STATUS CONFERENCE
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:
Application for Certification for the Lodi Energy Center
Northern California Power Agency

Docket No.

DOCKET

08-AFC-10

DATE
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CALIFORNIA ENERGY COMMISSION
HEARING ROOM B
1516 NINTH STREET
SACRAMENTO, CALIFORNIA

THURSDAY, NOVEMBER 19, 2009
10:00 a.m.

Reported by:
Ramona Cota, CERT
Contract No. 170-07-001
CERTIFICATE OF REPORTER

I, Ramona Cota, a Certified Electronic Reporter and Transcriber, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Energy Commission Status Conference; that I thereafter transcribed it into typewriting.

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

IN WITNESS WHEREOF, I have hereunto set my hand this 1st day of December, 2009.

[Signature]
Ramona Cota
CERT 00478
COMMITTEE MEMBERS PRESENT
Karen Douglas, Chairman and Presiding Member
Jeffrey D. Byron, Associate Member

HEARING OFFICER, ADVISORS PRESENT
Kenneth Celli, Hearing Officer
Kristy Chew, Advisor to Commissioner Byron
Galen Lemei, Advisor to Commissioner Douglas

STAFF AND CONSULTANTS PRESENT
Rod Jones
Melanie Moultry, Staff Counsel

APPLICANT
Scott Galati, Attorney
Galati and Beck
Ed Warner
Northern California Power Agency

ALSO PRESENT
Steve Hill, Modesto Irrigation District
Michael E. Werner, California Department of Water Resources
Kenneth A. Weisel, Lodi Electric Utility

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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345
PRESIDING MEMBER DOUGLAS: Welcome to the status conference for the Lodi Energy Center.

My name is Karen Douglas; I am the Presiding Member of the Committee. To my right is Ken Celli, our Hearing Officer; to his right, Commissioner Byron, the Associate Member of this Committee. To his right is Kristy Chew, his advisor. My advisor, Galen Lemei, will be sitting right here.

So welcome. And with that I would like to turn this over to the Hearing Officer.

HEARING OFFICER CELLI: Thank you, Commissioner, Chairman Douglas.

To continue with the introductions I am going to ask that the applicant please introduce your people.

MR. GALATI: My name is Scott Galati representing NCPA.

MR. WARNER: Ed Warner, the project manager for NCPA.

MR. GALATI: And Mr. Celli, we will have some participants in the project speak to you later. I'll have them introduce themselves at
that time. Would that be okay?

HEARING OFFICER CELLI: That's great, thank you.

MR. GALATI: Thank you.

HEARING OFFICER CELLI: Staff, please.

MR. JONES: Good morning, I'm Rod Jones, the project manager.

MS. MOULTRY: Melanie Moultry, staff counsel.

HEARING OFFICER CELLI: Thank you.

Do we have any public agencies that wanted to introduce themselves at this time?

If you are going to speak later you can do that too. If you are here requested by the applicant to speak you can introduce yourself when you speak. But if there is anyone who is here from a public agency who was not invited by the applicant to speak, please come forward.

Seeing none. And members of the public.

Are there any members of the public who wish to make a comment today? I see none.

I note that we don't have a public adviser here today but if anybody comes in I'll give them an opportunity.

The Committee scheduled today's event by

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notice dated November 9, 2009. This status
conference was calendared at the request of the
applicant, NCPA, to obtain a new scheduling order
that ensures that the Lodi Energy Center's AFC can
be processed in time to meet its construction
schedule.

Currently the Committee's scheduling
order of January 22, 2009 has lapsed, with
scheduling events lagging approximately seven
months behind their originally scheduled due
dates.

To assist the Committee and participants
in understanding the issues, applicant and staff
were ordered to file proposed schedules for the
remainder of the siting process on or before
November 15, 2009. I did receive one from the
applicant.

The way we will proceed today is we will
first provide the applicant an opportunity to
summarize their view of the case status and their
recommendations for future scheduling. Then we
will hear from staff. We will then provide an
opportunity for any general public comment.

So with that we'll turn it over to the
applicant.
MR. GALATI: Thank you very much. We appreciate the Committee. And it is not lost on me that we have both members of the Committee, which in this day and age is hard to get Commissioner time, so I am very thankful that the Committee is here with your advisors.

I think the way we'd like to proceed today is I'd like to turn over the microphone to Mr. Ed Warner who is the project manager. Then have you hear a little bit from the participants, and then follow-up with the schedule that we're asking for and why. Will that work okay?

HEARING OFFICER CELLI: Please.

MR. WARNER: Thank you. My name is Ed Warner. I'm the project manager for NCPA. I'd just like to give a little background and why we're here speaking in front of you today.

NCPA filed the Lodi Energy Center AFC on September 10, 2008, approximately 14 months ago. And on November 20, 2008, approximately 12 months ago, we received data adequacy.

This project is a publicly-funded project and any delays associated with that are paid for by public funds. I just want to point that out to everyone.
The members making up this project are, 13 public entities and one co-op are the project participants for the Lodi Energy Center.

The Lodi Energy Center has come a long way in its permitting process. We have a CAISO interconnect agreement signed by all the parties, it's executed.

We have a Preliminary Determination of Compliance by the San Joaquin Valley Air Pollution Control District and the Final Determination of Compliance is due out any day. It's in publishing is what we understand.

The project will also be one of the first in the state to utilize fast-start technology.

All the emission reduction credits are owned by NCPA, not options. We own the ERCs.

The engineering contract is in place.

The power equipment is under contract under a purchase option contact agreement with Siemens.

NCPA's intent all along is to have this project available for the summer peak of 2012 to meet its public entities' needs to having the power available.
During construction the project will bring a peak workforce of between 200 and 250 crafts people in the San Joaquin Valley region.

And also to support our goal of bringing this plant on-line in 2012 NCPA has entered into a power purchase agreement with Siemens to provide the major equipment for the Lodi Energy Center.

The second payment of this option is due in April of 2010. If this payment is not made -- and this payment will come from the financing of the project. And to close the financing NCPA needs the license from the Energy Commission. If this payment is not made we risk termination of the agreement or delay in equipment delivery, which will delay our construction schedule, which we won't be able to meet the needs of our public owners.

Also in NCPA's financing we are, we are planning on utilizing a bond program called Build America Bonds. They are bonds that are subsidized by the Treasury Department for capital improvement for government agencies. And one of the -- one of the criterias of them are for the projects, the capital project to be built in either 2009 and
2010.

The Treasury Department will subsidize the interest rate 35 percent. It's a significant amount of subsidies in this financing. Over the 30 year life of the project it is estimated by our financing people that the savings by going with these Build America Bonds is approximately 120 to 130 million dollars over the 30 year financing. Which is equivalent to a little over $4 million a year a year to the public entities that are participants in this project.

These Build America Bonds do, the program does terminate in 2010. So extensive delays in the AFC process could jeopardize NCPA's having access to this program.

We understand that staff is burdened. We understand that the number of applications into the Energy Commission is at a record level. But we also -- we appreciate that fact but we also really want to point out to you the importance of this public project and the costs associated to the public with any delays of the licensing. Delays in construction which will be passed on to consumers in the public entities' service area.

Now I'd like to, I'd like to turn it
over to some of the participants. First of all
we'd like to go with Mr. Steve Hill from the
Modesto Irrigation District.

HEARING OFFICER CELLI: Mr. Hill, if you
wouldn't mind sitting right in front of that
microphone. Is that microphone working? Do I
have to turn another microphone off in order for
that to work?

MR. GALATI: I turned one off.

MR. HILL: First of all, thank you very
much. I do appreciate, along with Ed, the
opportunity to speak to the Siting Committee.
Please forgive me if I take these glasses on and
off. I have a $500 pair on order, these are the
$2 cheap replacements.

(Laughter)

MR. HILL: Again, as Ed said, my name is
Steve Hill and I am here representing the Modesto
Irrigation District.

As one of the major participants in the
ownership of the Lodi Energy Center, MID wants to
add its voice to the message of support that NCPA
and State Senator Dave Cogdill have recently sent
to the CEC.

To summarize this statement as plainly
as I can, please give the LEC the same priority
status being given to renewable projects so that
we can complete the licensing process by March
2010, as Ed has so aptly explained.

I would like to maybe just amplify a
couple of things on what he says in the areas of
resource adequacy, the need for local generation
and reduced transmission losses, job creation, and
again, finance.

The LEC, or Lodi Energy Center, is an
important part of MID's long-term resource plan.
As such it's expected and planned to be commercial
for the summer of 2012. We update our plan
several times a year, and these plans go out 20
years, and the Lodi Energy Center has been on the
books for several years now to be completed in the
summer of 2012.

History shows that not hedging against
market volatility has the potential to lead to
catastrophic losses as was experienced during the
2001 energy crisis. The California Public
Utilities Commission recognizes that the potential
for this volatility is just as valid today.

In the development of the PUC's physical
resource adequacy program the PUC stated in its
final decision that it would be moving to phase out long-term contracts that are not directly linked to a physical resource.

The adopted policy encourages the development of more local, iron in the ground so to speak, projects such as the Lodi Energy Center in order to meet California's load with more stable products that are now backed by physical resources.

MID has a number of these long-term contracts that terminate in the next couple of years. These long-term contracts are primarily from the northwest. And as such this LEC or Lodi Energy Center will replace those long-term contracts in our resource mix. Timely permitting of the LEC is important in order to maintain the schedule for replacement of these long-term contracts to meet our local resource adequacy needs.

Second, in regard to local generation and reduced transmission losses. The Lodi Energy Center is located within a 50 mile radius of Modesto Irrigation District's service territory. It's not easy these days to find a nice project site.
The Lodi Energy Center will be one of the most efficient combined-cycle designs built to date.

This resource will replace, as I indicated, the long-term contracts MID has from the Northwest that we import over the California-Oregon Transmission Project or COTP lines.

This also gives the benefit -- well, not only will this reduce transmission line losses. It also frees up available capacity on that line to import potential renewable resources from the Northwest, which is important to us.

In regard to job creation: California's average unemployment rate for 2009 now exceeds 12 percent. This is more than double what it was two years ago. You probably all kind of knew that. What I didn't realize was that California construction jobs are approximately 19 percent lower this year than what they were last year. And unemployment in the San Joaquin Valley now approaches 17 percent. I think Ed described appropriately the number of potential jobs, construction jobs in particular this project can add to the San Joaquin Valley.

And finally in regard to finance. If
the project process continues to be delayed it could increase MID rates. You probably heard maybe on the radio the last few days even about a potential rate increase at MID; it could increase those rates even more. And I think Ed has given the reasons for that.

So I just again wanted to thank you for the time to be able to address you and appreciate your consideration. Thank you very much.

HEARING OFFICER CELLI: Thank you,

Mr. Hill.

MR. WERNER: Good morning. I appreciate the opportunity to address the Siting Committee today. I am Michael Werner and I am representing the California Department of Water Resources here today.

DWR is a participant in the Lodi Energy Center project and supports NCPA in requesting that the Energy Commission give the Lodi Energy Center the same priority status being given to renewable energy projects, such that the Lodi Energy Center's licensing process can be completed by March 2010 and the facility on-line by the summer of 2012.

As a participant the energy from the
Lodi Energy Center will be used to meet part of DWR's need for energy to operate the state water project. The Lodi Energy Center will help stabilize the cost of energy needed to operate the project, and consequently, help stabilize the cost of water delivered by the state water project.

As one of the first projects in the nation to employ a fast-start technology, carbon monoxide, NOx and SO2 and greenhouse gas emissions from the Lodi Energy Center will be significantly reduced, making it one of the cleanest plants of its kind in the nation.

Operation of the Lodi Energy Center will result in a significant reduction in the production of greenhouse gas emissions compared to current market energy sources. On the state water project's part, low greenhouse gas emission energy produced by the Lodi Energy Center will be used to replace high energy greenhouse gas emission energy produced by a coal-fired power plant located in Nevada that is under contract to the state water project, thus significantly help the state water project meet the AB 32 greenhouse gas emission reduction goals.

Lastly, if the project approval process
continues to be delayed participants in the Lodi
Energy Center may lose access to favorable
financing through the Build America Bond program,
which expires at the end of 2010, which Ed Warner
talked about. This will affect the cost paid by
DWR in proportions to its share of the project,
since DWR's share will also be financed through
NCPA by the Build America Bonds.

Thank you for allowing me to make
comments today.

HEARING OFFICER CELLI: Thank you,
Mr. Werner.

MR. WEISEL: I also appreciate the
privilege of addressing the Siting Committee
today. I am Ken Weisel, I'm the interim director
of the Lodi Electric Utility.

As a participant in the Lodi Energy
Center project Lodi wants to add its voice also to
the message that NCPA and State Senator Cogdill
have recently sent to the Energy Commission.
Please give the LEC the same priority status that
is being given to renewable projects and complete
the licensing process by March 2010.

The energy from the Lodi Energy Center
will be used to supply existing load, replacing
baseload contracts that expire in the spring of 2012.

This project is not being built for market speculation. Lodi is committed to serving the needs of its residential business customers who will use the energy from the plant.

Lodi Energy Center will be one of the cleanest plants of its kind. It will be one of the first projects in the nation to employ fast-start technology, significantly reducing carbon monoxide, oxides of nitrogen and oxides of sulfur. With its highly efficient use of natural gas operation of the Lodi Energy Center will result in only 800 pounds per megawatt hour of greenhouse gases, replacing market purchases averaging around 1,000 pounds per megawatt hour.

The current licensing delay is jeopardizing NCPA's ability to complete the project in time for the summer peak of 2012. As a participant in the project it is important to Lodi that the Lodi Energy Center be on-line by the summer of 2012 to meet the needs of our customers for clean, affordable, reliable energy.

Lodi Energy Center will stabilize Lodi's rates because efficient energy is low-cost energy.
Further, if the project approval process continues to be delayed participants in the Lodi Energy Center may lose access to favorable financing through the Build America Bonds.

The project will bring 150 jobs during construction and nine permanent jobs to San Joaquin County. These jobs are much needed in the county, where unemployment now stands at 16 percent.

Thank you very much for the opportunity to address you.

HEARING OFFICER CELLI: Thank you,

Mr. Weisel.

MR. GALATI: Thank you very much for listening to the participants and giving us an opportunity to tell you why the project is important and I certainly think you have a flavor for why it is important. But let me now turn to what is it we want you to do so I'll try to get right to the point.

First I want to say that this in no way, shape or form should reflect poorly on staff, okay. We understand that they are burdened. But we are at a position where we don't know what else to do. So we huddled up and we came up with a
program that tried to accomplish a couple of goals.

Number one, obviously, give the Commission a chance to make a decision in time for our construction.

Two, make sure that we weren't doing anything that limited public involvement.

Three, make sure that we weren't proposing something that would put additional burdens on staff.

Those were our three goals and that's why we came up with the program that you have in front of you.

What we're asking is that staff publish the PSA. Publish the PSA. If it is not complete, publish the PSA anyway. We need to have a document. Our understanding is it has been nearly complete for many months.

I will make sure that you understand that we are responsible for some part of the delay. And that was long ago. It was in the summertime of this year and earlier when NCPA as a public entity cannot select a vendor, it must go through a public bidding process. That public bidding process resulted in a different vendor.
It was the Siemens equipment. It was equipment that lowered emissions. We did change the turbine on staff, it did cause them to re-analyze.

But I want to downplay that from this perspective. We did that work largely for staff. The Preliminary Determination of Compliance had come out with the other turbine. We had marked up that Preliminary Determination of Compliance in a redline/strikeout fashion to show everywhere that things needed to change.

We met with the district, the district was on board. And that's why the district was able to go to an FDOC, because the changes are all positive. There are slight -- no additional ERCs required and there was very little reconfiguration from our perspective that needed to be studied.

We met with staff and staff was very open and very helpful with us. We had a good working relationship with staff and I still think that we do.

But we need the PSA out and we need it out now. We want to go to a PSA workshop so we can have the dialogues with staff about the conditions of certification and come to agreement. We are dedicated to resolving issues the same way.
that we have resolved issues in other projects.

It's to bring something to the Committee that
isn't litigated, that isn't highly contested and
doesn't take a lot of time, both Committee and
Hearing Officer time to write a complex decision.

We also recognize that staff's normal
process of a PSA/FSA, that we would just be asking
you to do one piece. I'm here to tell you that we
are on the five yard line. We are not at the 50
yard line, even though we don't have a PSA. We
are at the five yard line. We are about ready to
get an FDOC. We have everything else completed.

We have a project that if this project
were proposed to you today it would meet the six
month standards that were available to a project
during the energy crisis.

This is the exact project the Commission
should be looking for. It's on an existing site.
It doesn't have opposition. We held open houses
on our own and had very few people attend. There
has not been public participation or interest in
the project. And I can address that there is a
recent intervenor. And I can address that if
you'd like or you can read my opposition.

So that is why we're here. Here's what
we're asking. Set a date for evidentiary hearings. Set them now. Order staff to produce the PSA, whatever they have done. We'll take care of the rest. We will take care of the rest.

There is no reason why you can't. We have produced five, six, probably ten volumes of information that we have submitted to the Commission at one time or another on this project.

I am prepared to go to evidentiary hearing without any staff assessment. I don't know if the regulations would allow me to do that but I am prepared to do that and to put the project in front of you. Because it is that clean, it is that easy. And you have done conditions of certification exactly like this hundreds of times so there isn't a bunch of thought process that needs to go into this.

If we could get staff's assessment we would use staff's assessment as the primary document, whether it's preliminary or final, and what we would do is augment with anything that needed to be changed, anything -- and the Committee can hear -- staff doesn't have to write a staff assessment. We'd like them to come to the hearing and either agree or disagree.
That's what our idea was. We have a points and authority of why we think you are legally allowed to do what we are asking. We have tried to ruin your Christmas and New Year by asking for December 28, to give the Hearing officer an opportunity before Beacon, before the new renewable projects take hearing officer time, such that they cannot write a decision.

So we are prepared, and we will be prepared with testimony on the 14th and evidentiary hearing on the 28th if you allow us to take the burden from staff.

HEARING OFFICER CELLI: Thank you, Mr. Galati. What I want to -- first of all I should probably tell you that -- I don't know if you're aware that Beacon just bumped out into next year.

ASSOCIATE MEMBER BYRON: I'm sure Mr. Galati is aware.

(Laughter)

HEARING OFFICER CELLI: What I'd like to do is hear from staff. Hear what staff has to say, what's your position, and then we'll have some discussion about it. So please, Mr. Jones.

MR. JONES: Thank you. First of all the
staff is definitely in support of expediting the project as quickly as possible. We are definitely concerned about the time lapsed in the project.

We actually would like to recommend a staff assessment in lieu of a PSA. Essentially not counting on a Final Staff Assessment but a staff assessment with an errata or perhaps something attached to it to reduce the time.

However there are a couple of concerns that we have. One being the FDOC, which is essentially a draft FDOC, which will require a 30 to 45 day public comment period. So we're sort of held at that situation by the air district. So staff cannot render a final conclusion regarding that particular discipline, which will definitely impact a staff assessment.

As far as the other disciplines involved with the staff assessment. We feel relatively comfortable that we have a fairly solid document.

HEARING OFFICER CELLI: May I ask -- first of all, Commissioners, do you have any questions, please? Chairman Douglas?

PRESIDING MEMBER DOUGLAS: I don't have any questions right now. I'd like to thank Mr. Galati for bringing forward some ideas and
concrete suggestions for how this particular case
might be expedited, given the fact that it does
appear to be less controversial.

And there has been a lot of work done,
obviously. I appreciate the staff's thinking that
we might move straight to an FSA. That has
certainly been done in the past at this Commission
and this may well be an appropriate type of case
to take that kind of action.

So I think my only question is to staff
is whether the document that you were working on
to release as a PSA is more or less the same
document that you would like to release as an FSA?
Or what is your timing? What changes might you
need to make for that to happen?

MR. JONES: Well it's essentially the
same document. If anything it's probably been
improved considering the length of time we have
worked on it. I believe we are very close to
moving to a final document.

Of course, you know, there are some
editorial things that we would have to do to the
document. And we also are dependant on the air
district's Final Determination of Compliance. So
that is very important to us as well.
And of course the applicant may have some concerns about what is in the document. They will have to review it. But I think it's in a pretty good shape to where we can sort of wrap it up and move toward publication. We just have to determine a specific date.

HEARING OFFICER CELLI: Commissioner.

ASSOCIATE MEMBER BYRON: Thank you, Hearing Officer Celli. I'm not sure I have a comment at this -- a question at this point but I do appreciate the response on the part of staff.

Of course I think the applicant has done an excellent job with their presentation and put forward before this Committee the issues that are of the utmost importance to you. And Mr. Galati, as usual, very creative in your approach and have thought these things through very well.

No apologies on behalf of staff. We know that they are worked very hard. And we are going to press you on schedule here and see what we come up with. But I want to make sure I understand. Did I understand you to say that the PSA would likely become the final, would be equivalent to the Final Staff Assessment with an errata?
MR. JONES: Potentially, yes.

ASSOCIATE MEMBER BYRON: Okay, all right. Thank you.

HEARING OFFICER CELLI: Thank you, Commissioners. I have a few questions. We're going to have to get into the nuts and bolts part now. We roll up our sleeves and talk about this.

But before I do I just want to remind everybody that last when we were all together there was a wetlands issue, there was a land use issue regarding a gas line near the airport, there was a final system impact study issue. This was way back a year ago. Am I to understand that those have all been cleared up, all those issues, Mr. Jones?

MR. JONES: Yes, yes they have.

HEARING OFFICER CELLI: And the other question I had is, does the PSA -- the only comments that I have in my file came from Mr. Sarvey back in May of last year. And I wanted to make sure that those comments are addressed in the -- I guess they are air quality comments. Are those addressed in the PSA now?

MR. JONES: Yes, yes they are.

HEARING OFFICER CELLI: Okay. So that
takethat makes us current, issues-wise.

MR. GALATI: And Mr. Celli, if I could add to that. Again, Mr. Sarvey commented on the PDOC.

HEARING OFFICER CELLI: Yes.

MR. GALATI: The turbine changed and many of the concerns raised by Mr. Sarvey were addressed in the FDOC. Not only just addressed and commented on but some of the recommendations taken.

So the FDOC, as Mr. Jones has pointed out, when he says it's a draft. It does have the word "draft" on it. Because we and the district agreed, since things had changed it might be beneficial to circulate it for public comment one more time. But it can be used as the Final Determination of Compliance. If there is public comment obviously the district would address it. But it represents the final determination of this particular district.

Again, with the issues of emissions lower than anywhere else that you'll see, and offsets completely purchased. And it's the same offset package so any new comments on the offset package were the same comments or not on the new...
package. So all we're talking about now is the
turbine change, where the emissions for the most
part went down. The small amount of emissions
that went up are already offset and had to do
with, I believe, fuel use. But start-up emissions
and everything else went down. It moved in the
exact right direction of any commentor.

And again, staff has had our markup of
that PDOC for quite some time as to what the
changes were. So I'm encouraged that staff is
willing to go to an FSA but I'm not sure that
answers any of my questions. Whether I call it a
PSA or an FSA, if we don't get it and get
evidentiary hearing, we can't win.

HEARING OFFICER CELLI: All right.

MR. GALATI: So again, I'm prepared to
go without a staff assessment. I would like staff
to, today, spend no time changing it from a PSA to
an FSA and doing editorial comment. And I would
like them to publish what they have. And again,
we'll make up the rest and staff can stipulate or
disagree. We will provide them a document that
says, this is what we think needs to be updated,
this is our proposal. Staff only need read it and
comment.
The problem is not that staff is not willing to work on it. The problem is staff cannot get anything through review and publication so that it becomes a document. That's the problem we're solving here. It's not to stop staff's input. It's that I don't think they physically can get that done. We have been told it's going to come out for so many -- and Mr. Jones has been trying. You know, two weeks from now, three weeks from now, two weeks from now. It's beyond the control of the people in this room except you guys.

So again I want to make the strongest plea possible, let us do this work. If it is not credible, if it is not thorough staff can comment and you can deny our project or delay our project. We'll take that risk. But I see no other way to get there by the time we need to get there.

HEARING OFFICER CELLI: Well what do you think about -- Mr. Jones is suggesting that this just be an SA.

MR. GALATI: If it came out today or tomorrow or the next day that's great. If it's an SA and it comes out in January or February, it doesn't help us.
HEARING OFFICER CELLI: What is your estimated arrival date of this SA?

MR. JONES: Essentially perhaps the week of November 30 we may be able to publish.

HEARING OFFICER CELLI: And what we're talking about here now, Mr. Jones, is a complete staff assessment?

MR. JONES: Well, it will be complete up to the point of not having the -- perhaps the final, final from the FDOC, from the air district.

HEARING OFFICER CELLI: But everything else?

MR. JONES: Yes, everything else.

HEARING OFFICER CELLI: And Mr. Galati had indicated that the -- that you were interested in some sort of PSA workshop. Which sort of leads me to the -- maybe I misunderstood but coming into this I sort of got the sense that this case was so non-controversial that it would probably be the kind of thing that would be by stipulation in its entirety, all of the testimony. Yet now I'm kind of, I have doubt about that from what you said about the need for a workshop.

MR. GALATI: Unfortunately, with the Commission's interpretation of ex parte rule
between staff and the applicant, we can't exchange
drafts of conditions. So sometimes we get a
condition that is written in such a way that we
say, ouch, that hurts. Can we accomplish the same
goal by tweaking this language and this piece and
that piece. And I would like to have a workshop
opportunity as soon as staff tells me what the
conditions are so that I can negotiate and work
with staff to say, is there another way to
accomplish this.

It has worked extremely well in other
projects where staff may not understand that by
making the condition written in such a way it
causes the applicant a burden. And so we can
propose changes in language. My understanding is
staff cannot or won't do that except in a public
workshop setting.

HEARING OFFICER CELLI: Okay.

MR. GALATI: If we can exchange, if I
can get it we can comment and we can have a
dialogue in a settlement conference between
applicant's attorney and staff's attorney I don't
need a workshop. I just want the ability to talk
to staff about, can we, can we move this 30 days,
can I put an "or" instead of an "and" and is this
condition, is it still applicable.

HEARING OFFICER CELLI: So let's say the
staff assessment comes off. You know, I'm always
reluctant to start picking dates around here just
because, you know, we have heard wolf cried so
many times on dates. But let's just say November
30 is the SA date.

MR. JONES: The week of.

HEARING OFFICER CELLI: The week of,
okay. Well what that does, Mr. Galati, is that
bumps you up, essentially, a week or two on your
proposed November 19th date, according to this.
So the FDOC you say is coming off, is in
publishing, as somebody mentioned.

MR. GALATI: Yes it is. It is so close
that we actually made a call just a few minutes
before the hearing to see if it had come out. We
haven't been able to contact them. But we know
that it is signed off and being published.

HEARING OFFICER CELLI: Okay.

MS. MOULTRY: I'm sorry, I believe a
draft of the FDOC is going to be -- a draft of the
FDOC is going to be published and it will require,
I believe, a 30 day public comment period. So the
Final Determination of Compliance isn't going to
be issued for another month or so.

HEARING OFFICER CELLI: Well we've

bifurcated before.

MR. GALATI: And Mr. Celli, I want to
put this in perspective. Staff's done a complete
air quality impact analysis. That will not change
from the FDOC. What would change is the
conditions. So I tell you, I'm willing to take
the FDOC as Exhibit number 2, staff's assessment
as Exhibit number 1 and say, please when you write
the conditions, all the ones that say AQ-1 through
whatever, don't use staff's conditions, use the
district's.

That's what staff is going to do with
this document. There is going to be nothing in
this document than evaluates anything different
than what staff has already evaluated. They have
the full modeling, they have the full offset
package, the construction emissions don't change.
Everything staff is going to do in its air quality
as staff conditions is done or should be done.

So the reason that we called this a
draft and did not fight for this to be a final was
to afford additional public review on the changes
that were made to the district. And we recognize,
just like when you write a PMPD, public comment could come in and change things. So there's no reason to delay because of this draft status. That was a responsible status from our perspective. And we shouldn't be punished for it, we should be applauded for it.

HEARING OFFICER CELLI: And you agree with that, Mr. Jones?

MR. JONES: I agree to a certain extent. I still want to be a little cautious here. We don't know what kind of public comment there will be on the FDOC, draft FDOC, so we have to really keep that in mind.

However, I think definitely taking an expedited approach in terms of completing the staff assessment or FSA is a good idea from a time perspective. But we must not lose sight of the potential of comments to come from the public that may drastically change the outcome of the FDOC.

MS. MOULTRY: I just wanted to add that the reason that we don't want to publish the staff assessment now is because the air quality specialists are actually in the process of incorporating the changes that they have received within the draft air quality document. And so
they basically just want to create a staff
assessment that is as final as possible. So we
would prefer the week of November 30 just so we
can get it in as good a shape as we possibly can
before we publish it.

HEARING OFFICER CELLI: And Ms. Moultry
you're saying that that week of the 30th gives us,
the Committee, a complete staff assessment with
Air.

MS. MOULTRY: As complete as possible.

HEARING OFFICER CELLI: Okay. So
looking at November 30th, which is a week from
next Monday, which is after Thanksgiving. I'm
sure you have taken that all into consideration
too. And I'm just going to take the FDOC out of
the picture. When would you be able to have a
workshop?

MR. GALATI: If the staff assessment
really does come out I would ask you to schedule
evidentiary hearings for the afternoon of the
28th. And that we could schedule a workshop for
that morning and we could present with you our
solutions.

HEARING OFFICER CELLI: You know, that's
actually pretty tight. I would rather we get to
an evidentiary hearing/prehearing conference with
a little more settlement than that. In other
words, I just think that it would be fair to the
committee to have parties meet and confer.

Maybe that 28th day would be the day
that you have your workshop and then we put it
over when actually the Committee can actually be
here. And have a day in early January for a
prehearing conference and evidentiary hearing but
hopefully everything would be settled by then.

MR. GALATI: I think what I'm worried
about is that unfortunately, and Mr. Celli, you
know this happens to you all the time. Is then
the burden for the license date is on you to meet
the date we're asking. And I'm asking for
something earlier to relieve the requirement for
you to write a Presiding Member's Proposed
Decision in record time so that it can then
publish and circulate for 30 days and then get on
a Business Meeting agenda that allows us to meet
the requirements. So that's why I'm pushing the
staff instead of pushing you.

HEARING OFFICER CELLI: Well I
appreciate that but, you know, we still have to go
through our processes. We still have to, you
know, we have to have public comment on the PMPD, et cetera.

MR. GALATI: Yes.

HEARING OFFICER CELLI: And it will take -- we have, as you know, help now so I can get a PMPD out in pretty quick order, comparatively.

But what I want to do is kind of nail down some actual date right now with the parties. So I'm starting with November 30th and I'm hoping that that's a safe start date as, you know, something to the effect of staff analysis no later than November 30th.

MS. MOULTRY: I was just going to request that if you actually do schedule something please don't schedule anything that week of December 28. I will be out of the office the entire week.

HEARING OFFICER CELLI: I won't.

MS. MOULTRY: Okay. And several people will be.

MR. GALATI: By the way, so was I. But I was coming back.

(Laughter)

HEARING OFFICER CELLI: And that's the kind of guy you are.
MR. GALATI: That's exactly right. Like I come back for all of the hearings scheduled on my vacations.

HEARING OFFICER CELLI: That's right. And I apologize for having dragged you out in the past from vacations. I know you do do that.

But the week of November 30th. When would you have your workshop if an SA comes out on November 30th?

MR. GALATI: I think our team could be ready within a week.

HEARING OFFICER CELLI: Staff?

MR. JONES: Well, the staff tentatively scheduled a workshop for December the 14th for the PSA. So perhaps we could just use that.

HEARING OFFICER CELLI: You've already got that date?

MR. JONES: Yes.

HEARING OFFICER CELLI: That's December 14th?

MR. JONES: Yes.

HEARING OFFICER CELLI: Okay, 12/14 for a PSA workshop or SA workshop.

MR. JONES: Yes.

HEARING OFFICER CELLI: Okay. Now

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you're talking about errata to the SA and the FSA. Is that necessary?

MR. GALATI: And again, with the way things have gone, asking staff to produce yet another document. I would prefer them not to produce another document after this assessment comes out. We will do a proposal of changes. And staff can come to the hearing and say, agree or don't agree and we'll kick it to you. And you guys can make the decision on that point as opposed to staff stating and writing an errata to the FSA. There is no need for it.

HEARING OFFICER CELLI: Well my concern would be the missed -- the opportunity for the public to participate in that side of things. Because normally what would happen is there would be some public PSA or an FSA workshop. The public can come, comment on the changes. What you're doing is sort of saying, we're going to have a discussion outside of the public purview and the come back and then have a prehearing conference without giving the public an opportunity to comment on the changes that -- what you would deem, the errata on the SA.

MR. GALATI: In the six month process,
which was legal. In the six month process the
staff produced one staff assessment and no errata.
Applicant produced testimony. Those were both
docketed and available and at prehearing
conference and evidentiary hearing the public
could comment.

If staff wanted to agree to a change
that the applicant presented staff would say,
here, change this testimony, basically agreeing.

HEARING OFFICER CELLI: All right. You
just stipulate at the evidentiary hearing, I
imagine.

MR. GALATI: Right.

HEARING OFFICER CELLI: I'm just trying
to -- I just want to make sure that we have all
the safeguards and that we have an opportunity for
the public to weigh in on any changes. Do you
have any ideas on that, Ms. Moultry?

MS. MOULTRY: Well we're just concerned
about the air quality analysis and the fact that
we are have been told from our air quality staff
that they are not going to be able to reach a
determination regarding LORS compliance until they
have actually received the Final Determination of
Compliance. And so for that reason if they are
going to have to adjust anything based on the air
analysis that they have completed, we just want to
have some sort of errata or addendum.

HEARING OFFICER CELLI: We are going to
go off the record if we can for just one moment.

(Off the record.)

HEARING OFFICER CELLI: So where were
we? You were saying that we would -- so let's
take that. So let's assume then that we don't
necessarily have to calendar that errata, right?
Because essentially the SA is going to be the
staff's testimony.

We would then have an opportunity for
the parties to stipulate to any changes to staff's
testimony, hopefully before a prehearing
conference. Which under these circumstances I'm
inclined -- and I'll let the parties address this.

But I'm just going to say that I'm
inclined to have the prehearing conference, even
if it's a week. But a prehearing conference
separated from the evidentiary hearing just
because there will be these loose ends. And I
want to make sure these loose ends are tied up
before we go forward on an evidentiary hearing.

Applicant, your thoughts on that?
MR. GALATI: Again, I don't think we have a strong opinion on them having to be together. Our idea would be giving the Committee more time to work and write the PMPD. So if there was a prehearing conference in which we came to you and say, here are our resolutions, here are the things we disagree with. It also has been my practice to limit those disagreements to ones we can still do by declaration.

HEARING OFFICER CELLI: Okay. Staff, anything further on that?

MR. JONES: I think that would be sufficient.

HEARING OFFICER CELLI: You just turned it off, actually.

MR. JONES: Well somehow it won't turn on.

HEARING OFFICER CELLI: There you go.

MR. JONES: Okay. Really that's sufficient. I don't know what's going on with the microphone but it's not, not working.

HEARING OFFICER CELLI: Are you getting this, Ramona?

THE REPORTER: (Nodded affirmatively.)

HEARING OFFICER CELLI: You're able to
get this? Okay.

All right, let's look at January. We'll have to pick a date. And I'm going to have to find a date that works for the Commissioners in January. That first or second week.

As I said, I'm inclined to say that we should have a separate prehearing conference from the evidentiary hearing, just so we can tackle those loose ends that we're talking about. Get all the stipulations. Find out what's in and what's out.

And hopefully that will give you both an opportunity to caucus at the prehearing conference and hopefully settle everything up. Because we are proceeding under the assumption that, as in all the papers that we have received, that all of the ducks are in a row on this project and that really are no areas of controversy anymore.

So I'll pick a date, get a date in January for a prehearing conference and an evidentiary hearing date.

The question I have is, will staff be ready and able to go forward in the first or second week of January for evidentiary hearings given this FDOC question? When are you going to
have closure? When can we say that --

MR. JONES: I would think we would have
closure probably near the middle or end of January
as opposed to the early part of January regarding
the FDOC.

HEARING OFFICER CELLI: So let's just
say -- looking at January again. The last week of
January is the 25th through the 29th. If we went
that late on evidentiary hearings, assuming that
we have a complete SA from the staff with the FDOC
complete, then are we still on schedule here? And
I'm asking the applicant.

MR. GALATI: Here is the problem. The
problem is in order to finance and make that
payment in April we have to have the license prior
to April. So that puts us at a Business Meeting
in March. That puts us at a PMPD circulated in
the beginning of February or end of January.
That's why we proposed December. That's why we
proposed to take on the entire burden of the
evidence.

And I know that we brought this to you
at a difficult time. We have been trying to work
with staff and waiting and being patient and doing
the best we can but we really are at our last
stage here. That's what we were thinking here.

If we move the evidentiary hearings to the end of January, assuming you can get out a PMPD in two or three weeks.

HEARING OFFICER CELLI: Probably not.

MR. GALATI: Probably not. So let's say four weeks. We're looking at, you know, the end of April or May for the Business Meeting by the time that plays out.

HEARING OFFICER CELLI: Now a PMPD wouldn't suffice? As you are in the process of dealing with your financing. I mean, a PMPD is pretty much the next best thing to a certification. Or at least the last, the last publication that comes out of the Energy Commission after comment before we bring it before the full Commission.

MR. WARNER: I am not, I am not a finance expert but my understanding from our CFO is that we need the license to execute the bond offering.

MR. GALATI: And I can't speak to that but it has been my experience in the past that it's a hard time -- it's hard to get lenders to ignore the appeal period of the license, let alone
the non-finality of the license.

HEARING OFFICER CELLI: We're going to
go off one more time. We're off the record.

(Off the record)

HEARING OFFICER CELLI: Thank you,
ladies and gentlemen for your indulgence.

You know, one of the great things is
that you get a committee of two commissioners
together and they have an opportunity to meet and
confer. And it's very efficient to have them do
that now, it's hard to get them together.

We had a couple of questions. One is
that we had initially started off with an 11/19/09
date for the FDOC to be published and then we had
a 30 day comment period on top of 11/19. That
takes you to 12/19 let's say. So we're trying to
figure out how did we get to the end of January on
that instead of the end of December? In other
words the question is, in terms of the finality of
the FDOC, getting through the comment period.
Right now it's in publishing. It's due to be off
today, tomorrow.

MR. JONES: Next week.

HEARING OFFICER CELLI: Whenever. And
there's a 30 day comment period or a 45 day.
Which is it, do we know?

MR. JONES: My understanding, there is a 30 day public comment period, 45 days EPA, I guess. So potentially 45 days.

HEARING OFFICER CELLI: Okay.

MR. GALATI: What I can, I can confirm that but again I want to put it in context. EPA's comments were to lower a particular emission limit. They have commented on the PDOC. We lowered to that number. We don't expect any EPA comment on this issue.

HEARING OFFICER CELLI: Okay.

MR. GALATI: Also it is quite common to not have EPA comment, as you know, on PDOCs.

HEARING OFFICER CELLI: Does that, does that initiate that extra 15 days?

MR. GALATI: Yes, I think we have to have the additional 15 days. But we certainly will work our hardest to get EPA to say "no comment" before that 45 days for that extra 15. But it for EPA. And we certainly can because their issue has been addressed.

HEARING OFFICER CELLI: Okay. Now 11/19. So that takes us to the first week of January, not the last week of January. Do I have
MR. JONES: Yes.

HEARING OFFICER CELLI: Okay. So really if we're having -- let's say within the first week of January the prehearing conference followed by maybe a couple of days with an evidentiary hearing. And you would have a workshop in the meanwhile, right? Now we're looking at -- you've already had your workshop I'm sure at this point. And you've got it as December 14, correct?

Then we would be looking at an evidentiary hearing in mid-January, right? Let's say the second week of January, somewhere in there. The second week in January is the week of the 11th.

Then let's say mid-March to later March. There's always some kind of creep in there. But we get a PMPD out let's say the middle to end of March. There's a 30 day period on a PMPD. There's a 30 day comment after which we have a PMPD conference.

Now we're into April something, right? Followed by a May, probably, Business Meeting.

Now the question is, you are not going to have a -- I mean, this is as compact and as
efficient as we can make it. You will still not
have a license off in time and what is the effect
of that?

MR. GALATI: The immediate effect comes
as somehow we have this payment to be made without
having full financing. I think we need to go back
to the drawing board to say, is there any other
possibility with that kind of certainty in the
schedule, to find, borrow, come up with that
money. I think I'd have to -- I don't know if we
can speak to that.

MR. WARNER: I can't speak to what
Siemens would do but it would seriously jeopardize
our equipment delivery pushing that payment back.
There are critical paths to meeting the summer of
2012 in their equipment delivery schedule as it
stands right now.

HEARING OFFICER CELLI: Okay.

MR. WARNER: So pushing that date back
would jeopardize that equipment delivery schedule.

HEARING OFFICER CELLI: I understand
that. What I'm dealing with over here,
Mr. Warner, is that we've got statutory -- we're
bound by regulation. We have statutory deadlines.
We can't legislate from over here. We're pretty
much, we have to follow these rules and go with
these deadlines. And as we're sitting here
figuring this out -- and it really -- there's not
a lot of fat in the schedule just proposed. That
looks like the way it would probably go. I think
that's a reasonable projection of how this would
flow if we have everybody working on it.

MR. GALATI: First of all I appreciate
the Committee doing that and I understand. I know
the schedules well enough to know that what you
have just done is an incredibly skinny schedule on
your part.

I again ask, it appears that staff has a
draft or an advance copy of the FDOC. Why the
30th? Could it come out Monday?

HEARING OFFICER CELLI: Staff?

MR. JONES: Well it's not just the FDOC,
it's the overall document. Revising it based on
the new information that we have here today. And
it's just also staff's availability. So that's
why. If it could happen today I'd make it happen
today but I can't.

MR. GALATI: I know that, Mr. Jones.
And you have been, you have been trying for many
moons to make it happen. And it's the same story,
it's the same story about staff availability. Today what we have heard is the word PSA would be determined FSA and that the air quality section would be more final because of the FDOC.

So my concern is that even if you said the 30th, based on what we have heard in the past, I am not confident that will happen. So I don't know how to get a confidence level that there will be a document. And that's why I asked for the Committee's commitment that if there is not we can do it ourselves.

I don't know any other way to do it. But, I mean, if Mr. Jones does not have the capability to get the staff resources allocated to get the work done how confident are we in any of the dates? And I don't mean that to denigrate Rod, it's not his fault. But at some point we need a document. And things haven't changed for a very long time. I don't know why there's additional publication and additional work that needs to be done.

MS. MOULTY: If you did have complete confidence that we will be able to meet the week of the 30th then would that be acceptable? I mean, if you knew with absolute certainty that we
could meet that date.

MR. GALATI: It already misses our April
date. So yes, I'll take that date over no date.
And I appreciate what the Committee has done. It
doesn't get us where we need to be. We have to go
back and see if it's fatal to us. I hope it's
not.

HEARING OFFICER CELLI: Well that --

MR. GALATI: But yeah, the 30th as a
firm commitment that actually came out on the 30th
would certainly be helpful. Because now I know we
can meet this schedule. If it doesn't come out on
the 30th we may not meet this schedule.

HEARING OFFICER CELLI: True. I had a
couple of thoughts as you were speaking about
that. The problem if we bifurcate, you
understand, is that if we did bifurcate we would
have to have separate hearings for the lagging
section or sections.

MR. GALATI: Yes.

HEARING OFFICER CELLI: And that doesn't
get us where you want to go anyway because you are
only as fast as that last section coming through
the pipeline.

MR. GALATI: The only times that I think
bifurcation is good is if you have significant
issues that you need to resolve with staff. We'd
love to have that analysis come out so we can
engage in the dialogue while other sections are
lagging. But if you don't have significant issues
it has not been my experience that bifurcation
helps you at all.

HEARING OFFICER CELLI: True. And then
you have to factor in getting the Committee
together and having the hearings.

So really as with so many of these
things it all really depends on, all of this
depends on having a staff assessment out. And
everything springs from that date. Essentially
their testimony is already done minus whatever you
are going to stipulate to after the fact. Once
the staff assessment comes out then we can pretty
much keep the rest of the schedule it seems to me,
assuming that the air district is on board and
gets their work out in a timely fashion.

So what I am proposing to do then is put
together a schedule that starts out with not later
than November 30th as a staff assessment.
Followed by the 12/14 staff workshop. Followed by
-- and I'll have to, I'm going to have to get with
the secretaries and the Committee and see what we can do.

An errata to the SA from applicant will be essentially the discussions that applicant and staff are going to have. At this time there's no other parties in the case.

Then we will have a prehearing conference. I'm looking at the first week of January.

Followed by an evidentiary hearing the following week let's say, of January. Okay. Now testimony comes in. Let's just assume in a perfect world that everything comes in, there's no testimony to be taken. It's all by declaration. And no intervenors show up. Because, you know, there's all sorts of other possibility there. But assuming that that's the vacuum that we're going to operate in.

Then the second week -- from the second week of January to let's say the second week of February, in March the PMPD comes out. Thirty days, the PMPD conference. And then assuming there's not any revision throws a wrench in the works because if we have to revise we have to give another 30 day comment period.
So assuming that everything is -- and this is why it's so very important that this workshop be highly productive. Because to the extent that we get complete documents at the prehearing conference we are ready to go. That will speed up the process as well.

So then, again assuming in a perfect vacuum that we are not going to have to revise the PMPD, we are looking at a -- what did we say, an April, April or May Business Meeting date.

Hopefully a PMPD will carry you in your negotiations with whoever. We are mindful and do apologize for the slippage in the schedule. It's something that has really been beyond our control and we are dealing with it the best we can. And the staff is dealing with it. The applicants are having to put up with it.

And it's just -- it's no longer anyone's particular fault. It's almost like a force that's bigger than any of us. And that seems to be the condition we're in. But that is what I'm proposing to put together as a schedule.

We're off the record for the moment.

(Off the record)

HEARING OFFICER CELLI: Here's a little
carrot. It's possible that if all of the issues are resolved at the time of the prehearing conference that we could proceed directly with a prehearing conference, immediately followed by an evidentiary hearing.

But my concern is the state of the record. I need to make sure that we don't have -- because of the rush that things are coming that are not completely tied up. Loose ends are -- all the holes filled, like that.

It really would require a lot of work on the part of the applicant and staff at your workshop to really fill all the holes and come up with all the stipulations if we can save a week by having the evidentiary hearing immediately following the prehearing conference. But that would only be in the circumstance that there is no testimony, everything is going to be by declaration.

MR. GALATI: Mr. Celli, first of all, again, thank you for that. I think that we can be. I mean, here's how we are going to be productive at the workshop. If we get that on the 30th we can turn around in a week detailed comments on where we think the staff assessment
needs changes, tweaks, modifications, so staff can have that written document. So that when we come on the 14th we're not raising issues. We're actually talking about the issues we've raised. I think that we're able to do that. Obviously we need that document to be able to do it.

The other thing that we can commit to, and when I say "we" I think I mean me, is filing our testimony by the end of December so that when we come in the first week of prehearing conference you can see what is remaining or what little disputes we might have.

And to give you an example, I go back to the Kings River project where we had some minor disagreements where we agreed on the concept but didn't know the language and so we resolved that right at evidentiary hearing. We put it in our testimony. These are the three changes we'd like and staff commented on those three changes. It was very simple to do that way.

We'll do our best to have everything agreed to. If there are a few minor things left over we'll put them in our testimony so you have it in writing before that prehearing conference.
that that's pretty much it. I mean, I just don't see anyplace else I can cut out any fat in this schedule.

MR. GALATI: We appreciate what the Committee has done, we very much do. I understand that there is not anything else you can do on the Committee end, thank you.

HEARING OFFICER CELLI: While we have everyone here -- So is there anything else from staff about the scheduling?

MS. MOULTRY: No.

HEARING OFFICER CELLI: Okay. Then, Mr. Galati, this is your status conference so anything you would like to say in conclusion.

We'll get to the intervenor. I'm leading up to the intervenor next.

MR. GALATI: Okay.

HEARING OFFICER CELLI: I just want to pretty much put the cap on anything schedule-wise.

MR. GALATI: Once again, we do appreciate the Committee, both members of the Committee and their advisors participating and caucusing here today. It's not lost on us that you are really trying to help us. And that you are trying to maintain the integrity of the
process but also have heard what we said. So
thank you again very much for that.

MR. WARNER: I'd just like to thank the
Committee also and thank Mr. Jones and staff and
the CEC attorney for participating here with us
and working with us to hopefully meet our schedule
in a timely manner. Thank you.

HEARING OFFICER CELLI: Thank you. And,
you know, one of the things that's clear is that
everybody here is committed to doing their best to
making things run as smoothly as we can. And
that's what we're trying to do so hopefully that
will happen.

Now we are going to talk about the next
newest glitch, which is we received a petition to
intervene from the CFEC yesterday. We did receive
applicant's opposition. We haven't heard from
staff whether staff has a position on this
intervenor or not. I don't know if staff intended
to file any opposition.

MR. JONES: No.

HEARING OFFICER CELLI: Ms. Moultry?

MS. MOULTRY: Staff doesn't have a
position regarding the opposition.

HEARING OFFICER CELLI: Assuming let's
just say, that there's a denial. The denial would
be without prejudice. Then they come back. I
don't know what their agenda is. I have no idea
who these people are.

And the Committee can limit their
participation certainly. But as you know the
Commission is pretty liberal and committed to
having as much public participation and inclusion
as possible.

So I don't know what that means in terms
of our scheduling discussions. But I just wanted
to know if there was anything further on the
intervenor issue?

MR. GALATI: The only thing further on
that is why we filed our opposition right away, so
that there could be a decision made. If there is
another petition, we know that there is an
opportunity for that and if there is we'll deal
with it at that time.

We also think that currently whatever
the stated reason becomes, we know what the stated
reason is now. We believe that the issues raised
by that particular intervenor can be dispensed
with very, very simply, very easily. And the
Commission, if they wanted to file testimony it
appears that they will have some time into the  
second week of January to do so.

HEARING OFFICER CELLI: That's correct.

Okay.

With that I am going to -- if there's  
nothing further I am going to open up the podium  
for public comment. We have a room of about ten  
people here, all of whom seem to be associated  
with one party or the other. There doesn't appear  
to be any public and we have no phones today.  
So with that I am going to hand it over to  
the Chairman to adjourn.

PRESIDING MEMBER DOUGLAS: Seeing no  
public comment we are adjourned. Thank you.  
(Whereupon, at 11:30 a.m. the  
Status Conference was adjourned.)  

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