bias me in any
23 way, but I thought I should disclose that. If anybody
24 has any questions about that, I'm happy to entertain
25 them, but --

1 MR. GALATI: Did you ever tell him he needed
2 glasses?

3 HEARING OFFICER CELLI: No, I never really got
4 in his face, actually.

5 MR. GALATI: You missed an opportunity, I think.

6 HEARING OFFICER CELLI: So the only thing is, I
7 would question his judgment about having kids throw hard
8 balls as hard as they can at him from not far distances,
9 but, no, he's a fine person, but I do know him from
10 before and I just thought I better disclose that.

11 Lastly, we're talking about witnesses -- I
12 wanted to talk about the informal process that we're
13 going to employ. To save time, we will deem all
14 parties' opening and rebuttal testimony as their direct
15 evidence. We've done this before and we're going to
16 continue with this practice.

17 There is no need to discuss an expert's resume
18 if we have them in writing and there's no objection to
19 the witness qualifying as an expert. If you have an
20 objection, state the objection first and avoid speaking
21 objections, so, please, if you have an objection tell us
22 what the objection is and the Committee will rule on the
23 objection.

24 The informal process will generally proceed in
25 the following order: all parties' experts on a topic at

1 hand will be sworn in as a panel. Petitioner's experts
2 will then provide a brief opening statement summarizing
3 the key points and conclusions of their testimony,
4 followed by staff's experts who will provide a brief
5 opening statement summarizing their key points and
6 conclusions of their testimony, followed by the
7 Intervenor, and typically I call the Intervenor in the
8 order in which they petition to intervene.

9 So we will go through each Intervenor and their
10 experts will provide opening statements, some raising
11 their key points and conclusion of testimony. And the
12 Committee really appreciates open discussion between the
13 expert panelists, generally led by the Committee, and we
14 envision the testimony would include discussions among
15 the panel without lawyers asking questions.

16 You want to please remind your witnesses to
17 identify themselves every time they speak in order to
18 provide a clear transcript. If the panelists appear to
19 be unduly confrontational, combative, or the panel
20 discussion becomes unproductive in any way, the
21 Committee will probably take over the questioning, but
22 the discussion will continue until the Committee
23 determines that it has heard enough evidence.

24 I want to say that it is not really -- we are
25 not looking for witnesses to question each other, we are

1 looking for them to discuss their points and assert
2 their points, and let the other parties. So we're not
3 looking to turn your witnesses into lawyers and turn to
4 another witness and say, "Isn't it true that you did
5 this, this, or that?" I mean, we're not interested in
6 that. This is a discussion among experts on the topic
7 of their expertise.

8 Now, attorneys will be allowed to follow-up with
9 questions of their own, and we've always done this. And
10 they can ask their own witnesses or expert witnesses to
11 the extent the Committee finds the questioning
12 productive, but I want to be clear, all of you attorneys
13 please, this is not -- in fact, all of you parties, not
14 just to single out the attorneys, but all parties --
15 this is not an opportunity to rehash and repeat the
16 testimony we've already heard. So, you know, "Are you
17 saying you really think that what you said is really the
18 way it is?" We don't want that. We want, you know,
19 they've made their points, they've made their
20 statements, follow-up, rehabilitate as needed, but we
21 want to be efficient about this. And we do not want
22 repetition.

23 At the conclusion of the attorneys' examination
24 of the experts, the Committee may ask witnesses
25 additional questions or allow panelists to ask

1 additional questions of each other, or to follow-up with
2 their answers. The Committee may revert to standard
3 formal examination, that is direct and cross-examination
4 as we all know it to be. That will be at the discretion
5 of the Presiding Member.

6 If we allow cross-examination, be ready to state
7 the page number and line of any testimony you seek to
8 cross-examine a witness about, so be prepared. Remember
9 to allow the witnesses to finish their answers, do not
10 cut off witnesses when they're speaking.

11 Now, having said that, and since I know that
12 most everybody now, since we've already been through
13 evidentiary hearings once with the informal process in
14 the Palen case, I just want to find out from the
15 parties, are there particular witnesses that you need to
16 cross-examine apart from the way that we've handled it
17 heretofore, which is just asking the attorneys, "Do you
18 need some follow-up on any area? Go ahead."

19 So is there anyone in particular, Mr. Galati
20 that you think you need to cross?

21 MR. GALATI: Yeah, I listed those in my Pre-
22 Hearing Conference and I listed times that I anticipated
23 crossing, and that I would stand by those times.

24 HEARING OFFICER CELLI: Okay, but --

25 MR. GALATI: If the Committee asks some

1 questions that I was going to ask, I won't ask them
2 again.

3 HEARING OFFICER CELLI: Right.

4 MR. GALATI: But this is one of the things that
5 I find difficult and it might be that I'm just old and
6 used to the old way, I don't know what you're going to
7 ask. So, for example, last time we went to Avian and
8 the Committee asked not a single question on Avian. I
9 didn't know what I'm supposed to rehabilitate. I have
10 witnesses sitting there who didn't say some of the
11 things that they would have liked to have said because I
12 was trying to keep my opening statement short and to the
13 point. So if you don't ask any questions, I have a lot
14 of questions I'd like to ask; if you ask those
15 questions, I won't. So it's hard for me to anticipate,
16 but I do have a question, at least one, for every
17 witness I identified that I wanted to cross-examine.

18 HEARING OFFICER CELLI: Okay, and that's fair
19 and we'll give you that opportunity.

20 MR. GALATI: Thank you.

21 HEARING OFFICER CELLI: But I just want to make
22 sure that we don't have a transcript full of lawyers
23 arguing over the form of the question and that sort of
24 thing. I mean, this is open season, we're letting your
25 witnesses have narrative answers.

1 MR. GALATI: Yeah --

2 HEARING OFFICER CELLI: So I just want to avoid
3 argumentative and that sort of, you know, show business
4 sort of grandstanding thing that trial lawyers do.

5 MR. GALATI: Yeah, I haven't found that that's
6 been very effective for me at the Commission, so I don't
7 do that.

8 HEARING OFFICER CELLI: Any questions about any
9 of this, Ms. Martin-Gallardo?

10 MS. MARTIN-GALLARDO: No.

11 HEARING OFFICER CELLI: Okay, Mr. Emmerich,
12 Kevin Emmerich?

13 MR. EMMERICH: No, we don't have any objection.

14 HEARING OFFICER CELLI: Okay. And again, we're
15 asking, you know, if anyone has any questions about the
16 procedure that we're going to employ.

17 Ms. Belenky?

18 MS. BELENKY: I don't have any questions. I
19 shockingly agree with Mr. Galati that it depends how the
20 questioning and the panel goes whether or not I would
21 have specific cross-examination or any remaining
22 questions. But we certainly want to reserve our right
23 to ask them if for some reason it hasn't come up during
24 the panel.

25 HEARING OFFICER CELLI: And that right is

1 preserved. Really ideally, if we do this right, then
2 we've exhausted everybody by the time we get to the
3 lawyers and say "is there any follow-up?" So you will
4 have that opportunity.

5 Any questions about the way that we are going to
6 proceed, Ms. King?

7 MS. KING: Nope.

8 HEARING OFFICER CELLI: Okay. Then we're going
9 to move to the next topic which is the Briefing
10 Schedule. And Ms. Belenky, you said that you wanted
11 some dates certain as to when briefs would be due. The
12 current schedule calls for opening briefs two weeks
13 after transcripts become available and rebuttal briefs
14 three weeks after transcripts become available. The
15 parties are not required to file briefs.

16 What I will do is I would issue a memo that
17 specifies the briefing deadlines as soon as we get the
18 transcripts because everything depends upon the
19 transcripts and it wasn't Palen where we had the one
20 transcript, it took months to come out. So we're not
21 going to require the parties to file briefs without a
22 transcript.

23 But the way I will handle it is I'm going to,
24 when we receive the transcript, we send out a Notice of
25 Availability of Transcripts, and I will send out a memo

1 that says the transcripts are in, opening briefs are due
2 on such and such a date, rebuttal is due on such and
3 such a date. Okay? Any question on that?

4 MS. MARTIN-GALLARDO: You had said something
5 about putting out questions yourself. Would that be in
6 that order when the Notice of Availability came out?

7 HEARING OFFICER CELLI: Or before. You know,
8 let's remember where we are, we've already been through
9 evidentiary hearings, we're really focusing on those
10 issues that were unclear, that were the basis of the
11 PMPD, of the denial of the PMPD that was recommended
12 initially. So we are pretty focused on what we're
13 dealing with here now. I think the issues are clear,
14 the Committee may still have some questions and we would
15 put those out by way of memo, as I think we did last
16 time, we sent a memo out that said the Committee is
17 interested in knowing more about these things, or asking
18 the parties to please brief these issues. So that's a
19 possibility and hopefully if we get a solid enough
20 record, we wouldn't need to do that.

21 Any question on the Briefing Schedule, Kevin
22 Emmerich?

23 MR. EMMERICH: No questions.

24 HEARING OFFICER CELLI: Ms. Belenky, any
25 question about briefing?

1 MS. BELENKY: I don't have a question about
2 briefing. Obviously people understand that having a
3 floating date makes other things hard to schedule, but
4 the other request is that we've made repeatedly is to
5 have two weeks for the reply and not just one. So I'd
6 like to have that expressly addressed, as well.

7 HEARING OFFICER CELLI: Well, you know, that's
8 not a bad idea because in this case, because of the --
9 I don't think we have the rush that we had before, so
10 one extra week on briefing I don't think would --

11 MR. GALATI: We still have the rush we had
12 before, we missed that deadline by eight months. We've
13 lost one PPA most likely. We have a rush to get a
14 decision in time so we can do -- and it's laid out in
15 our testimony why we would like a decision in October.

16 HEARING OFFICER CELLI: One moment. (Pause)
17 We're still on the record, and in conferring
18 with the Committee, it seems that we probably could
19 accommodate the parties with two weeks on the rebuttal
20 and still keep the schedule. So remind me when we talk
21 about that again at the Evidentiary Hearing, Ms.
22 Belenky, that we would have two weeks for opening briefs
23 and two weeks for rebuttal briefs.

24 And then, Ms. King, anything on briefing?

25 MS. KING: We had noted in our Pre-Hearing

1 Conference Statement that currently the schedule has a
2 hard deadline for the publication of the PMPD, and so I
3 don't know if we're on to that yet, but since we have a
4 floating deadline, at least until the transcripts come
5 out for briefs, it might make sense to also key that
6 publication to when the Reply Briefs are filed, rather
7 than having a date that could possibly be before the
8 briefs are done.

9 HEARING OFFICER CELLI: Right. Of course, you
10 know, the briefs are contingent upon transcripts coming
11 out on time. We've had a little bit of a meltdown with
12 the transcripts at one point in the original Evidentiary
13 Hearing, and so we're onto that and we aren't likely to
14 let that happen again. One of the ways that we can
15 avoid the problem is that we will have a Court Reporter,
16 as we do today, who is tape recording rather than the
17 old fashioned stenographer-type Court Reporter, that
18 would save us a lot of time and trouble, that's where we
19 went awry before. So I believe we're going to have a
20 tape recorder type Court Reporter in Blythe, and so I'm
21 expecting an expedited transcript hopefully within about
22 five or six days of the closing of the Evidentiary
23 Hearing, and so when that day comes, I'm going to send a
24 memo out that says we've received the transcripts, two
25 weeks from today is X date and that is the due date for

1 your opening brief, and two weeks after that is whatever
2 date that is, is the date that the rebuttal brief will
3 be due. Okay?

4 MS. KING: Yeah, I wasn't concerned about that,
5 I was just noting that since we don't know what those
6 dates are, the existing scheduling order has the PMPD
7 being published on September 8th --

8 HEARING OFFICER CELLI: Right.

9 MS. KING: So my suggestion was just to avoid
10 having that date come before the briefs are all in, that
11 that also be keyed in some way to the new briefing
12 schedule, or clarified when you send around that memo.

13 HEARING OFFICER CELLI: I see what you're
14 saying. So that's correct, I mean, you know what? We
15 would have to make sure that we receive the briefs
16 before the PMPD publishes and so, much as I'd like to
17 keep that September 8th date as solid, we know typically
18 those days are elastic.

19 MR. GALATI: That's why we were not happy about
20 an extra week being added to the reply brief. Again,
21 the issues are focused, we have briefed all the legal
22 arguments --

23 HEARING OFFICER CELLI: But this is contingent
24 on the transcripts, of course, and if we get them off
25 sooner because we're going to ask for a rush, then we

1 will get them sooner.

2 MR. GALATI: Okay.

3 HEARING OFFICER CELLI: If they are late, we may
4 have to adjust the briefing schedule, too. We can do
5 that. But, you know, what typically happens is that,
6 well, the Committee gets their decisions out usually as
7 on time as they possibly can. In light of the whole
8 process, you know, we're pretty good about that. And so
9 we will do what we need to in order to get this Decision
10 written and out on time.

11 I'm not sure I answered all of your questions,
12 though, Ms. King. You asked something else.

13 MS. KING: No, that was my only question and it
14 sounds like we're just going to deal with that deadline
15 once we get the transcripts out and know what the
16 briefing schedule is.

17 HEARING OFFICER CELLI: Right. That's our
18 current go for right now. So thank you on that.

19 Lastly, I want to talk about public comment.
20 Again, when we do the Evidentiary Hearings and we're
21 about to take public comment, before we do, I just want
22 to say that we will be at Palo Verde College Campus in
23 Blythe July 29th, 30th, and possibly 31st. The
24 Evidentiary Hearings will start each day at 9:00 in the
25 morning.

1 Evidentiary Hearings will go as late into the
2 evening as the Committee deems necessary. The Committee
3 will hear public comment at the close of taking evidence
4 on both days. Now, we said 5:00 on Tuesday and we will
5 keep that. If there are a large number of people who
6 are there, we may even take public comment during the
7 lunch break, so we would have two public comments.

8 On whatever day we finish taking evidence,
9 whether that's Wednesday or Thursday, at the close of
10 the hearing we will take public comment immediately
11 following the close of the hearing. So in other words,
12 we finish at 3:00 on Wednesday, we would take public
13 comment then, not wait until 5:00. So I hope that's
14 clear.

15 If possible, if we finish the hearings on
16 Wednesday, then obviously we will not be taking public
17 comment on Thursday, okay? Because we're not going to
18 have hearings on that day. We will take public comment
19 immediately following the hearing. If the Committee
20 convenes a Closed Session on August 4th, we left that
21 date open in the event that there were some auditory
22 problems, audiovisual problems with the WebEx and
23 whatnot, if we need to take evidence on Monday the 4th,
24 then we would take public comment at the close of that
25 day's evidence, on that Monday's evidence. If we don't,

1 but the Committee chooses to convene a Closed Session,
2 we would take public comment immediately upon opening
3 that Closed Session, and then we would go into Closed
4 Session and not take any further public comment.

5 So I hope that's clear. The options are on
6 Monday we're either taking evidence, then taking public
7 comment, then going into Closed Session, or if we're not
8 taking evidence, we're taking public comment, then going
9 into Closed Session on Monday. Okay?

10 So is there any question about that?

11 MR. GALATI: I just have one question regarding
12 your Closed Session. When you meet for purposes of
13 going into Closed Session, I'm confused whether or not
14 I'm supposed to be present and the parties are supposed
15 to be present that you may ask a question.

16 HEARING OFFICER CELLI: You know, I think that's
17 a good question because so far --

18 MR. GALATI: I've been attending.

19 HEARING OFFICER CELLI: Yes. According to
20 Commissioner Douglas, parties probably should not attend
21 the Closed Session because all we do is we say, "Good
22 morning, everybody. We're on the air. We're about to
23 have our Closed Session. Is there public comment?" We
24 take public comment and then we go into Closed Session
25 and then it's dead air. There's no need to sit here for

1 that, there's no need for anyone to travel here for
2 that. So we would recommend against that and that's the
3 recommendation of the Committee.

4 MR. GALATI: Thank you.

5 HEARING OFFICER CELLI: Also, there's never an
6 announcement of any import at the close of a Closed
7 Session, other than to say, "We just finished our Closed
8 Session, thank you. Good bye. Adjourned." So that's
9 the deal with Closed Sessions.

10 Any question, staff?

11 MS. MARTIN-GALLARDO: No, no questions.

12 HEARING OFFICER CELLI: Basin and Range Watch,
13 any further questions before we go into public comment?

14 MR. EMMERICH: No questions.

15 HEARING OFFICER CELLI: Okay, Ms. Belenky, any
16 questions before we go into public comment?

17 MS. BELENKY: No questions.

18 HEARING OFFICER CELLI: Winter King, any
19 questions before we go into public comment?

20 MS. KING: No questions.

21 HEARING OFFICER CELLI: Thank you.

22 MR. GALATI: I apologize, can I have Ms. Grenier
23 come up? She has some housekeeping items that might be
24 important before public comment. Sometimes people do
25 public comment and then drop off.

1 HEARING OFFICER CELLI: Thank you. Go ahead,
2 Ms. Grenier.

3 MS. GRENIER: Thank you. I just wanted to
4 mention for those of you who have not attended public
5 hearings out at Palo Verde College, it's not right in
6 Blythe. This was my first time being there and I was
7 surprised, the first time I went out there a few weeks
8 ago, it's a 20-minute drive from downtown Blythe. Your
9 map has the right location in the Hearing Notice, but I
10 want people to be really clear, allow enough time if
11 you're staying overnight in Blythe the night before,
12 like many of us are, to allow at least a half hour.
13 Classes will be ongoing that morning, as well, so there
14 could be "traffic" as you drive out to the campus.

15 The other thing I wanted to mention is we will
16 be providing box lunches on both days, again, because
17 the campus is in a very remote area, there are no other
18 facilities around, there's not a Starbucks in driving
19 distance, Charlie will be disappointed, but it is what
20 it is. So we're going to provide box lunches and then,
21 as Scott mentioned, we will be providing dinner on
22 Tuesday night.

23 HEARING OFFICER CELLI: And for the record, when
24 you say "we will be providing," who is we?

25 MS. GRENIER: The Applicant -- or the

1 Petitioner.

2 HEARING OFFICER CELLI: Okay, thank you.

3 MS. GRENIER: Palen Solar Holdings. There is an
4 onsite vendor who does provide some food, so if you
5 don't want a box lunch, you might be able to find
6 something there within the campus right across from
7 where we are. But I just wanted to mention those things
8 logistically. If you prefer your own food, you better
9 bring it with you. Okay, thank you.

10 HEARING OFFICER CELLI: Thank you. Okay, Mr.
11 Edwards, if you -- Roberts, I'm sorry -- Dr. Roberts, if
12 you wouldn't mind coming to the podium and letting us
13 know whether there's anyone here who wishes to make a
14 public comment.

15 DR. ROBERTS: I do not believe so, no.

16 HEARING OFFICER CELLI: Okay, thank you. Then
17 we're going to go to the phones now and the way that I'd
18 like to proceed on the phones, ladies and gentlemen, is
19 first I'm going to call the names as people type them in
20 to see if they want to make a public comment, and then
21 you will make your public comment. And when you're
22 finished we will -- you can either hang up, or we will
23 mute you and move on down the line.

24 And when we finish calling all of the names of
25 the people who are online, we will then call the people

1 who have telephoned in and not identified themselves as
2 a computer user, and at that time we'll ask you to speak
3 up.

4 So I have first Amy Howard from National Park
5 Service. Did you wish to make a comment?

6 MS. HOWARD: No comment at this time. Thank
7 you.

8 HEARING OFFICER CELLI: Thank you. Next, I have
9 Ann Crisp. Staff? Okay, never mind. Okay, go down to
10 David Schlossberg. Does he want to make a comment?
11 Okay. Dee Bardwick, let's hear from Dee Bardwick,
12 please.

13 MS. BARDWICK: I have no comment at this time,
14 thank you.

15 HEARING OFFICER CELLI: Thank you. Is Hilliard
16 or Hillard with staff? Okay. Ileene Anderson, Janine
17 Hyne, Lisa Belenky, Lisa Worrall is with staff. Marie
18 Fleming is with Petitioner. Matt Layton is with staff.
19 Mavis Scanlon, I think she's with the Press. Let's see
20 if Mavis Scanlon wants to make a comment. Any comment
21 from Mavis Scanlon? Oh, she's not on the phone, she's
22 just on headset. So those people can't. Michael
23 Vampstad? Michael Vampstead, Vampstad?

24 MR. VAMPSTAD: Yeah, Michael Vampstad. Yeah, I
25 have no comments at this time. Thanks.

1 HEARING OFFICER CELLI: Okay, thank you. Nancy?
2 Nancy, did you wish to make a comment?

3 MS. JASCULKA: This is Nancy Jasculka and I
4 don't have any comments at this time. Thanks.

5 HEARING OFFICER CELLI: Thank you. Tanya
6 Gulesserian is a party. Paul K. I assume is Paul
7 Kramer. Tiffany North, let's hear from Tiffany North.

8 MS. NORTH: I have no comments at this time.
9 Thank you.

10 HEARING OFFICER CELLI: Thank you. And then are
11 we at the bottom of the list? Okay, then let's go back
12 to the top of the list. We've now called on all of the
13 people who have identified themselves on the WebEx, and
14 now the remaining people are those of you who have
15 called in on the telephone and are listening in. We're
16 going to unmute all of you and it's really the person
17 with the most dominant voice gets to speak first, so
18 please speak up if you wish to make a comment, call-in
19 user. If you're on the telephone and you wish to make a
20 public comment, now is the time. Please speak up.

21 Okay, the record should reflect that five call-
22 in users, and I'm asking you the third and last time, if
23 you wish to make a comment, now would be the time to
24 make your comment. So please speak up if you wish to
25 make a comment.

1 Okay, hearing none, then at this time I'm going
2 to hand the proceedings back to Commissioner Douglas for
3 adjournment.

4 COMMISSIONER DOUGLAS: All right. Well, thanks
5 everyone. We'll look forward to seeing the parties in
6 Blythe. And we're adjourned.

7

8 (Thereupon, the Hearing was adjourned at
9 3:29 p.m.)

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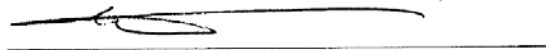
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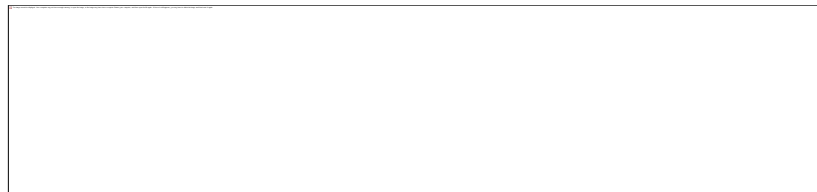
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Karen Cutler
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