DOCKETED

Docket Number:	17-BUSMTG-01
Project Title:	2017 Business Meeting Transcripts
TN #:	221985
Document Title:	Petition for Corrections to Commission Business Meeting Transcript of October 11, 2017
Description:	N/A
Filer:	Todd J. Guerrero
Organization:	Kutak Rock LLP
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Docketed Date:	12/15/2017

STATE OF CALIFORNIA

ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION

In the Matter of:	)	**Commission Business Meeting Docket Number: 17-BUSMTG-01**
	)	
	)	**Administrative Appeal Docket Number: 16-RPS-02**
Appeal by LADWP re RPS Certification or Eligibility	)	
	)	**RE: Petition for Correction to Commission Business Meeting Transcript of October 11, 2017 (TN#221545)**

PETITION FOR CORRECTIONS TO TRANSCRIPT OF CEC BUSINESS MEETING HELD ON OCTOBER 11, 2017

December 15, 2017

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STATE OF CALIFORNIA

ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION

In the Matter of:	)	**Commission Business Meeting Docket Number: 17-BUSMTG-01**
	)	
	)	**Administrative Appeal Docket Number: 16-RPS-02**
Appeal by LADWP re RPS Certification or Eligibility	)	
	)	**RE: Petition for Correction to Commission Business Meeting Transcript of October 11, 2017 (TN#221545)**

PETITION FOR CORRECTIONS TO TRANSCRIPT OF CEC

BUSINESS MEETING HELD ON OCTOBER 11, 2017

This petition is being submitted by the undersigned individual lawyers for the Los Angeles Department of Water and Power to make corrections to the transcript prepared from the Commission's October 11, 2017 business meeting in Docket No. 16-RPS-02. The petition is being filed pursuant to California Code of Regulations Section 1105(d), which provides in pertinent part "[a]ny person may petition the commission to correct a transcript of his own statements [and that] [s]uch petition shall be made within sixty days after the transcript has been made available to the public at the commission's main office."

The transcript was apparently docketed by the Commission on October 19, 2017 under Docket No. 17-BUSMTG-01 (as TN#221545) but to date the transcript has not been posted or docketed in the record for this proceeding.[1]

[1] The undersigned are aware of the Commission's August 5, 2016 General Orders Regarding Electronic Document Formats, Electronic Filing and Service of Documents and Other Matters filed in Docket No. 16-RPS-02 which provides that parties are responsible for

2. Corrections to Transcript by Todd J. Guerrero, Kutak Rock LLP.

Todd J. Guerrero, as counsel to LADWP and who presented on behalf of LADWP on October 11, 2017 requests that the following corrections be made with respect to the October 11, 2017 transcript:

- Transcript at 14:24 – the word "minutes" should be changed to "minute." The proposed corrected phrase of the sentence contained on the transcript 14:24 should read as follows:

  minute of presentation?

- Transcript at 33:11 – the last word on line 11 "Negating" should be replaced with the words "The gating." The proposed corrected phrase contained on the transcript at 33:11 should read as follows:

  The gating statute is . . . .

- Transcript at 33:25 – the last word on line 25 "buzzwords" should be replaced with the word "buzzword." The proposed corrected phrase contained on the transcript at 33:25 should read as follows:

  renewable energy resource – there's the buzzword, ...

- Transcript at 34:12 – a single quotation should be inserted after the word "resources." The proposed corrected phrase contained on the transcript at 34:12 should read as follows:

  'eligible renewable energy resources' . . . .

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proposing corrections to transcripts within "30 days of the filing of the transcript." The undersigned understood this to mean that the transcript would have been filed *in the actual docket number assigned to this proceeding* – i.e., Docket No. 16-RPS-02, as has been the case with all other information filed in this matter. In any event, the undersigned believe the General Orders is not inconsistent with CCR § 1105(d), particularly here, when this matter is now on appeal by writ to the Superior Court and the official Commission record has not yet been certified and sent to the court. The overarching goal is that the record be accurate and these corrections are intended to aid in that effort.

- Transcript at 34:16 – single quotations should be inserted around the words "eligible renewable energy resource." The proposed corrected phrase contained on the transcript at 34:16 should read as follows:

  'eligible renewable energy resource' was . . . .

- Transcript at 34:21-22 – quotations should be inserted around the words "eligible renewable energy resource." The proposed correct phrase contained on the transcript at 34:21-22 should read as follows:

  . . . "eligible renewable energy resource," it . . . .

- Transcript at 34:22-23 – quotations should be inserted around the words "renewable electrical generation facility." The proposed correct phrase contained on the transcript at 34:22-23 should read as follows:

  . . . "renewable electrical generation facility."

- Transcript at 35:9 – the word "it" should be deleted. The proposed corrected phrase contained on the transcript at 35:9 should read as follows:

  . . . intended to do otherwise.

- Transcript at 35:21 – the word "steam" should be replaced with the word "system." The proposed corrected phrase contained on the transcript at 35:21 should read as follows:

  . . . in the regulatory system.

- Transcript at 35:24 – a comma should be inserted after the word "resources." The proposed corrected phrase contained on the transcript at 35:24 should read as follows:

  . . . ineligible resources, however, ...

- Transcript at 36:15 – the word "contractor" should be replaced with "contract." The proposed corrected phrase contained on the transcript at 36:15 should read as follows:

  any contract or any facility . . . .

- Transcript at 36:24 – after the word "appeal" a comma and the word "it" should be inserted. The proposed corrected phrase contained on the transcript at 36:24 should read as follows:

  . . . while it has appeal, it has no basis . . . .

- Transcript at 37:5-6 – quotations should be inserted around the words "narrowly tailored." The proposed corrected phrase contained on the transcript at 37:5-6 should reads as follows:

  . . . are these "narrowly tailored" exceptions.

- Transcript at 37:19 – the quotation after the word "ambiguity" should be moved to the word "vague." The proposed corrected phrase contained on the transcript at 37:19 should read as follows:

  ambiguity it references a "vague reference to the rules in place" . . . .

- Transcript at 37:20 – the hyphen should be deleted between the words "five-bill." The proposed corrected phrase contained on the transcript at 37:20 shall read as follows:

  No less than five bill analyses . . . .

- Transcript at 38:1-4 – quotation marks should be inserted before the word "all" on line 1 and after the word "resources" at the end of the sentence on line 4. The proposed corrected phrase contained on the transcript 38:1-4 should read as follows:

  . . . bill, "all existing . . . renewable resources."

- Transcript at 38:15 – quotation marks should be inserted around the words "generalized statements." The proposed corrected phrase contained on the transcript 38:15 should read as follows:

  . . . "generalized statements."

- Transcript at 38:19 – a comma should be inserted after the word "stated." The proposed corrected phrase contained on the transcript 38:19 should read as follows:

  . . . history as mere "generalized statements."

- Transcript at 39:2 – quotation marks should be inserted around the words "vaguely worded." The proposed corrected phrase contained on the transcript 39:2 should read as follows:

  . . . statute is "vaguely worded" . . . .

- Transcript at 39:5-6 – quotation marks should be inserted around the words "generalized statements." The proposed corrected phrase contained on the transcript 39:5-6 should read as follows:

  . . . history is "generalized statements."

- Transcript at 39:6 – the word "the" should be inserted before the word "vague" and quotation marks should be inserted around the phrase "vague reference to rules in place,". The proposed corrected phrase contained on the transcript 39:6 should read as follows:

  But finds the "vague reference to rules in place," . . . .

- Transcript at 40:25 – a comma should be inserted after the word "it." The proposed corrected phrase contained on the transcript 40:25 should read as follows:

  . . . look at it, we're facing . . . .

- Transcript at 41:3 – the word "a" should be deleted. The proposed corrected phrase contained on the transcript 41:3 should read as follows:

  . . . talking about legislation . . . .

- Transcript at 47:17 – the word "the" should be deleted. The proposed corrected phrase contained on the transcript 47:17 should read as follows:

  And with respect . . . .

- Transcript at 47:23 – the word "pass" should be changed to "passed." The proposed corrected phrase contained on the transcript at 47:23 should read as follows:

  . . . when they passed this law . . . .

- Transcript at 59:7 – the word MS. should be changed to "MR." The proposed corrected phrase contained on the transcript at 59:7 should read as follows:

  MR. GUERRERO:

- Transcript at 59:9 – the words "it found" should be deleted and replaced with the words "to respond." The proposed corrected phrase contained on the transcript 59:9 should read as follows:

  I just want to respond very briefly . . . .

- Transcript at 69:17 – the word "in" should be deleted. The proposed corrected phrase contained on the transcript at 69:17 should read as follows:

  . . . objection to a stay.

- Transcript at 69:18 – the word "Commission" should be added to the end of the sentence in place of "- -." The proposed corrected phrase contained on the transcript at 69:18 should read as follows:

  . . . that known to the Commission.

3. Corrections to Transcript by Deputy City Attorney Jean-Claude Bertet.

Deputy City Attorney Jean-Claude Bertet, as counsel to LADWP and who presented on behalf of LADWP on October 11, 2017, requests that the following corrections be made to the October 11, 2017 transcript:

- Transcript at 61:15 – the word "If" should be added to the beginning of the sentence that begins on line 15, page 61. The proposed corrected phrase of the sentence contained on the transcript 61:15 should read as follows:

  If the Legislature wanted to specify each and every contract . . . .

- Transcript at 62:10-11 – the sentence ending period on line 10 should be removed and, on line 11, a comma should be added after the word "program." The proposed corrected phrase on the transcript 62:10-11 should be as follows:

  . . . where SBX1 2 took effect and the time that Public Utilities Code section 387, voluntary program, ended.

The corrections to the transcript reflect the actual statements made by Todd J. Guerrero and Jean-Claude Bertet during the October 11, 2017 CEC Business Meeting.

For the Commission's convenience and that of the official court reporter, the undersigned are also attaching as Exhibit 1 portions of the transcript which contain the proposed corrections identified above, in blackline format.

Dated: December 15, 2017

Respectfully submitted,

/s/ Jean-Claude Bertet

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EXHIBIT 1

DOCKETED	
Docket Number:	17-BUSMTG-01
Project Title:	2017 Business Meeting Transcripts
TN #:	221545
Document Title:	Transcript of 10/11/2017 Business Meeting
Description:	N/A
Filer:	Cody Goldthrite
Organization:	California Energy Commission
Submitter Role:	Commission Staff
Submission Date:	10/19/2017 2:49:27 PM
Docketed Date:	10/19/2017

BUSINESS MEETING

BEFORE THE

CALIFORNIA ENERGY COMMISSION

In the Matter of:	)
	)17-BUSMTG-01
Business Meeting	)
	)

CALIFORNIA ENERGY COMMISSION

THE WARREN-ALQUIST STATE ENERGY BUILDING

ART ROSENFELD HEARING ROOM - FIRST FLOOR

1516 NINTH STREET

SACRAMENTO, CALIFORNIA 95814

WEDNESDAY, OCTOBER 11, 2017

10:00 A.M.

Reported by:
Peter Petty

APPEARANCES

Commissioners

Robert Weisenmiller, Chair
Karen Douglas
Janea Scott
David Hochschild
Andrew McAllister

Staff Present:

Drew Bohan, Executive Director
Kourtney Vaccaro, Chief Counsel
Alana Mathews, Public Adviser
Cody Goldthrite, Secretariat
Jennifer Martin-Gallardo, Staff Counsel
Mona Badie, Staff Counsel
Michelle Chester, Staff Counsel

	Agenda Item
Paul Kramer	3
Courtney Smith	3
Gabe Herrera	3
Geoff Dodson	4
Mike Monosmith	5
Shawn Pittard	6
Erik Jensen	7
Ingrid Neumann	8
David Michel	9
Sebastian Serrato	10
Gina Barkalow	11
Michael Sokol	12

Others Present (* Via WebEx)

Interested Parties

Todd Guerrero, Kutak Rock	3a
Mel Levine, LADWP	3a
Reiko Kerr, LADWP	3a
Jean-Claude Bertet, LADWP	3a
Tom Ware, Southern California Edison	5
Simon Baker, CPUC	6
Tyson Eckerle, GO-Biz	10
Gerhard H. Achtelik, Jr., CARB	10

1 caveat you're welcome to --

2 MR. GUERRERO: Would you prefer that I stand or

3 to just sit?

4 CHAIRMAN WEISENMILLER: Either way. It's up to

5 you.

6 MR. GUERRERO: Thank you, Mr. Chairman, Members

7 of the Commission. Todd Guerrero with the law firm of Kutak

8 Rock. We don't disagree with the proposal, as Chief

9 Counsel outlined. And I think that that's an appropriate

10 way to proceed.

11 Just by way of background, we had always looked

12 at your rule that said anybody can participate. And that's

13 the way we had interpreted it. Out of an ounce of caution,

14 Mr. Bertet had called Chief Counsel's Office just to make

15 sure that we weren't misreading anything. That's when

16 Chief Counsel cited the California Supreme Court Rule --

17 which we were, of course, already aware of -- 9.47 of the

18 Court Rules.

19 The issue sort of became an issue, because as you

20 know we had -- the original request or the original docket

21 was only going to allow five minutes. And so the

22 conversation that we were having behind the scenes was,

23 "Well, does it make sense for me to come out for a five

24 minute~~s~~ of presentation?" When the Chair granted some

25 additional time that's when we made the decision to maybe

1 slide.

2 The issues that I want to address briefly, Mr.
3 Chairman, is we don't disagree with a lot of what we just
4 heard with the exception of one key difference. She talked
5 about "facilities," we're talking about "contracts." And
6 so we want to talk about the difference between 16(d)(1)
7 and (e)(1)(C). (phonetic) We'll respond to briefly, again,
8 to some of the arguments made. We want to speak to the
9 legislative history and of course, we want to talk about
10 what we think is an appropriate resolution here.

11 Next slide, please. So the issue here: ~~Negating~~The gating
12 statute is 399.16(d)(1) and you can see what it says on
13 this slide. It says, "Any contract originally executed
14 prior to June 1, 2010 shall count in full" -- it doesn't
15 say certified, it says shall count in full -- "if the
16 renewable energy resource was eligible under the rules in
17 place as of the date when the contract was executed." The
18 focus is on contracts, it's not qualified by facilities and
19 it does not talk about certification. Next slide, please.

20 So the second statute of course, that issue is
21 399.12(e)(1)(C) that grandfathers pre-June 2010 facilities,
22 which is what Counsel spent most of her time talking about.
23 This says, "A facility approved and adopted pursuant to
24 former Section 387, shall be certified as an eligible
25 renewable energy resource" -- there's the buzzword~~s~~,

1 eligible renewable energy resource -- "if the facility is a
2 renewable electrical generation facility as defined in
3 Section 25741 of the Public Resources Code." Again, this
4 statute says nothing about contracts. And importantly, it
5 has a qualifier. It has a qualifier, it says "if." Next
6 slide, please.
7 So the Proposed Decision's interpretation of
8 16(d)(1) is despite the fact that there's no language
9 limiting the statute the decision says, "The facilities
10 must first meet" -- and their words were, "first
11 establish," -- "a definition of 'eligible renewable energy
12 resources' at time that the contracts were executed."
13 So staff's interpretation of the statute is the
14 bottom paragraph. It says, "Any contract originally
15 executed prior to June 1, shall count in full if the
16 eligible renewable energy resource' was eligible if the
17 facility underlying the contract is a renewable electrical
18 generation facility." That's the way that they've defined
19 this statute. That's not what the statute says. Next
20 slide, please.
21 It doesn't reference "eligible renewable energy
22 resource," it doesn't reference "renewable electrical
23 generation facility." And despite the plain language
24 regarding the reference to contracts, the Decision finds
25 that the Powerex contracts were supposed to meet this

1 definition.

2 Mr. Chairman, Members of the Commission, if the

3 Legislature wanted to reference facilities, if they wanted

4 to include the definition of renewable electrical

5 generation facility, they knew how to do it. They did it

6 in 16. -- or excuse me -- 12(e)(1)(C). If they wanted to

7 do it in 16(d)(1) they could have done it. They did not.

8 And we believe it's wrong to assume that the Legislature

9 intended to do ~~it~~ otherwise.

10 Let me respond. Next slide please.

11 We heard Counsel talk about this parade of

12 horribles, this parade of unintended consequences of what's

13 going to happen if despite what the statute says we're

14 going to -- for gosh sake, we're going to let the POUs be

15 bound by their own rules. This is the Hoover Dam argument,

16 among others.

17 If the Legislature intended to grandfather all

18 POU contracts then any resource, no matter how incongruent,

19 could count toward a POU's RPS. This is the 44 different

20 sets or the 21 different sets of rules that will lead to

21 this so-called chaos in the regulatory ~~steam~~system. The

22 conclusion that staff has made is that the interpretation

23 that our rules in place, refers to our own rules will lead

24 to this patchwork of ineligible resources, however, does not

25 play out in the real world. Next slide, please.

1 First, all of the other POUs resources have been
2 verified one way or the other. Thus, there is no concern
3 about 44 different sets of rules. The issue is limited
4 here to DWP and DWP only.
5 Second, the mention in their staff comments about
6 well, they could get the contracts or facilities approved
7 over 30 megawatts, when the RPS never contemplated that.
8 We did get aqueduct facilities approved under a different
9 statute, which were 40 megawatts. That's 399.12(e)(1)(A),
10 which specifically refers to facilities operated as part of
11 a water supply or conveyance system. We got those approved
12 under 12 -- by this Commission -- under 12, but not under
13 16.
14 Third, the idea that we're somehow going to bring
15 any contract~~or~~ or any facility forward, we think is not
16 credible. I think you need to give the POUs a little bit
17 more credit than that. They're not going to bring
18 contracts or facilities that are not renewable, certainly,
19 not renewable under our own rules when the contracts and
20 facilities were entered into.
21 So the conclusion, Mr. Chairman, that there's
22 going to be this patchwork of unintended consequences,
23 there's going to be this patchwork of different
24 regulations, while it has appeal, it has no basis in either
25 fact or reality.

1 And let me talk about very briefly, staff's
2 comments about the narrowly tailored exceptions that they
3 raise in their comments and that she raised here. I urge
4 you to go look at 399.30(g), (h), (i), (j), (k) and (l).
5 Those are the statutes that staff says are these "narrowly
6 tailored" exceptions. And why would we have these
7 exceptions if all rules or if all contracts were intended
8 to be grandfathered? Those statutes look forward, they do
9 not look back. The question here is whether or not the
10 statute allows, as it specifically says, "contracts to be
11 grandfathered."
12 Let me talk briefly about the legislative
13 history. Next slide -- thank you.
14 Reading it clear on its face, that the statute
15 speaks to contracts, not facilities, we think there's a
16 clear distinction. But if you believe -- Mr. Chairman and
17 members of this Commission believe there's ambiguity, which
18 the Proposed Decision specifically states there's
19 ambiguity" it references a "vague reference to rules in
20 place" among others. No less than five bill analyses
21 indicate that the Legislature intended to approve or
22 grandfather pre-June 2010 contracts. Those are the
23 committees. We've referenced them in our comments. The
24 next slide, please?
25 And let me just give you an example. Under the

1 bill, "all existing renewable energy contracts signed by
2 June 1, 2010 would be grandfathered into the program. Going
3 forward, new renewable energy contracts must meet the
4 loading order that categorizes renewable resources." To
5 finesse a transition from the 20 percent to 33 percent,
6 SBX1 2 grandfathered all RPS contracts entered into prior
7 to June 1st, and provided that those contracts will count
8 in full. Next slide please. Thank you.
9 We submit, Mr. Chairman and members of this
10 Commission, that the history is very clear and that the
11 Legislature understood at the time what it was voting on.
12 It's hard to imagine how much more clear legislative
13 history could get, and yet the Proposed Decision --
14 respectfully, Mr. Chair -- bewilderingly refers to this
15 legislative history as mere "generalized statements."
16 And I want to juxtapose that finding, Mr.
17 Chairman, to the finding in the Proposed Decision with
18 respect to the retroactive impact of the law. As
19 Mr. Levine had stated, absent an express provision of the
20 law, all laws are presumed to be prospective in nature;
21 that is, going forward. There is absolutely no express
22 statement anywhere in SBX1 2 intended to have retroactive
23 impact. There is no express provision that we were
24 supposed to be bound by rules to which we were specifically
25 exempt.

1 Indeed, as I mentioned the Proposed Decision

2 states that the statute is "vaguely worded" -- page 14 -- of

3 the rules in place of the Proposed Decision. And yet --

4 and yet, Mr. Chairman, the Proposed Decision finds what we

5 submit as clear legislative history is "generalized

6 statements." But finds the "vague reference to rules in place,"

7 specifically refers to the Commission's Guidebooks rules

8 and not the POU rules. We submit respectfully that that is

9 difficult if not impossible to reconcile. Next slide

10 please. Thank you.

11 Putting aside the points that we've raised we

12 think we are here as friends, as somebody that supports the

13 efforts of this Commission and many other bodies that are

14 trying to do the right thing in terms of energy policy in

15 this state and country.

16 This proposal talks about our obligations ending

17 -- excuse me, the Proposed Decision talks about our

18 obligations ending on December 10th, which is the effective

19 date of the statute, and beginning anew thereafter. As Mr.

20 Levine mentioned this, the Proposed Decision specifically

21 states that SBX1 2 and its constituent statutes were

22 prospective in operation and effect.

23 The issue here, our contract terminated on

24 December 31st, 2011. Compliance Period One started in

25 January of 2011 and went to 2013. What we're talking about

1 ten minutes that you have reserved. And so you split it up
2 however you deem fit.
3 MR. GUERRERO: It sounds like I think we've
4 actually have probably expended close to our allotted time,
5 so we'll make this very brief.
6 Again, Mr. Chairman, Members of this Commission,
7 what we're looking for is a resolution that makes sense.
8 We don't want to have to pay $22 million in penalties for
9 energy that was bought in 2007 under a contract that L.A.
10 citizens committed up to $186 million when they thought it
11 was going to be renewable energy, when it was renewable
12 energy under their rules, no question.
13 And so, what we want to do is to find a way to
14 make sense of this in a way that doesn't impose retroactive
15 penalties on citizens that made a good decision at the time
16 under rules to which they were specifically bound.
17 And with ~~the~~ respect to -- I know there's a lot
18 of statutes being thrown around -- the Legislature
19 sometimes doesn't do things that make sense. Sometimes
20 they do things, because somebody wants something and
21 somebody else wants something here and somebody else wants
22 something there. And that's the way it goes. But the
23 reality is, is that when they passed this law we submit
24 respectfully that they knew that there was a $186 million
25 contract out there that people relied on, in good faith.

1 And I'll just say as a last -- your point has
2 been well taken that the verification and the RPS
3 enforcement process are long processes.
4 MS. VACCARO: And just for clarification of the
5 record, it's Mr. Guerrero who's representing LADWP.
6 COMMISSIONER DOUGLAS: I apologize.
7 M~~S~~R. GUERRERO: Thank you, Counsel, Mr. Chair, Ms.
8 Commissioner.
9 I just want ~~it found~~ to respond very briefly, we're not here
10 to threaten litigation. That's not -- politely or not
11 politely that's not our purpose here. I think that the
12 real purpose is, is that as Commissioner Douglas indicated,
13 there are some real unknowns here with the transition and
14 the adoption of new statutes and adoption of new rules.
15 And I think to suggest that we're sort of threatening
16 litigation to get a stay or an answer is sort of making de
17 minimis of our real interests. And that is we don't think
18 it makes sense, as the Commissioner suggested, that we make
19 -- that anybody makes decisions in the vacuum.
20 And right now, what we understood the case to be
21 is that if this Commission is going to adopt a Proposed
22 Decision then we have a real vacuum. And that was the
23 purpose of the inquiry.
24 CHAIRMAN WEISENMILLER: Thanks for that
25 clarification. Again, I'm going to let my other

1 So just to understand the basic of our argument,
2 you have facilities on the one hand and you have a
3 statutory scheme that addresses the facilities. And you
4 have facilities that spent a lot of money and municipal
5 entities expect those facilities to last generations,
6 lifetimes. And you have facilities with biomethane that
7 was built many years ago.
8 On the other hand you have contracts. And so
9 contracts are limited in time, duration and scope. So you
10 have a Powerex contract that's for five years or just under
11 five years, for a limited amount of time and limited amount
12 of energy. And so that's, in essence why the Department
13 didn't apply for certification. It didn't own these
14 facilities. And there's a statutory scheme within SBX1 2
15 that addresses all contracts. If the Legislature wanted to
16 specify each and every contract it could do so, but why
17 would it ever do that?
18 But when you look at facilities, facilities are
19 these enormous facilities, generation facilities, and
20 there's just an enormous amount of resources spent to build
21 them. So it makes sense to identify them out. The
22 Department of Water and Power has its aqueduct facilities
23 that were built in the 1920s. And so it makes sense to
24 identify those out.
25 But a contract limited in duration and time? It

1 here is the one year of our contract, the last year of our
2 contract and not even the full year. We're talking about
3 January 1 to December 9th when our contract was still in
4 effect; we'll write off the remaining 21 days of the month.
5 But we think that you have the authority, Mr. Chairman,
6 despite the language in the Proposed Decision about this
7 that you don't have the authority, because it refers to
8 Division 15 -- which Division 15 of course is your enabling
9 legislation that gives you all authority to act and
10 interpret any statute whatsoever.
11 Nor is it prudent to suggest in quasi-judicial
12 proceeding that somehow this body doesn't have the inherent
13 judicial or equitable powers to find a resolution that
14 makes sense for both parties. And so we would suggest that
15 it makes a lot of sense under the circumstances, Mr.
16 Chairman, that we be allowed to count the 400,000-plus RECs
17 that are at issue in this proceeding. And those are the
18 only RECs that are an issue. And with that, next slide
19 please.
20 I want to just finish again, with a thought about
21 this compliance versus non-compliance, which I raised
22 earlier, Mr. Chairman. And that is we are -- this is not
23 intended to be an adverse position on ours, it's intended
24 to be, we don't really know. And our concern is that we're
25 facing -- the way we look at it, we're facing a very

1 substantial penalty for energy that we bought in 2007 in
2 good faith under rules that we were specifically bound to.
3 And now we're talking about a legislation that was four
4 years later. And now we're talking about a decision ten
5 years later.

6 And so, we think under the circumstances that we
7 are entitled to know exactly what we're looking at. And we
8 think that there's an opportunity to get something worked
9 out if the previous position of this Commission is to go
10 ahead and issue the Proposed Decision. Which, I think, for
11 reasons that I raised earlier should give you pause,
12 because we think that there are some faults in the logic
13 there.

14 But if this Committee -- or excuse me, Commission
15 is looking at moving forward we think a stay or a stay-like
16 mechanism would be an appropriate mechanism. So that the
17 parties can determine whether or not we're looking at
18 penalties before we have to take a very expensive, very
19 costly, very protracted litigation that just takes
20 resources that are otherwise could and should be used on
21 more productive endeavors.

22 And with that, I'm happy to answer any questions,
23 Mr. Chairman.

24 CHAIRMAN WEISENMILLER: Okay, thank you.

25 I'll go back to the staff's response.

1 5-0.

2 I would like to thank LADWP for its thoughtful

3 engagement in this process. Certainly, we have developed a

4 very deep working relationship, given the Aliso Canyon

5 matters. Indeed, looking at continuing developments or

6 recent developments there I think we're going to have a

7 very, very deep relationship this winter.

8 And I also appreciate the opportunity to work

9 together going forward, as we move towards reducing

10 California's greenhouse gas emissions. And we appreciate

11 LADWP's activities and forcefulness in pursuing renewables

12 at this stage.

13 So certainly if you want to make a comment now.

14 MR. GUERRERO: Thank you, Mr. Chairman. My

15 comment was going to be that prior to the Commission taking

16 the bench, we had discussed with staff that staff was not

17 in disagreement and had no objection to ~~in~~ a stay. And so,

18 I wanted to make that known to the ~~—~~Commission.

19 CHAIR WEISENMILLER: I'm sorry, but we do not

20 agree with staff on that issue. We discussed it

21 thoroughly, as I said.

22 We certainly encourage you to work with them

23 promptly on the verification issues and see how far we can

24 get on resolving questions and move forward. But we're

25 certainly not prepared to stay at this time.