

## DOCKETED

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APPEARANCES

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Karen Douglas  
Janea Scott  
David Hochschild  
Andrew McAllister

Staff Present:

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Kourtney Vaccaro, Chief Counsel  
Alana Mathews, Public Adviser  
Cody Goldthrite, Secretariat  
Jennifer Martin-Gallardo, Staff Counsel  
Mona Badie, Staff Counsel  
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David Michel	9
Sebastian Serrato	10
Gina Barkalow	11
Michael Sokol	12

Others Present (\* Via WebEx)

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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

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*Matt McClory, Toyota Technical Center	10
*Joel Armin-Holland , All Power Labs	11

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Pursuant to Government Code section 11126(e), the Energy Commission may also discuss any judicial or administrative proceeding that was formally initiated after this agenda was published; or determine whether facts and circumstances exist that warrant the initiation of litigation, or that constitute a significant exposure to litigation against the Commission, which might include:

- a. Claims filed at, and rejected by, the Victim Compensation and Government Claims Board against a number of defendants including the Energy Commission relating to the gas leak at Aliso Canyon.

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P R O C E E D I N G S

OCTOBER 11, 2017 10:05 a.m.

CHAIRMAN WEISENMILLER: Good morning. Let's start this meeting with the Pledge of Allegiance.

(Whereupon, the Pledge of Allegiance was recited in unison.)

CHAIRMAN WEISENMILLER: Oh, it's been quite a month. Let's start with a moment of silence. Obviously, we've had deaths in Northern California from the fires. Certainly, a lot of Californians were killed in Las Vegas. And I think, even before that, all of our hearts went out in Puerto Rico.

(Whereupon, a moment of silence was observed.)

Okay. And then let's go on with the record now. Let's start with the Consent Calendar.

COMMISSIONER DOUGLAS: Move consent.

COMMISSIONER SCOTT: Second.

CHAIRMAN WEISENMILLER: All those in favor?

(Ayes.)

CHAIRMAN WEISENMILLER: Consent has been approved by 5-0.

Let's go on to Item 3. Mr. Kramer, L.A. staff, please come on up.

MR. KRAMER: Good morning. This item concerns

1 the Los Angeles Department of Water and Power's efforts to  
2 qualify contracts for electrical generation to count  
3 towards its Renewables Portfolio Standard obligation for  
4 Compliance Period 1.

5 In 2013, LADWP requested that Commission staff  
6 certify its facilities' use of landfill gas obtained under  
7 a 2008 Shell contract and a 2009 Atmos contract as eligible  
8 renewable energy resources under the RPS Program. In the  
9 Proposed Decision before you, these are generally called  
10 the Biomethane Agreements.

11 Staff denied certification and LADWP appealed the  
12 denial to the Executive Director, who upheld staff's  
13 denial. And therefore LADWP appealed to the Commission the  
14 action that's before you today.

15 In June of 2016, the Commission appointed a  
16 Committee of Chair Weisenmiller, Presiding Member, and  
17 Commissioner Hochschild, Associate Member, to consider the  
18 appeal.

19 And during an early Committee Conference, LADWP  
20 asked that the Committee add a second issue, whether a 2007  
21 contract with Powerex for a small hydroelectric generation  
22 in British Columbia, Alberta, Washington and Oregon is  
23 eligible under RPS. And a Proposed Decision calls this by  
24 the name BC Hydro. LADWP had not applied for certification  
25 for BC Hydro. And therefore, staff had not previously

1 considered its eligibility at that point.

2 Staff and LADWP briefed the legal issues and  
3 stipulated to a set of agreed-upon facts.

4 The Committee filed a Proposed Decision in early  
5 January. Comments were received from the parties in late  
6 January. After considering the comments, the Committee  
7 revised the Proposed Decision to read as it is before you  
8 today.

9 The Proposed Decision determines first, that  
10 generation attributed to the landfill gas purchased under  
11 the Biomethane Agreements is eligible under RPS. And  
12 second, that BC Hydro is not eligible under RPS. LADWP  
13 disagrees with that second determination on legal policy  
14 and equitable grounds.

15 LADWP and staff are here today to provide their  
16 comments. And there may also be some public comment. You  
17 have before you their written comments filed last week.  
18 And I'll note that we've prepared the Agenda to afford the  
19 opportunity for you to deliberate in closed session if you  
20 desire.

21 The Committee recommends that you approve the  
22 Adoption Order that's also before you which, by its terms  
23 adopts the Committee Proposed Decision. The Adoption Order  
24 also includes in Attachment A, where any changes that you  
25 might choose to make today, can be recorded.

1           My colleague Jennifer Martin-Gallardo and I are  
2 available for questions.

3           There is a preliminary matter that you may wish  
4 to discuss first and that's the request of Todd Guerrero --  
5 he is a member of the Minnesota Bar, who is not admitted to  
6 practice in California -- for permission to appear before  
7 you as a lawyer representing LADWP.

8           CHAIRMAN WEISENMILLER: That's great. Let's take  
9 up that preliminary matter and then we'll go to the  
10 (indiscernible) to discuss issues. Sit, you've already  
11 made your (indiscernible) I believe, so let's -- I'll tee  
12 it up for --

13           MS. VACCARO: I guess that's me.

14           CHAIRMAN WEISENMILLER: Yeah.

15           MS. VACCARO: So, I've reviewed the written  
16 documentation submitted by LADWP and prior to that I had  
17 the benefit of a conversation with Legal Counsel Jean-  
18 Claude Bertet of the LADWP, to discuss this really kind of  
19 a first-impression question for the Commission.

20           We have a rule in our regulations that allows  
21 pretty much anyone to be represented by anyone in our  
22 proceedings. And we don't specify whether that  
23 representative must be or should be a lawyer or anyone  
24 else. We generally don't care. What we don't purport to  
25 do with that rule though is tell an out-of-state attorney

1 that they may practice law in California. That's better  
2 left to the California Supreme Court and the Legislature.  
3 And as it turns out, there are a number of Rules of Court  
4 that deal with this type of situation.

5 One of the things that I did discuss with  
6 Mr. Bertet is it's not entirely clear which if any of those  
7 rules might apply to this situation before this  
8 administrative body. And in fact, the Rules of Court that  
9 are applicable don't just apply to court proceedings. They  
10 also specifically call out matters before administrative  
11 decision makers, which is essentially the role that you're  
12 in today.

13 So, one rule that I did point out to Mr. Bertet  
14 that may or may not apply is Rule 9.47, which essentially  
15 allows an out-of-state attorney to appear before  
16 administrative decision makers subject to the rules of that  
17 body. And as it turns out we have no such rules. And my  
18 leaning in this respect is because we have no rules we  
19 don't want to make them on an ad hoc basis. That  
20 rulemaking is best done and is most credible and legally  
21 defensible when done consistent with the Administrative  
22 Procedure Act for rulemaking.

23 And I think primarily for that reason I would  
24 suggest that you consider declining to agree to the request  
25 to the extent that it's asking you to permit an out-of-

1 state attorney to practice law in California, but instead  
2 to certainly welcome Mr. Guerrero to represent LADWP in  
3 these proceedings pursuant to our regulations as we would  
4 welcome any representative. And I think that's my  
5 recommendation for your consideration with respect to the  
6 application.

7           COMMISSIONER DOUGLAS: I do have just some brief  
8 comments I think, on this. Certainly, in siting matters  
9 before the Commission, we have a fairly liberal approach to  
10 ensuring that parties are able to choose their  
11 representation. And sometimes of course in siting matters  
12 we have community or individual intervenors. And they  
13 find, at times a volunteer counsel or they're represented  
14 by people who are not attorneys at all. And to the extent  
15 that that is clearly a choice of the Intervenor and  
16 facilitates the proceeding, we've always been very open to  
17 it.

18           But I do hear very clearly the distinction that  
19 the Chief Counsel is making and I think it's a good one.  
20 You know, I think her recommendation that we welcome this  
21 participation before our proceeding, in our proceeding,  
22 pursuant to our regulations and don't speak beyond that to  
23 matters that are not our direct jurisdiction is  
24 appropriate.

25           CHAIRMAN WEISENMILLER: Well, okay so with those

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 minutes of presentation?" When the Chair granted some  
25 additional time that's when we made the decision to maybe

1 allow me to speak a little bit more fully. And it was on  
2 that day that the request or the granting of the additional  
3 time request came out, that we made the application.

4 And again, the application was made in the ounce  
5 of caution that, "This is the way that we read the rule."  
6 But if we are misreading it in any way then we ask your  
7 discretion, which I think that the Court Rules clearly  
8 allow, because the Court Rules do specifically refer to the  
9 jurisdiction of the decision-making body.

10 So that's just a little bit of way of background.  
11 But I -- again, we don't disagree with the approach  
12 outlined.

13 CHAIRMAN WEISENMILLER: Great.

14 MR. GUERRERO: Thank you.

15 CHAIRMAN WEISENMILLER: So please start the  
16 discussion.

17 MR. LEVINE: I'll start.

18 CHAIRMAN WEISENMILLER: Yeah.

19 MR. LEVINE: Hello, Commissioners. I'm  
20 Mel Levine. I'm President of the Board of Commissioners  
21 with the L.A. Department of Water and Power. And I want to  
22 thank you for the opportunity to speak with you about this  
23 matter, which is of great importance to DWP and great  
24 importance to the City of Los Angeles.

25 I intend to focus not on the legal issues, except

1 very briefly, which highly competent lawyers on both sides  
2 have skillfully presented in their papers. I want to focus  
3 primarily on policy issues. And that's why I'm here today.

4 My bottom line and most important point is this:  
5 This is a fight that the Energy Commission and the L.A.  
6 Department of Water and Power should not be having. We are  
7 seeking the same results, we and you. The Administration  
8 in Washington is assaulting both California and Los Angeles  
9 in terms of our renewable energy policies. Both of us, the  
10 Energy Commission and the L.A. Department of Water and  
11 Power, are acting in good faith to maximize the deployment  
12 of renewable resources. And both of us have now been at  
13 this for some time.

14 To force DWP to litigate an issue where DWP has  
15 acted in good faith, and I believe in a manner completely  
16 consistent with the law and with good public policy,  
17 undermines our respective efforts and is both unwise and  
18 unnecessary.

19 I can appreciate the creative legal arguments  
20 that staff made to suggest that rules in place somehow can  
21 apply to a party who would have had no reason to suspect  
22 that those rules would be applied to it many years after it  
23 took an action, which was then consistent with all rules  
24 which applied to it at the time. Or that an action should  
25 not be viewed as retroactive even though its application

1 may impose potential multimillion dollar penalties on a  
2 party who abided by all the rules, which applied to it at  
3 the time that it entered into a good-faith contract  
4 designed to meet self-imposed, aggressive and innovative  
5 renewable energy targets.

6           But however creative these arguments are,  
7 traditional public policy concepts and common sense would  
8 not accept these strained legal interpretations. And I  
9 won't belabor the legal points, except as follows: it is  
10 clearly settled law in California that a statute is  
11 retroactive if it substantially changes the legal effect of  
12 past events. This is the one legal point I want to  
13 emphasize, which is to repeat, "A statute according to  
14 California courts consistently -- a statute is retroactive  
15 if it substantially changes the legal effect of past  
16 events."

17           As I am sure you know and appreciate there is  
18 also both a U.S. and California presumption that statutes  
19 operate prospectively, not retroactively. If staff's  
20 reasoning is accepted, your rules in place will impact Los  
21 Angeles ratepayers to the tune of potentially \$22 million.  
22 That clearly changes the legal effect of past events, thus  
23 falling squarely into the California law definition of  
24 retroactivity and strictly on public policy grounds as well  
25 as even some of CEC staff's own assertions. Staff

1 interpretations, both of rules in place and retroactivity,  
2 should be rejected.

3 No matter how you cut it, whether it is because  
4 the Proposed Decision fails to recognize the Legislature's  
5 intent to grandfather DWP's pre-June 2010 contracts so they  
6 could be counted in full by RPS purposes, or whether it's  
7 because the Proposed Decision fails to recognize that it is  
8 grounded in a retroactive application of the law, the  
9 effect of staff's recommendations is the same.

10 Application of the Energy Commission's guidebook  
11 to the DWP Powerex contracts, many years after those  
12 contracts were signed in good faith and for good reasons,  
13 will unfairly punish DWP for acting appropriately and in  
14 good faith to achieve objectives entirely consonant with  
15 those of the Commission.

16 And in terms of the staff interpretations let us  
17 just take two assertions made in staffs' written argument  
18 and apply them to this matter. First, on page 19 of the  
19 Proposed Decision, the decision asserts correctly that,  
20 "SBX1 2 and its constituent statutes were prospective in  
21 their application." From the Proposed Decision, yes they  
22 were, but they were not designed to be anything but  
23 prospective.

24 And second, the Proposed Decision asks its  
25 ultimate question on page 18 regarding retroactivity when

1 it asks whether CEC's rules in place, "substantially  
2 affects LADWP's existing rights and obligations under the  
3 Powerex Hydro PPAs."

4 If your staff's reasoning is allowed to stand it  
5 opens the door to a potential \$22 million cost to L.A.  
6 ratepayers. That result was obviously never contemplated  
7 when DWP entered into the Powerex contract many years  
8 before this retroactive decision.

9 Your staff might argue that the penalty was not,  
10 "existing" when the contract was entered but its potential  
11 imposition, which DWP had no reason to consider at least  
12 until SBX1 2 became effective, would substantially affect  
13 LADWP's existing rights and obligations. And as I  
14 mentioned previously it clearly changes the legal effect of  
15 past events for DWP's ratepayers, thus falling squarely  
16 into what California courts have repeatedly defined as  
17 retroactive.

18 With due respect to your staff lawyers the  
19 principle at work here is easy to understand. Laws are  
20 intended to have prospective effect, because commercial  
21 endeavors are dependent on a rule of law that allows people  
22 to have confidence about the legal consequences of their  
23 actions at the time that they make them. Thus, core public  
24 policy and even constitutional principles dictate that  
25 unless there is a very express legislative provision that

1 states that a law is intended to operate retroactively,  
2 they operate prospectively.

3 And importantly where there is ambiguity, courts  
4 in public policy are likewise clear that any ambiguity is  
5 resolved in favor of prospective, not retroactive,  
6 application.

7 The Proposed Decision concedes that LADWP's  
8 argument on retroactively has, as your staff says, surface  
9 appeal. We agree. That is because it's consistent with  
10 any common sense application of the concept of  
11 retroactivity. This is something I dealt with for almost  
12 16 years as a state and a federal legislator. And based on  
13 these almost 16 years of legislative experience I can  
14 confidently assert that staff's interpretation of  
15 retroactivity would not pass the smell test to legislators.  
16 And frankly, I don't think it would pass the smell test to  
17 judges either. I hope we aren't forced to test that.

18 And again, I very much appreciate the opportunity  
19 to present these thoughts to you.

20 CHAIRMAN WEISENMILLER: Well, thanks for being  
21 here.

22 MS. KERR: Good morning Chair and Commissioners.  
23 My name is Reiko Kerr. I am the Senior Assistant General  
24 Manager for the L.A. Department of Water and Power.

25 L.A. remains committed to renewable energy and

1 has a commendable track record. In 2005, as part of its  
2 voluntary renewable portfolio standard policy L.A. set a  
3 goal to achieve 20 percent renewables by 2017. Two years  
4 later in 2007 that 20 percent goal was accelerated to 2010.  
5 With all of LADWP's renewable contracts and facilities,  
6 L.A. was on track to meet its 20 percent goal. As reported  
7 to the Commission in 2014, 20 percent of LADWP's power  
8 resources were from renewables. LADWP shares the  
9 Commission's enthusiasm for incorporating Renewable  
10 Portfolio Standards into our energy mix.

11 In 2007, the Powerex Hydroelectric contracts met  
12 LADWP's renewable classifications in its RPS as determined  
13 by its governing body. LADWP relied in good faith on those  
14 contracts to fill its part of the RPS. I believe the  
15 Legislature intent understood this. And it is why it  
16 grandfathered all pre-June 2010 contracts. LADWP certainly  
17 believed the Legislature intended to grandfather all June  
18 2010 contracts, including the Powerex BC hydroelectric  
19 contracts.

20 Punishing LADWP for voluntarily being a leader  
21 and early adopter in its procurement of renewables is  
22 unfair. LADWP may have to pay up to \$22 million for RECs,  
23 for energy, renewable energy, for which it already paid a  
24 premium. This is unfair to LADWP's customers. This isn't  
25 a shareholder obligation. This would be placed upon our

1 customers and ratepayers.

2 I believe DWP and the Energy Commission have an  
3 opportunity to resolve this dispute. I am confident the  
4 parties can develop a method to reconcile the renewable  
5 energy credits from the Powerex contracts. LADWP has  
6 submitted one such solution, but likely there are others.

7 As Chair Levine stressed, the parties can reach a  
8 resolution. I agree with Chair Levine that it is better  
9 for us to devote our scarce public resources for a common  
10 goal of achieving greater renewables for California. And  
11 for California to continue to demonstrate leadership in a  
12 country where currently there is none.

13 I urge you to reconsider the recommendation in  
14 the Committee's Proposed Decision regarding the Powerex BC  
15 Hydro contracts. And I thank you for the opportunity to  
16 speak before you today.

17 CHAIRMAN WEISENMILLER: In the future we normally  
18 do not allow parties to do slides. And certainly would  
19 anticipate of being asked in advance and basically, that as  
20 being shared with our attorneys. But again, to allow you  
21 to develop your full case go ahead, but just an admonition.

22 MR. GUERRERO: Yeah. Thank you, Mr. Chair. I  
23 apologize. It's really just intended as a guide.

24 Given that we've got a few minutes left here and  
25 then some time at the end, I'm going to sort of reverse my

1 comments here a little bit. And if you want to go to the  
2 last page of the PowerPoint, which is page 13, we will  
3 rebut some of the legal arguments in some of the issues  
4 that we have discussed for some time now. But I want to  
5 raise the issue so that you can think about this throughout  
6 the proceeding Mr. Chairman and Members of the Commission,  
7 and that is our interpretation is that if this Commission  
8 is inclined to follow the Proposed Decision, we're likely  
9 to look at upwards of \$20-plus million in penalties. We  
10 don't know exactly when that's going to happen, but the  
11 writing seems to be pretty fairly written on the wall.

12 In the Proposed Decision and in staff's most  
13 recent comments there is a suggestion that this proceeding  
14 is not --it's not a suggestion, it's a statement -- that  
15 this is not about compliance or noncompliance. And then  
16 that at some later proceeding -- and the word that's used  
17 is actually if staff brings a complaint -- an enforcement  
18 complaint against DWP, then we can talk about penalties.

19 If this Committee -- excuse me, if this  
20 Commission is inclined to follow the Proposed Decision --  
21 and we're going to tell you why we don't think you should,  
22 but if this Commission is inclined to follow the  
23 Committee's decision it would be helpful to know what the  
24 Commission's determination is about what's next. Because  
25 the reality is, is that we have to make some pretty hard

1 decisions about whether or not to seek an appeal.

2           And if the fact that this Committee, or excuse  
3 me, Commission is not making a determination that we're  
4 going to seek penalties then maybe there's an opportunity  
5 to stay the enforcement of that decision until such a time  
6 as there is a verification proceeding in which DWP's -- all  
7 of their resources can be thrown into the mix and then to  
8 see whether or not there will be. Or whether or not there  
9 ultimately will be a complaint filed. But we think it's  
10 incumbent upon the Commission, and we're happy to have the  
11 discussion, to let us know what the Order does or doesn't  
12 do with respect to penalties, because we read it a little  
13 differently.

14           And we do think that under the circumstances that  
15 if there's not an enforcement as part of this proceeding,  
16 then a stay, if in fact this Commission is inclined to  
17 follow the Proposed Decision, a stay of enforcement would  
18 be an appropriate mechanism to put a time-out on the  
19 proceedings and let the parties determine whether in fact  
20 there will be penalties at some point in the future. And a  
21 stay does not upset certainly your applecart, because it  
22 doesn't affect your determination. It only affects when  
23 the enforcement of that decision would kick in. And  
24 certainly, the parties could work out a number of different  
25 circumstances, which if this Commission wanted the stay to

1 be lifted, that could easily be factored in to any  
2 determination.

3 So with that my time is probably up. And we'll  
4 be back to address some of the legal points a little bit  
5 more clearly.

6 Thank you, Mr. Chairman.

7 CHAIRMAN WEISENMILLER: Okay. Thank you.

8 Staff?

9 MS. SMITH: Good morning, Commissioners. I am  
10 Courtney Smith, the Deputy Director for the Renewable  
11 Energy Division. I will be providing staff's opening and  
12 closing statement. However, I am joined by Gabe Herrera  
13 and Mona Badie from the Chief Legal Counsel's Office, who  
14 are here to answer any legal or procedural questions you  
15 may have.

16 So to begin, I actually want to switch up what I  
17 was going to do and actually speak first to LADWP's  
18 economic and procedural arguments. LADWP's argument  
19 regarding the loss of economic benefit associated with BC  
20 Hydro procurement is overstated as LADWP was able to use  
21 that energy for the very purpose for which it was procured,  
22 to comply with LADWP's pre-SBX1 2 renewable energy program  
23 under the Public Utilities Code Section 387, and to provide  
24 energy to its customers.

25 As the Committee noted in its revised Proposed

1 Decision there is no evidence the Committee's  
2 recommendation impairs LADWP's ability to comply with  
3 Section 387 or diminishes the value of the benefit accrued  
4 from its acquisitioning use of BC Hydro procurement.

5 Further staff maintain, as Mr. Guerrero noted,  
6 that it is premature and speculative to say at this point  
7 and time what the compliance determination will be for  
8 LADWP for the first compliance period.

9 If, after staff's verification of LADWP's  
10 procurement it's determined that LADWP did not procure  
11 sufficient eligible renewable energy resources to meet its  
12 RPS procurement requirements for the first compliance  
13 period, LADWP could apply one of several optional  
14 compliance measures as allowed for by statute, and by the  
15 Energy Commission's regulations in order to comply with the  
16 RPS.

17 If LADWP's procurement shortfall is not satisfied  
18 by the application of an optional compliance measure and a  
19 complaint for noncompliance is initiated against LADWP  
20 pursuant to the Energy Commission's regulations, LADWP  
21 would have an opportunity in its answer to that complaint  
22 to raise any mitigating or otherwise pertinent factors  
23 related to the alleged violation. And indeed, that really  
24 is the appropriate time procedurally for equitable  
25 arguments to be considered by the Energy Commission.

1           In addition, staff believes it's appropriate for  
2 the Committee to reject LADWP's equitable arguments  
3 regarding the BC Hydro generation as it really does fall  
4 outside of the scope of the appeal process that's provided  
5 for in the RPS Eligibility Guidebook. This appeal process  
6 is narrowly for consideration of situations in which  
7 factors other than those described in the guidebook were  
8 applied by the Energy Commission in either denying or  
9 revoking the RPS certification of a facility. It's really  
10 not the appropriate venue to explore if rules in the  
11 guidebook should be changed or new rules adopted, yet this  
12 is what LADWP is essentially seeking. So siding with LADWP  
13 on the BC Hydro issue would be tantamount to establishing  
14 new Energy Commission rules, which really again goes beyond  
15 the scope of the appeal rights contemplated in the RPS  
16 Eligibility Guidebook.

17           Just to then go a little bit more into some of  
18 the legal argumentation, on the issue of eligibility of  
19 LADWP's biomethane contracts, staff does not object to the  
20 revised Proposed Decision's finding that LADWP's  
21 Scattergood, Harbor, Haynes and Valley generating stations  
22 are eligible renewable energy resources based on the use of  
23 biomethane that was procured under their Shell and Atmos  
24 agreements. And that the generation from these facilities,  
25 upon verification from staff, will count in full towards

1 their RPS procurement obligations.

2 On the issue of the eligibility of LADWP's BC  
3 Hydro procurement, staff also agrees with the determination  
4 made in the Committee's revised Proposed Decision that the  
5 generation from the BC Hydro facilities should not be  
6 counted towards their procurement requirements.

7 In arriving at this determination staff believes  
8 that the revised Proposed Decision correctly interprets  
9 SBX1 2 in its intent. As LADWP notes, before SBX1 2 was  
10 enacted by the Legislature, local publicly owned electric  
11 utilities, they were directed by statute to create their  
12 own renewable energy procurement programs in accordance  
13 with the then-existing Section 387 of the Public Utilities  
14 Code.

15 Yet, with the passage of SBX1 2, POUs were  
16 brought into a statewide RPS subjecting POUs to the same or  
17 similar RPS requirements as retail sellers. Including the  
18 requirement to meet the same facility eligibility rules as  
19 established by statute and the Energy Commission the  
20 requirement to have all resources certified by the Energy  
21 Commission and the requirement to be subject to compliance  
22 verification by the Energy Commission.

23 In staff's view, the intent behind establishing  
24 the same or similar requirements for all utilities in  
25 California was to develop a California's Renewables

1 Portfolio Standard into a uniform statewide program.

2 L.A. argues that the rules in place provisions  
3 established by SBX1 2, instead intended for each POU's  
4 existing rules, to be the rules that determine what  
5 resources would be eligible for California's RPS under SBX1  
6 2. Now, if these provisions were construed as LADWP argues  
7 to mean that a POU's rules, rather than the Energy  
8 Commission's rules were the rules that were to be applied,  
9 there would be conflicts in how the laws are interpreted  
10 and applied throughout the state.

11 So essentially just to play this out, there would  
12 be one set of rules for certifying facilities for retail  
13 sellers, namely the Energy Commission's RPS Eligibility  
14 Guidebook. But then there would be different sets of rules  
15 for certifying facilities for POUs, namely the rules under  
16 each POU's pre-SBX1 2 program, which at the time could have  
17 been as many as 44 sets of rules.

18 So this would have resulted in facilities having  
19 different certification statuses depending on which  
20 utility, retail seller or POU purchased electricity from  
21 the facility, creating a market uncertainty and significant  
22 barriers in achieving the intent of the law, which was to  
23 advance renewable energy in California.

24 So, the Committee's revised Proposed Decision is  
25 correct in determining that LADWP's position was not what

1 the Legislature intended. And instead that the appropriate  
2 rules in place are the RPS statutes and the Energy  
3 Commission's RPS Eligibility Guidebook rules.

4 In addition, LADWP argues that SBX1 2 intended to  
5 wholesale grandfather all resources POUs procured prior to  
6 SBX1 2 being enacted as part of the POUs renewable energy  
7 programs that they had again established to comply with  
8 Section 387 of the Public Utilities Code.

9 As detailed in staff's comments on the revised  
10 Proposed Decision, the Legislature provided several  
11 narrowly tailored exceptions for a few POU resources that  
12 met specified criteria. The Legislature would not have  
13 needed to create these specific exemptions if the  
14 Legislature's intent was to wholesale grandfather all POU  
15 resources under the POUs pre-SBX1 2 programs.

16 Staff also agrees with the revised Proposed  
17 Decision that since SBX1 2 did not wholesale grandfather  
18 resources procured by POUs pursuant to their Section 387  
19 programs, all resources must meet the statutory definition  
20 of an eligible renewable energy resource as defined in the  
21 Public Utilities Code, in order for that resource to count  
22 toward compliance with the RPS.

23 Again, as detailed in staff's comments on the  
24 revised Proposed Decision LADWP bases its arguments on the  
25 misinterpretation of several provisions of the Public

1 Utilities Code, including sections pertaining to the RPS  
2 product category requirements, the bucket requirements, and  
3 provisions applicable to electrical corporations. Staff  
4 believes the Committee has correctly interpreted these  
5 provisions and their intent in the revised Proposed  
6 Decision.

7           In addition, the revised Proposed Decision  
8 correctly determines that certification of eligible  
9 renewable energy resources for participation in  
10 California's RPS is exclusively the Energy Commission's  
11 responsibility. While LADWP did apply to the Energy  
12 Commission for certification of its other pre-SBX1 2  
13 resources, it did not apply for RPS certification of the BC  
14 Hydro facilities despite the extended grace period for  
15 applications provided for by the Energy Commission. This  
16 grace period was established by the Energy Commission, so  
17 POUs could specifically apply for certification of these  
18 resources and have them count towards the first compliance  
19 period.

20           If L.A. wanted to count the procurement of  
21 electricity generation from the BC Hydro facilities,  
22 starting January 1, 2011 either they or Powerex Corp would  
23 have needed to apply for certification on or before  
24 December 31st 2013. As acknowledged by the Committee,  
25 neither LADWP nor Powerex applied to the Commission to

1 certify any of the BC Hydro facilities as eligible.

2           Lastly, LADWP argues that a Committee  
3 determination would cause undue prejudice and substantial  
4 harm. As I mentioned at the beginning of my comments,  
5 staff feel that it is premature for us to be able to speak  
6 to what the implications will be.

7           So in closing, staff supports the Committee's  
8 revised Proposed Decision and its analysis of the  
9 applicable RPS program statutes in the RPS Eligibility  
10 Guidebook, including its decision to not count renewable  
11 energy credits associated with the BC Hydro facilities that  
12 LADWP procured under its Powerex BC Hydro power purchase  
13 agreements.

14           Thank you.

15           CHAIRMAN WEISENMILLER: Thank you.

16           Up again? Okay.

17           MR. GUERRERO: Thank you, Mr. Chairman. Again,  
18 Todd Guerrero for DWP. If I could get the slides back up  
19 at your earliest convenience, please?

20           (Off mic colloquy re: slides setup)

21           MR. GUERRERO: Mr. Chairman, and I'm on the --  
22 again, thank you for your indulgence and thank you for your  
23 additional time that you did grant us. This is an  
24 important matter and it's difficult to get through these  
25 issues in a short period of time, but I will try. Next

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: The  
12 gating statute is 399.16(d)(1) and you can see what it says  
13 on 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 buzzwords,

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 horrors, 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 POU's 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 scheme. 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  
25 not play out in the real world. Next slide, please.

1           First, all of the other POU's 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 any facility forward, we think is not  
16 credible. I think you need to give the POU's 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 ambiguity  
19 it references a "vague reference to rules in place" among  
20 others. No less than five bill analyses indicate that the  
21 Legislature intended to approve or grandfather pre-June  
22 2010 contracts. Those are the committees. We've  
23 referenced them in our comments. The next slide, please?

24           And let me just give you an example. Under the  
25 bill, "all existing renewable energy contracts signed by

1 June 1, 2010 would be grandfathered into the program. Going  
2 forward, new renewable energy contracts must meet the  
3 loading order that categorizes renewable resources." To  
4 finesse a transition from the 20 percent to 33 percent,  
5 SBX1 2 grandfathered all RPS contracts entered into prior  
6 to June 1st, and provided that those contracts will count  
7 in full. Next slide please. Thank you.

8 We submit, Mr. Chairman and members of this  
9 Commission, that the history is very clear and that the  
10 Legislature understood at the time what it was voting on.  
11 It's hard to imagine how much more clear legislative  
12 history could get, and yet the Proposed Decision --  
13 respectfully, Mr. Chair -- bewilderingly refers to this  
14 legislative history as mere "generalized statements."

15 And I want to juxtapose that finding, Mr.  
16 Chairman, to the finding in the Proposed Decision with  
17 respect to the retroactive impact of the law. As  
18 Mr. Levine had stated absent an express provision of the  
19 law, all laws are presumed to be prospective in nature;  
20 that is, going forward. There is absolutely no express  
21 statement anywhere in SBX1 2 intended to have retroactive  
22 impact. There is no express provision that we were  
23 supposed to be bound by rules to which we were specifically  
24 exempt.

25 Indeed, as I mentioned the Proposed Decision

1 states that the statute is "vaguely worded" -- page 14 --  
2 of the rules in place of the Proposed Decision. And yet --  
3 and yet, Mr. Chairman, the Proposed Decision finds what we  
4 submit as clear legislative history is "generalized  
5 statements." But finds vague reference to rules in place,  
6 specifically refers to the Commission's Guidebooks rules  
7 and not the POU rules. We submit respectfully that that is  
8 difficult if not impossible to reconcile. Next slide  
9 please. Thank you.

10 Putting aside the points that we've raised we  
11 think we are here as friends, as somebody that supports the  
12 efforts of this Commission and many other bodies that are  
13 trying to do the right thing in terms of energy policy in  
14 this state and country.

15 This proposal talks about our obligations ending  
16 -- excuse me, the Proposed Decision talks about our  
17 obligations ending on December 10th, which is the effective  
18 date of the statute, and beginning anew thereafter. As Mr.  
19 Levine mentioned this, the Proposed Decision specifically  
20 states that SBX1 2 and its constituent statutes were  
21 prospective in operation and effect.

22 The issue here, our contract terminated on  
23 December 31st, 2011. Compliance Period One started in  
24 January of 2011 and went to 2013. What we're talking about  
25 here is the one year of our contract, the last year of our

1 contract and not even the full year. We're talking about  
2 January 1 to December 9th when our contract was still in  
3 effect; we'll write off the remaining 21 days of the month.  
4 But we think that you have the authority, Mr. Chairman,  
5 despite the language in the Proposed Decision about this  
6 that you don't have the authority, because it refers to  
7 Division 15 -- which Division 15 of course is your enabling  
8 legislation that gives you all authority to act and  
9 interpret any statute whatsoever.

10 Nor is it prudent to suggest in quasi-judicial  
11 proceeding that somehow this body doesn't have the inherent  
12 judicial or equitable powers to find a resolution that  
13 makes sense for both parties. And so we would suggest that  
14 it makes a lot of sense under the circumstances, Mr.  
15 Chairman, that we be allowed to count the 400,000-plus RECs  
16 that are at issue in this proceeding. And those are the  
17 only RECs that are an issue. And with that, next slide  
18 please.

19 I want to just finish again, with a thought about  
20 this compliance versus non-compliance, which I raised  
21 earlier, Mr. Chairman. And that is we are -- this is not  
22 intended to be an adverse position on ours, it's intended  
23 to be, we don't really know. And our concern is that we're  
24 facing -- the way we look at it, we're facing a very  
25 substantial penalty for energy that we bought in 2007 in

1 good faith under rules that we were specifically bound to.  
2 And now we're talking about legislation that was four years  
3 later. And now we're talking about a decision ten years  
4 later.

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

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

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

23 CHAIRMAN WEISENMILLER: Okay, thank you.

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

25 MR. HERRERA: Yeah. Good morning Chairman,

1 Commissioners, Gabe Herrera with the Energy Commission's  
2 Legal Office.

3 Just to address a couple of points made by Mr.  
4 Guerrero. First of all, he pointed out the difference in  
5 the language of the statute of 399.16(d)(1), which uses the  
6 contract language, and 399.12(e)(1)(C), which uses the  
7 facility language.

8 First with respect to 399.16(d)(1) that language  
9 uses, or that provision in the statute uses contracts,  
10 because that section is intended to prescribe requirements  
11 for contracts entered after a certain date. It imposes a  
12 bucket requirement or the portfolio content category  
13 procurement requirements under SBX1 2. It doesn't make  
14 sense for that provision to identify facilities. It makes  
15 sense for that provision to identify contracts.

16 Another point with respect to that particular  
17 provision is keep in mind that 399.16 appears in the  
18 statute, in the area directly applicable to retail sellers.  
19 These are utilities that were already subject to the Energy  
20 Commission's RPS eligibility rules. And they had been  
21 since 2003 when the RPS was initiated. Again, given  
22 context to this provision and applying it to electrical  
23 corporations and retail sellers, there would have been no  
24 need for the Legislature to repeat itself and include  
25 additional provision that says, "These retail seller

1 resources need to be certified by the Energy Commission."  
2 There was already an obligation for that to occur.

3           Concerning the provisions in 399.12(e)(1)(C), as  
4 Ms. Smith has already pointed out, this isn't a wholesale  
5 grandfathering provision. If it was there would not have  
6 been a need for the Legislature to then go back and create  
7 very specific exemptions that apply to POUs. Again, if the  
8 POUs resources were already grandfathered by virtue of  
9 their section 387 policies, no need for the Legislature to  
10 get involved to say, "We're going to create a special  
11 exemption for some of these POUs and for others, not." It  
12 wouldn't make any sense.

13           It's worth noting that the exemptions that were  
14 established do apply to large hydro. Let me just name a  
15 couple of these. In 399.30(g), that's an exemption that  
16 applies to Trinity Public Utilities Division and it's for  
17 hydro generation from Trinity River. 399.30(j) is an  
18 exemption that applies to the City and County of San  
19 Francisco for its large hydro from Hetch Hetchy. In  
20 399.30(k) is exemption for Merced Irrigation District for  
21 its large hydro that it owns. And 399.30(l), which was a  
22 provision the Legislature enacted under SB 350 -- so this  
23 is years after SBX1 2 -- applies to any POU that receives  
24 greater than 50 percent of their retail sales needs in any  
25 given year from large hydro. So, these are provisions

1 where the Legislature saw fit to carve out exemptions for  
2 POU's, some of which would have already been grandfathered  
3 by Section 387 if you believe L.A.'s arguments.

4           Concerning the Hoover Dam argument Mr. Guerrero  
5 raised, before SBX1 2 was signed into law there were 21  
6 different POU's that included large hydro. This is hydro  
7 larger than 30 megawatts in capacity, as an eligible  
8 resource for their section 387 RPS programs. After SBX1 2  
9 it's clear that these resources did not become eligible.  
10 But again, the Legislature did carve out some exceptions.  
11 L.A. was a beneficiary in one of those exceptions, because  
12 its aqueduct hydro systems, which are greater than 30, but  
13 less than 40 megawatts in size then became eligible.

14           On the point of it makes no sense to have a  
15 uniform, statewide RPS program, this is the point Ms. Smith  
16 raised that if we had to establish separate rules for each  
17 of the POU programs that were implemented under their  
18 Section 387 it could result in a bunch of different rules,  
19 some of which may apply to the same resources. So you  
20 could imagine a facility that was selling resources for  
21 generation to both a utility, a retail seller like PG&E,  
22 and perhaps a POU be subject to two different requirements  
23 on certification. One that will apply to the portion of  
24 the generation that was sold to PG&E and one that would  
25 apply to the portion of generation that got sold to, say,

1 SMUD. It doesn't make sense to have a uniform system and  
2 split it up in that way.

3           Regarding the legislative history that  
4 Mr. Guerrero raised to, the bill analysis that he  
5 identified in fact does indicate that the provision shall  
6 count in full. But it's in respect to the bucket  
7 requirements. The portfolio content requirements that  
8 Legislature established that said, "After a certain date,  
9 June 1, 2010, any contracts entered after that date shall  
10 be subject to this new bucket requirement," requiring that  
11 a portion or no less than a certain amount of the contracts  
12 be for what we call Bucket 1, and no greater than a certain  
13 amount for Bucket 3, strictly RECs.

14           So when you look at the purpose of those  
15 provisions in the statute in the legislative history it  
16 makes sense in these bill analyses for the Legislature to  
17 have referred to count in full, because count in full  
18 referred to all the contracts that were entered into prior  
19 to June 1, 2010.

20           I think that concludes my remarks. But I think,  
21 Mona, if you have additional remarks you can chime in on  
22 some of Mr. Guerrero's points.

23           (No audible response.)

24           CHAIRMAN WEISENMILLER: So if staff is done let's  
25 take public comment. Let's start with CMUA.

1 MS. VACCARO: Chair Weisenmiller, before we do  
2 the public comment I just wanted to be clear as to whether  
3 or not LADWP believes it did its closing statement, because  
4 I think we want to finish up with the dialogue and the  
5 interaction between staff and LADWP first. I didn't  
6 understand the PowerPoint slides to be your closing.

7 CHAIRMAN WEISENMILLER: They seem to be more a  
8 continuation of the opening, so --

9 MS. VACCARO: I'll wait until -- yeah, I'm sorry,  
10 they're not listening.

11 CHAIRMAN WEISENMILLER: -- but I mean they only  
12 have a certain amount of time is what I'm saying.

13 MS. VACCARO: So I think if you were still  
14 intending to do a closing I think it's probably appropriate  
15 to that before we move on to public comment. And that we  
16 allow L.A. to have sort of the last word in this exchange  
17 with staff.

18 CHAIRMAN WEISENMILLER: That sounds good.

19 MR. GUERRERO: Thank you. I'll take two minutes.

20 MR. LEVINE: I'd like to reserve one minute also,  
21 if I can?

22 MR. GUERRERO: Do you want to start?

23 MR. LEVINE: You go ahead, Todd.

24 MS. VACCARO: So yeah, it'll be within the entire  
25 ten minutes that you have reserved. And so you split it up

1    however you deem fit.

2                   MR. GUERRERO:  It sounds like I think we've  
3    actually have probably expended close to our allotted time,  
4    so we'll make this very brief.

5                   Again, Mr. Chairman, Members of this Commission,  
6    what we're looking for is a resolution that makes sense.  
7    We don't want to have to pay \$22 million in penalties for  
8    energy that was bought in 2007 under a contract that L.A.  
9    citizens committed up to \$186 million when they thought it  
10   was going to be renewable energy, when it was renewable  
11   energy under their rules, no question.

12                   And so, what we want to do is to find a way to  
13   make sense of this in a way that doesn't impose retroactive  
14   penalties on citizens that made a good decision at the time  
15   under rules to which they were specifically bound.

16                   And with respect to -- I know there's a lot of  
17   statutes being thrown around -- the Legislature sometimes  
18   doesn't do things that make sense.  Sometimes they do  
19   things, because somebody wants something and somebody else  
20   wants something here and somebody else wants something  
21   there.  And that's the way it goes.  But the reality is, is  
22   that when they passed this law we submit respectfully that  
23   they knew that there was a \$186 million contract out there  
24   that people relied on, in good faith.

25                   And it seems to me that it's a prudent decision

1 for the Legislature to make that any transition from  
2 unregulated to regulated, there's a grace period. There's  
3 a grace that is given and it's called grandfathering. And  
4 going forward, we don't dispute anything that's been said.  
5 But we're looking back at contracts that were executed in  
6 2007. And it's now 2017.

7 Thank you, Mr. Chairman, I yield.

8 MR. LEVINE: Just very briefly, for the last 15  
9 to 20 minutes we've been going back and forth with regard  
10 to the legislative history. What did the bill mean? What  
11 did it say? What was the intent? If that shows anything,  
12 we happen to believe that it was very clear that the types  
13 of things we were doing prior to December 11, 2011, were  
14 subject to our rules in place. But if this discussion for  
15 the last 20 minutes shows anything, it shows there's  
16 ambiguity in the law, there's ambiguity in the law.

17 We like our interpretation. We think it makes  
18 sense. But if it doesn't prevail it's indisputable that  
19 it's ambiguous. When the statute is ambiguous it is very  
20 clear under both U.S. law and California law that it is  
21 deemed to be prospective. And that the retroactive aspect  
22 of an ambiguous -- that an ambiguous law cannot be held to  
23 be retroactive in consonance with either California or U.S.  
24 longstanding legal and public policy.

25 CHAIRMAN WEISENMILLER: Thank you.

1           So, let's go to public comment now and let's  
2 start with CMUA.

3           MR. MOLINE: Thank you, Chair Weisenmiller and  
4 Commissioners. I'm Barry Moline, with the California  
5 Municipal Utilities Association, CMUA's is a state trade  
6 association representing community-owned electric utilities  
7 and water agencies across California. And we urge your  
8 support for LADWP's position and proposal, to count the  
9 renewable energy that has been received.

10           Assemblymember Raul Bocanegra wrote the  
11 Commission a letter of support that you have received, for  
12 LADWP's position. And I'd like to quote from excerpts from  
13 that letter, speaking as Assemblymember Bocanegra. "I am  
14 writing to you to reiterate my support for LADWP and for  
15 grandfathering the BC Hydro contracts. To do otherwise  
16 would significantly penalize Los Angeles ratepayers upwards  
17 of \$22 million for the early voluntary efforts of LADWP to  
18 procure renewable resources.

19           "Los Angeles was a pioneer in the renewable  
20 energy, with efforts predating any state mandates. The  
21 City of Los Angeles established renewable energy targets as  
22 early as 1999.

23           "LADWP voluntarily adopted its own ambitious RPS  
24 program and has been committed to meeting California's  
25 clean energy goals. The utility has invested well over \$1

1 billion in its RPS program. And LADWP's contracts have  
2 funded real projects with demonstrable greenhouse gas  
3 emission reductions.

4 "Disallowing the inclusion of these hydropower  
5 contracts would cost Los Angeles ratepayers upwards of \$22  
6 million in addition to the cost of the BC Hydro renewable  
7 energy produced. Similarly, it would punish Los Angeles  
8 for being an early adopter of the RPS. And we urge the CEC  
9 to reconsider the tentative decision and award LADWP full  
10 credit for its BC Hydro procurement.

11 "LADWP views itself in partnership with the  
12 Governor, the Legislature, and the CEC, in achieving the  
13 renewable energy goals. The renewable energy investments  
14 made by the City of Los Angeles and its ratepayers, prior  
15 to the POU mandates under SBX1 2, should be counted in full  
16 under the RPS rules established by LADWP's regulatory  
17 bodies.

18 "Renewable resources procured after the effective  
19 date of SBX1 2 are required to meet the standards under the  
20 applicable CEC RPS Eligibility Guidebook. California is at  
21 the vanguard of renewable energy in our country and we all  
22 have a strong interest in seeing California's RPS Program  
23 succeed."

24 CMUA agrees with Assemblymember Bocanegra. And  
25 we appreciate the CEC for its work thus far to ensure that

1 LADWP's past renewable energy investments receive the full  
2 credit they deserve. Thank you.

3 CHAIRMAN WEISENMILLER: Well, thank you.

4 Let's go to SCPPA.

5 MS. TAHERI: Good morning Chair Weisenmiller and  
6 Commissioners. My name is Sara Taheri and I'm with the  
7 Southern California Public Power Authority, or SCPPA.  
8 SCPPA is a joint-powers authority. We represent 12 public  
9 power members. The Los Angeles Department of Water and  
10 Power is one of our members. And today I really just want  
11 to echo some of the comments you've heard already, but  
12 specifically focusing on two points.

13 First, SCPPA supports the Committee's proposal to  
14 count LADWP's biomethane agreements in full toward their  
15 RPS procurement obligation. We believe that that proposal  
16 is mutually agreed upon and the conclusion is therefore  
17 appropriate.

18 Second, we respectfully disagree with the  
19 Committee's proposal to not count the BC Hydro generation  
20 towards that RPS procurement obligation.

21 As several others have stated, in 2007 LADWP made  
22 a good-faith effort to procure carbon-free hydro power from  
23 this facility and the associated environmental benefits of  
24 that power. That procurement was consistent with the  
25 existing policies that L.A. had in place, adopted by the

1 LADWP Board of Commissioners voluntarily.

2           And at that time the Commission did not have RPS  
3 rules that were directly applicable to POU's. In fact, that  
4 actually happened with the passage of SBX1 2 in 2011, which  
5 included several provisions that acknowledged some of the  
6 efforts of early adopters of renewable energy, such as  
7 LADWP.

8           Those grandfathering provisions were intended to  
9 allow for accounting the significant renewable energy  
10 investments that many POU's had made previously in counting  
11 those towards their RPS requirements. Adopting this  
12 Proposed Decision today, as written, would undermine the  
13 RPS policies adopted by L.A.'s Board of Commissioners and  
14 would result in significant cost impacts to LADWP  
15 ratepayers, as you've heard today.

16           This aspect of the Proposed Decision penalizes  
17 LADWP ratepayers for their public agency decision to make  
18 early and voluntary efforts to procure clean resources that  
19 support our state's goals to reduce GHG emissions.

20           We respectfully urge the Commission to reconsider  
21 its position on BC Hydro and to allow DWP to count that  
22 generation towards its RPS obligation. Thank you for your  
23 time, and consideration today.

24           CHAIRMAN WEISENMILLER: Thank you.

25           Anyone else in the room?

1 (No audible response.)

2 Anyone on the line not associated with LADWP?

3 (No audible response.)

4 Okay, so I think we'll transition over to the  
5 Commissioners.

6 COMMISSIONER HOCHSCHILD: Well, let me just begin  
7 by thanking Chairman Levine and your team for coming in and  
8 expressing your perspective. And also for staff, for your  
9 presentation.

10 I just want to say at the outset this is  
11 complicated stuff. I think, in many ways, this is really  
12 growing pains of a new structure that began with the RPS,  
13 of the Energy Commission providing oversight enforcement  
14 for the RPS. And our job at the Energy Commission is to  
15 enforce the law, the letter of the law as we are given it,  
16 by the Legislature. And I do appreciate always hearing  
17 from individual legislators like Assemblyman Bocanegra, and  
18 so on, but at the end of the day the fidelity we have to  
19 have is to the language of the statute.

20 I just want to point out as one example, that we  
21 did overturn the biomethane component of the original staff  
22 recommendation; 75 percent of the contested RECs in this  
23 Proposed Decision have been granted for RPS compliance with  
24 the decision.

25 I have to say I did dig into the details of this.

1 It is complicated, but at the end of the day I think the  
2 result of the decision is the best job we can do to be  
3 faithful to the statute. I recognize that people acting in  
4 good faith, as I believe LADWP has, and our staff, can see  
5 this differently.

6 But my view at this point is the recommendation  
7 does encompass the best judgement of what the intention of  
8 the law, and to apply a uniform application of our state's  
9 renewable mandate, provides.

10 COMMISSIONER DOUGLAS: So I have a question,  
11 really to I think our Chief Counsel or to our Legal Office.  
12 I obviously have reviewed the materials and now heard from  
13 both sides today. And L.A. asked a question, or framed up  
14 a question, that has me looking for a better understanding  
15 of the answer. Because one of the points they make is that  
16 of course, this is an eligibility determination. And the  
17 ultimate significance of an eligibility determination into  
18 RPS compliance determinations is unknown today, as we said.

19 And so I think the question they've asked a  
20 couple of times is to the degree that we were to adopt a  
21 decision that they did not agree with legally, they have a  
22 decision to make about do they challenge it judicially or  
23 not? And potentially are faced with making that decision  
24 in a vacuum of information about what the significance of  
25 the eligibility determination actually is to them and their

1 ratepayers.

2           And so, I wanted to ask what the -- what options  
3 there might be to address that concern? Is it a 30-day  
4 statute of limitations to challenge a decision that we were  
5 to vote out today, for example? And in 30 days my guess is  
6 that little more will be known than is known today about  
7 the likelihood or prospect of enforcement actions, just  
8 given the way that -- just the very information intensive  
9 and meticulous and complex nature of verification.

10           So I'd love to hear from you, Ms. Vaccaro, or  
11 others on that question.

12           MS. VACCARO: So I'm going to answer one of your  
13 -- the easiest question first, which is yes under Warren-  
14 Alquist Act at Section 25901 it specifies that there are 30  
15 days to -- this is a paraphrase -- to basically challenge a  
16 determination that this Commission makes by way of writ.  
17 So, if there are other challenges and it's not by way of  
18 writ then you're not limited to that 30-day. So that is  
19 set forth in our statutory framework.

20           But you touch on a number of issues that I guess  
21 I would just ask you to consider the extent to which you  
22 want an open-session discussion of legal risk and --  
23 because really what you're hearing, and I don't know any  
24 other way to say it, is you're hearing a very polite  
25 statement that, "We're unhappy. And we will go to court

1 unless we receive an answer that is satisfactory to us."  
2 That's essentially what L.A. is saying and of course you  
3 should hear that.

4           How much that resonates with you and what you  
5 want to think about, I think are for you to decide. But  
6 the notion of a stay, so that L.A. can figure out which way  
7 the winds will blow once the verification process is  
8 completed -- and as you all know, the verification process,  
9 it's an interactive process that staff engages in with  
10 every -- not just the POUs, it was retail sellers as well.  
11 You have adopted and approved the reports that have come  
12 from staff with the respect to verification. That really  
13 is the next step in this process. That really tells us the  
14 story of the numbers.

15           And I think a point that Ms. Smith made, and it's  
16 an important one but I understand in part why it provides  
17 no solace to LADWP, is that you go through the verification  
18 process to figure out the numbers. The numbers don't tell  
19 the full story of RPS compliance. That really then takes  
20 you over to the compliance option portion of it. But if  
21 the focus is, "We want to comply on the numbers and not  
22 rely on compliance option," then that's really not an  
23 answer. And I appreciate that and I think that's what  
24 we've been hearing today.

25           And then you get to the determination of whether

1 or not the compliance options have been satisfied in the  
2 eyes of staff and the Executive Director, because the way  
3 that our regulation is written, Regulation Section 1240, it  
4 vests discretion within the Executive Director to determine  
5 whether to move a complaint forward. And that complaint  
6 would be moved forward to the Commission or again a  
7 Committee, but ultimately to the Commission to determine  
8 was there or wasn't there a violation?

9           And as Ms. Smith pointed out, that's an  
10 opportunity for any POU to tell the very important story  
11 that they should be telling to this Commission to say,  
12 "Here's what we think the outcome should be. We do or  
13 don't want to issue a Notice of Violation."

14           And what's important about that is once that  
15 Notice of Violation issues this matter then does go over to  
16 the Air Resources Board, who then determines whether or not  
17 to issue a penalty and in what amount. So we don't get  
18 involved in the penalty phase, except to influence whether  
19 something goes to ARB and what story ARB should understand.  
20 So that it is considering as well, equitable and other  
21 matters in determining whether or not to levy a penalty and  
22 what the amount of that penalty should be.

23           So that doesn't directly answer your question,  
24 but it gives you some things to think about as to whether  
25 or not you really want to talk about legal risk and

1 litigation. And if so, I would recommend you do that in  
2 closed session. That you could deliberate on this matter.  
3 We have preserved the right for you to go into closed  
4 session to deliberate on what you've heard today. And I  
5 encourage you to consider that if there are questions that  
6 you feel that you need to answer among yourselves or if you  
7 do the need the benefit of some more legal guidance.

8 COMMISSIONER DOUGLAS: So I appreciate that  
9 answer. I know Mr. Gutierrez (sic) would like to speak to  
10 this. And I'll welcome that in a moment.

11 I'll just say that I have had occasion over the  
12 years to spend some time with the fine print of not only  
13 the RPS statute in question, but multiple iterations in the  
14 evolution of the RPS rules in California. And it has been  
15 a rapid evolution. And when you have this case of rules  
16 and regimes that change, as Commissioner Hochschild pointed  
17 out, there are times when issues come up that are a  
18 struggle to deal with.

19 And I've reviewed the Proposed Decision by the  
20 Committee. I agree with them on the legal interpretation.  
21 But I did have that question.

22 I think that we'll ask -- we'll see if Mr.  
23 Gutierrez (sic) would like to speak. And then we'll see  
24 what other Commissioner comments there are.

25 And I'll just say as a last -- your point has

1 been well taken that the verification and the RPS  
2 enforcement process are long processes.

3 MS. VACCARO: And just for clarification of the  
4 record, it's Mr. Guerrero who's representing LADWP.

5 COMMISSIONER DOUGLAS: I apologize.

6 MR. GUERRERO: Thank you, Counsel, Mr. Chair, Ms.  
7 Commissioner.

8 I just want to respond very briefly, we're not  
9 here to threaten litigation. That's not -- politely or not  
10 politely that's not our purpose here. I think that the  
11 real purpose is, is that as Commissioner Douglas indicated,  
12 there are some real unknowns here with the transition and  
13 the adoption of new statutes and adoption of new rules.  
14 And I think to suggest that we're sort of threatening  
15 litigation to get a stay or an answer is sort of making de  
16 minimis of our real interests. And that is we don't think  
17 it makes sense, as the Commissioner suggested, that we make  
18 -- that anybody makes decisions in the vacuum.

19 And right now, what we understood the case to be  
20 is that if this Commission is going to adopt a Proposed  
21 Decision then we have a real vacuum. And that was the  
22 purpose of the inquiry.

23 CHAIRMAN WEISENMILLER: Thanks for that  
24 clarification. Again, I'm going to let my other  
25 Commissioners ask any questions.

1           Yeah, and go ahead.

2           COMMISSIONER MCALLISTER: So I guess I would  
3 appreciate a little more detail on both sides here about  
4 the sort of application for these resources as qualifying.  
5 It sounds like we heard that for reasons that I only  
6 partially understand, I'm not sure they were fully spelled  
7 out, LADWP opted not to apply or not to submit an  
8 application for qualification or for an eligibility  
9 determination on these resources but yet did for others?  
10 And I'm kind of just wondering, now you made some legal  
11 arguments about why they're different, right? But I guess  
12 I'm a little bit incredulous as to you made that very-  
13 detailed legal call, back in the day, or not?

14           Maybe I'd just like to hear that. But I guess  
15 I'm really fundamentally just wondering why you would have  
16 applied for other resources to have them certified with --  
17 but yet not others?

18           MR. GUERRERO: Mr. Chairman, Commissioner  
19 McAllister, we do have Mr. Jean-Claude Bertet, who is with  
20 the Counsel of the Department of Water and Power. And for  
21 historical questions, maybe if okay he could help address  
22 those?

23           MR. BERTET: Thank you. Good morning,  
24 Commissioners and Chair.

25           So just to understand the basic of our argument,

1 you have facilities on the one hand and you have a  
2 statutory scheme that addresses the facilities. And you  
3 have facilities that spent a lot of money and municipal  
4 entities expect those facilities to last generations,  
5 lifetimes. And you have facilities with biomethane that  
6 was built many years ago.

7           On the other hand you have contracts. And so  
8 contracts are limited in time, duration and scope. So you  
9 have a Powerex contract that's for five years or just under  
10 five years, for a limited amount of time and limited amount  
11 of energy. And so that's, in essence why the Department  
12 didn't apply for certification. It didn't own these  
13 facilities. And there's a statutory scheme within SBX1 2  
14 that addresses all contracts. The Legislature wanted to  
15 specify each and every contract it could do so, but why  
16 would it ever do that?

17           But when you look at facilities, facilities are  
18 these enormous facilities, generation facilities, and  
19 there's just an enormous amount of resources spent to build  
20 them. So it makes sense to identify them out. The  
21 Department of Water and Power has its aqueduct facilities  
22 that were built in the 1920s. And so it makes sense to  
23 identify those out.

24           But a contract limited in duration and time? It  
25 doesn't make sense to identify them all. So you have 399-

1 16(d)(1) that specifies contracts. And that's part of the  
2 grandfathering scheme. And so, it's incumbent upon this  
3 Commission to look at why the Legislature enacted that and  
4 discussed contracts.

5           You have your sister agency, CPUC, that looked at  
6 that very provision. It looked at it and it interpreted it  
7 the same way that the Department of Water and Power is  
8 proffering in front of this Commission to look at the time  
9 where SBX1 2 took effect and the time that Public Utilities  
10 Code section 387, voluntary program, ended. It's  
11 interpreting that on a going-forward basis. We believe  
12 that this Commission should do so as well.

13           COMMISSIONER MCALLISTER: So on the -- so these  
14 are international resources and I want to just draw that  
15 distinction as well. Maybe you and staff can also include  
16 that in your answer.

17           COMMISSIONER DOUGLAS: So let me just -- I'm  
18 sorry, Mr. Herrera, I know you're going to speak, but I  
19 just had a follow-up that might be helpful. So I just  
20 wanted to make sure I understood your answer, because I'm  
21 not certain I did.

22           So did you answer Commissioner McAllister's  
23 question by essentially saying well, it wasn't a very long-  
24 term contract. You didn't own the facility. And so it  
25 wasn't maybe, at that time viewed as worth the effort to

1 get it certified or was there a different answer to that?

2 MR. BERTET: So at the time --

3 COMMISSIONER DOUGLAS: Because I heard a number  
4 of things, I wasn't sure.

5 MR. BERTET: Thank you for that clarification.

6 So at the time that the City of Los Angeles  
7 entered into that contract it was a contract to procure  
8 renewable energy for the citizens of Los Angeles. And it  
9 was very limited in scope. And so yes, the Department of  
10 Water and Power did not own these facilities. And at the  
11 time it entered into the contract it wasn't negotiated for  
12 them to certify any of these facilities. The law at that  
13 time didn't require certification similar to the law at the  
14 time did not require contracts to be approved by the CEC.

15 Unlike IOUs, where IOUs are required to have  
16 their contracts by the CPUC, but under the voluntary  
17 program, under 387, there was no requirement to have  
18 certified facilities or to have contracts approved by this  
19 Commission.

20 COMMISSIONER DOUGLAS: So under the contract you  
21 had for this energy you did not -- there was not a  
22 condition in the contract that they, that the facility,  
23 would come to the Energy Commission and seek certification.  
24 And so requesting that certification later might have  
25 reopened or required an additional negotiation or something

1 like that?

2 MR. BERTET: That is -- in essence, that's true.  
3 I mean, if you're looking at a decision of today and you're  
4 going back ten years to try and interpret what would have  
5 happened at that time. I mean, had the Department of Water  
6 and Power known ten years ago that this is what it'd be  
7 facing today we would either have not entered into the  
8 contract or asked for different terms.

9 That was not the (indiscernible) --

10 CHAIRMAN WEISENMILLER: Yeah. You know, although  
11 again I would note I was here at the time and Ron Nichols  
12 was, obviously, the General Manager of LADWP at the time.  
13 And you guys fought for every single kilowatt hour.

14 You know, you wanted the RECs on the solar you  
15 installed on peoples' roofs. Unlike the utilities, you  
16 wanted to be counted some systems that David Freeman  
17 installed that had no meters. So again it was a very  
18 aggressive campaign to get every single kilowatt hour  
19 counted.

20 So again it is no good question of why not these,  
21 but it was a very, very aggressive campaign.

22 MR. BERTET: No, and that's true. Especially if  
23 you look at the fact that there are violations associated  
24 with not meeting targets and if you're looking at potential  
25 penalties. So of course, you're going to fight for every

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1 single ability that you can to count everything that the  
2 Department of Water and Power City of Los Angeles engage  
3 in, all these programs in their RPS.

4           What we have here before you today though is  
5 simply the Powerex contracts, a very substantial contract,  
6 at the time. And we believe that the Commission should  
7 count that renewable energy. And you do have the equitable  
8 and discretion to count that renewable energy. It is  
9 within your authority to do so under Public Resource Code  
10 25218. I know that's supposed to be liberally construed.  
11 We believe that you can do that.

12           MR. HERRERA: So Commissioner McAllister I can't  
13 speak to the PPA that LADWP had with Powerex for the BC  
14 Hydro facilities. But under the Energy Commission's RPS  
15 eligibility rules someone other than the owner, a  
16 representative, can apply for certification. And there  
17 have been many times, for example, where the utilities have  
18 applied for certification on behalf of the facility owners.

19           Also, to your point about whether the fact that  
20 this was an international facility impacted certification.  
21 So the Energy Commission's RPS Eligibility Guidebook rules  
22 have had requirements that applied both for out-of-state  
23 and out-of-country facilities. And those are based on  
24 provisions in the statute. So if Powerex or L.A. wanted to  
25 apply for certification of these BC Hydro facilities, they

1 would need to set aside those requirements.

2 COMMISSIONER MCALLISTER: I mean, it sounds like  
3 -- so I'm not inviting you to speculate, but it sounds like  
4 that it's not a slam-dunk that they would have qualified if  
5 they had applied.

6 MS. SMITH: Without them actually having applied  
7 it's difficult for us to speculate, but there are certain  
8 environmental provisions that set a high bar. So it's not  
9 a given that they would be eligible if they had certified  
10 the facilities.

11 CHAIRMAN WEISENMILLER: Yeah, good. Okay. I was  
12 going to make one observation. Then we'll go into closed  
13 session.

14 I would note for the benefit of the Commissioners  
15 there have been several attempts between staff and the  
16 Applicant to sort of negotiate issues. And I think that  
17 one of the fundamental issues has been the need to have  
18 this verification step first. I don't think there -- there  
19 was certainly a lot of attempts and I assume after our  
20 decision there would be subsequent attempts. But it's just  
21 very clearly, let's get to this step first, is there an  
22 issue or not, before it can be resolved.

23 I think it's certainly a good step now to go into  
24 Executive Session. We actually have two items for  
25 Executive Session today. And so I'm going to guesstimate

1 that we'll be back at 1:00 o'clock. So basically we'd go  
2 through lunch.

3 And so again assuming there are no other  
4 questions from any of the Commissioners or public comment  
5 then what I'll say is the Commission will now go into  
6 Closed Session as specified in Agenda Items 3 and 15e.

7 Item 3 provides notice of possible closed session  
8 deliberation pursuant to Government Code Section  
9 11126(c)(3) on the Committee Proposed Decision for the  
10 LADWP RPS appeal.

11 Item 15e provides notice that the Commission  
12 where adjourned to closed session with its Legal Counsel  
13 pursuant to Government Code Section 11126(e) to discuss the  
14 Alternative and Renewable Fuel and Vehicle Technology  
15 Program grant ARV-14-011 with HyGen Industries.

16 And as we anticipate we'll return to open session  
17 at about 1:00.

18 (Adjourned for Closed Session at 11:34 a.m.)

19 (Return to Open Session at 1:14 p.m.)

20 CHAIRMAN WEISENMILLER: Good afternoon, we're  
21 back in session. So let's start with Item 15e and report  
22 out from Executive Session.

23 I would like to announce that the Commission's  
24 authorized the Chief Counsel to take all necessary steps to  
25 obtain all funds the Commission is owed under Agreement

1 ARV-14-011 with HyGen Industries including initiating  
2 litigation.

3 So now let's turn attention back to Agenda Item  
4 3. The Commission engaged in deliberations on the Proposed  
5 Committee Decision in matters raised this morning by LADWP  
6 and Staff. The Commissioners are prepared to vote on this  
7 matter, but wanted to first address what we understood as  
8 LADWP's request to stay the decision or enforcement of the  
9 decision should the Commission approve it.

10 We've given thoughtful consideration to LADWP's  
11 request and declined to grant it. However, we appreciate  
12 LADWP's continued efforts to reach amicable resolution,  
13 where possible.

14 Okay, motion?

15 COMMISSIONER HOCHSCHILD: I would move the  
16 Proposed Decision.

17 MR. GUERRERO: Mr. Chair, is there an opportunity  
18 to speak before you?

19 CHAIRMAN WEISENMILLER: No.

20 MR. GUERRERO: Thank you.

21 COMMISSIONER DOUGLAS: Second.

22 CHAIRMAN WEISENMILLER: All those in favor?

23 (Ayes.)

24 CHAIRMAN WEISENMILLER: The item has been passed  
25 5-0.

1           I would like to thank LADWP for its thoughtful  
2 engagement in this process. Certainly, we have developed a  
3 very deep working relationship, given the Aliso Canyon  
4 matters. Indeed, looking at continuing developments or  
5 recent developments there I think we're going to have a  
6 very, very deep relationship this winter.

7           And I also appreciate the opportunity to work  
8 together going forward, as we move towards reducing  
9 California's greenhouse gas emissions. And we appreciate  
10 LADWP's activities and forcefulness in pursuing renewables  
11 at this stage.

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

13           MR. GUERRERO: Thank you, Mr. Chairman. My  
14 comment was going to be that prior to the Commission taking  
15 the bench, we had discussed with staff that staff was not  
16 in disagreement and had no objection to a stay. And so, I  
17 wanted to make that known to the --

18           CHAIR WEISENMILLER: I'm sorry, but we do not  
19 agree with staff on that issue. We discussed it  
20 thoroughly, as I said.

21           We certainly encourage you to work with them  
22 promptly on the verification issues and see how far we can  
23 get on resolving questions and move forward. But we're  
24 certainly not prepared to stay at this time.

25           MR. GUERRERO: Thank you.

1 CHAIR WEISENMILLER: Let's go on to --

2 MS. VACCARO: Chair Weisenmiller? I always hate  
3 to go backwards when we're moving forwards. There was sort  
4 of cross-talk at the time, I believe, that Commissioner  
5 Hochschild made the motion. I just wasn't clear on what  
6 you said and what your motion language was, because there  
7 was --

8 COMMISSIONER HOCHSCHILD: I moved the Proposed  
9 Decision.

10 MS. VACCARO: Okay, thank you.

11 COMMISSIONER HOCHSCHILD: Yeah.

12 MS. VACCARO: I just want it to be clear for the  
13 record.

14 CHAIRMAN WEISENMILLER: Okay, so that's clear.

15 So let's go on to Item 4.

16 MR. DODSON: Good afternoon, Commissioners,  
17 Commission Staff, stakeholders and members of the public.  
18 I'm Geoff Dodson, a staff member with the New Solar Homes  
19 Partnership, or NSHP program. I'm joined by Michelle  
20 Chester, Energy Commission's Staff Counsel.

21 In this brief presentation I would like to  
22 provide an overview of the updates included in the proposed  
23 Eleventh Edition of the NSHP Guidebook.

24 The NSHP program launched in 2007 and provides  
25 financial incentives for the installation of solar on new,

70

1 residential construction located in the investor owned  
2 utility territories. The NSHP Guidebook describes the  
3 eligibility requirements and processes for seeking  
4 incentives through the program.

5           Since then Senate Bill 83 of 2015, and the  
6 subsequent CPUC Final Decision, extended the life of the  
7 NSHP program and directed the investor owned utilities to  
8 collect additional ratepayer funds necessary to achieve the  
9 \$400 million in program funds originally authorized under  
10 SB 1, as the program's primary funding source was  
11 underfunded.

12           SB 83 requires that any funding made available  
13 for the continuation of the NSHP be encumbered no later  
14 than June 1, 2018, and to be disbursed no later than  
15 December 31, 2021. These statutory program deadlines are  
16 the primary driver for the adoption of a new guidebook  
17 version as we must establish participation deadlines to  
18 efficiently close out the program in a thoughtful and  
19 transparent way.

20           In addition to establishing participation  
21 deadlines, the proposed Guidebook incorporates several  
22 streamlining improvements and program design modifications  
23 aimed at easing the application process and maximizing  
24 program participation, especially in order to increase  
25 affordable housing participation.

1 Over the past several months, Energy Commission  
2 staff and management have worked diligently with our  
3 stakeholders and industry experts to develop these proposed  
4 changes, and held a public workshop in August to solicit  
5 feedback on our proposed changes. No comments were  
6 received during the public comment period.

7 Staff, with the input and guidance from NSHP Lead  
8 Commissioner David Hochschild, is recommending the adoption  
9 of the following revisions to the NSHP Guidebook. The  
10 first proposed revision is to implement participation  
11 deadlines to accommodate legal encumbrance and payment  
12 program end dates. This involves establishing a  
13 reservation application submittal deadline of April 1,  
14 2018, to accommodate the June 1, 2018 statutory encumbrance  
15 deadline, required by Senate Bill 83. And establish a  
16 payment claim submittal deadline of August 31, 2021 to  
17 accommodate the December 31, 2021 statutory payment  
18 disbursement deadline, also required by Senate Bill 83.

19 In an effort to encourage increased affordable  
20 housing participation prior to the encumbrance deadline, we  
21 propose to allow a Letter of Intent to be submitted in lieu  
22 of an executed installation contract at the reservation  
23 stage for affordable housing and multifamily projects.

24 An executed contract is often the biggest hurdle  
25 for affordable housing and multifamily housing as it is

1 difficult to determine funding availability in the early  
2 stages of these types of projects. This proposal will  
3 allow these applicants to participate in the program more  
4 easily as our encumbrance deadline nears. An executed  
5 installation contract will be required before final payment  
6 approval.

7           To address stakeholder concerns and maintain  
8 participation, we proposed to increase program incentive  
9 rates for all claims subject to the 2013 Building -- 2016  
10 Building Energy Efficiency Standards under Title 24, Part  
11 6; also known as the 2016 Energy Standards.

12           Due to a mechanism in the 2016 Energy Standards  
13 that allows builders to use solar PV systems for code  
14 compliance, and that the program only incentivizes the  
15 portion of the system above and beyond compliance, the  
16 current incentive rate is insufficient to attract program  
17 participation among applicants whose developments are  
18 subject to the 2016 Energy Standards. The proposed higher  
19 rate will mitigate this concern and avoid a substantial  
20 loss in participation.

21           Our proposed design modifications include  
22 requiring all reservation applications to include Title 24  
23 documentation demonstrating that the Applicant's project is  
24 meeting the 2013 Energy Standards or better. We also  
25 provide clarification that the solar permit must be dated

1 before the certificate of occupancy, except in limited  
2 circumstances.

3           Lastly, we propose form revisions and other minor  
4 streamlining changes. These changes are available to  
5 stakeholders of existing applications who may notify us in  
6 writing that they wish to be subject to the processes  
7 identified in this NSHP Guidebook, Eleventh Edition.

8           If the Commission adopts the proposed Guidebook,  
9 the effective date will be today. Following adoption, NSHP  
10 staff is planning to conduct outreach in part to increase  
11 awareness of upcoming participation deadlines and increase  
12 participation, especially among affordable housing  
13 projects.

14           NSHP staff has prepared for the online  
15 application web tool to be updated to address changes made  
16 in this guidebook. As a reminder, staff in the Renewables  
17 Call Center are available during business hours to provide  
18 assistance with any questions or concerns regarding these  
19 changes or any other general program questions.

20           Additionally, existing guidance documents on our  
21 GoSolar webpage will be updated to reflect these changes.

22           In conclusion, I respectfully request your  
23 approval of the resolution to adopt the proposed New Solar  
24 Homes Partnership Guidebook, Eleventh Edition. And I am  
25 happy to answer any questions.

1 CHAIRMAN WEISENMILLER: Great. Thank you.  
2 Let's first start with public comment. Bob  
3 Raymer?

4 MR. RAYMER: Thank you Mr. Chair and the  
5 Commissioners, Bob Raymer, representing the California  
6 Building Industry Association. And we're in strong support  
7 of the adoption of the proposed changes today. It's been  
8 great working with Commissioner Hochschild and his team on  
9 this. This may be one of the most successful incentive  
10 programs in getting market penetration of a new a product  
11 that I've ever been familiar with.

12 So, with that, you've had a long morning. I  
13 would just like to say we're in strong support and we hope  
14 you adopt this. Thank you.

15 CHAIRMAN WEISENMILLER: Thank you.

16 CSE, I believe Hanna?

17 (No audible response.)

18 Yeah. Okay. Anyone else in the room who wants  
19 to comment on this, anyone on the line?

20 (No audible response.)

21 Okay. Commissioners?

22 COMMISSIONER HOCHSCHILD: No further comments to  
23 add to what staff said. I would move the item unless  
24 there's other comments from staff or Commissioners.

25 COMMISSIONER MCALLISTER: I'll second.

1 CHAIRMAN WEISENMILLER: All those in favor?

2 (Ayes.)

3 CHAIRMAN WEISENMILLER: This passes 5-0.

4 Let's go on to Item 5.

5 MR. MONOSMITH: Good afternoon Chair and  
6 Commissioners. My name is Mike Monosmith and I'm a Project  
7 Manager for the Mountainview Generating Station, Petition  
8 to Amend.

9 On August 11, 2017 the owner of the Southern  
10 California Edison Company filed a petition with the Energy  
11 Commission requesting to amend the March 22nd, 2001 Final  
12 Decision for the Mountainview Generating Station, or  
13 Mountainview. The 1,056-megawatt project was certified on  
14 March 21st, 2001 and began commercial operation on January  
15 19th, 2006. The facility is located on a 54-acre parcel in  
16 the City of Redlands, in San Bernardino County.

17 SCE plans to replace the CO catalyts on four  
18 generating combustion turbines at Mountainview. The  
19 current CO catalyst beds are original to the plant, and  
20 nearing the end of their expected service life. Routine  
21 replacement is needed to assure the plant continues to meet  
22 its air lift permit limits, as specified in the plant's  
23 South Coast Air Quality Management District and  
24 Environmental Protection Agency Title V permit, and Energy  
25 Commission certification. The project will continue to

1 meet all emissions limits established in the existing  
2 permits.

3           The proposed Petition to Amend would result in a  
4 harmonizing of changes to the Energy Commission's  
5 Conditions of Certification to mirror the Air District's  
6 permit updates and correct a minor error that currently  
7 exists in the preamble to the air quality conditions that  
8 relates to catalyst size.

9           Energy Commission staff reviewed the Petition to  
10 Amend for conformance with laws, ordinances, regulations  
11 and standards and assessed the impacts of this proposal on  
12 environmental quality and on public health and safety.  
13 Staff has recommended language changes to existing air  
14 quality conditions of certification. It is staff's opinion  
15 that with the implementation of these proposed changes, the  
16 facility would remain in compliance with applicable LORS  
17 and that the proposed modifications would not result in  
18 significant adverse direct or cumulative impacts to the  
19 environment.

20           With staff's proposed changes, we recommend that  
21 the Energy Commission approve the Petition to Amend. Thank  
22 you.

23           CHAIRMAN WEISENMILLER: Thank you.

24           Anything from the Applicant? Please, come on up  
25 and introduce yourself.

1 MR. WARE: Yeah, go up there?

2 CHAIRMAN WEISENMILLER: Yeah.

3 MR. WARE: My name is Tom Ware. I'm a Manager  
4 with Edison with the Generation Department. I manage the  
5 Operation Support Services Division.

6 And I just wanted to come and first just thank  
7 Mike for his hard work and Nancy, in particular, and the  
8 rest of the staff that did this analysis for with --  
9 helping us with this on a very short turnaround and just  
10 wanted to provide a brief update on the Mountainview plant  
11 to you.

12 The last time we were here was a few years ago.  
13 And at that time, you approved us to install some upgraded  
14 internal components in those combustion turbines. And that  
15 was to allow us to ramp the megawatt output of our plant at  
16 a more rapid rate up and down, and also to get to lower  
17 loads when additional output from the plant wasn't needed.  
18 So those upgrades have proven very successful. And that's  
19 helped Mountainview to be a real workhorse to integrate the  
20 additional solar that's coming on to the grid. So I just  
21 wanted to thank you for that.

22 And now, this is a routine replacement of our CO  
23 catalysts so we can keep doing that. So, it's kind of odd  
24 to think of an upgrade, but because of the upgrade we're  
25 actually burning less fuel, emitting less, because we're

1 ramping down and helping to integrate the renewals. So I  
2 wanted to take the opportunity to give you a brief update  
3 while we were here today.

4 So if there's any questions I'll try to answer  
5 them. If not, just thank you.

6 CHAIRMAN WEISENMILLER: Great. And thank you.  
7 Thanks for being here. Could you give the court reporter  
8 your card?

9 Any other public comment from anyone in the room?  
10 Anyone on the line?

11 (No audible response.)

12 Commissioner?

13 COMMISSIONER DOUGLAS: No, no comment. I'll move  
14 approval of this item.

15 COMMISSIONER SCOTT: Second.

16 CHAIRMAN WEISENMILLER: All those in favor?

17 (Ayes.)

18 CHAIRMAN WEISENMILLER: This item passes 5-0.

19 Thank you.

20 Let's go on to Item 6, Al?

21 MR. PITTARD: Good afternoon, Chair and  
22 Commissioners.

23 UNIDENTIFIED SPEAKER: Your microphone.

24 MR. PITTARD: There we go, so good afternoon. My  
25 name is Shawn Pittard. I'm Deputy Director for the Siting,

1 Transmission and Environmental Protection Division here at  
2 the Energy Commission. And with me is Mr. Simon Baker,  
3 Deputy Director of the Energy Division with the California  
4 Public Utilities Commission.

5 The Business Meeting agenda item is a proposed  
6 resolution approving an interagency agreement between the  
7 CPUC and the Energy Commission. The agencies negotiated  
8 this agreement, serving as a pilot program, for the Energy  
9 Commission to provide consulting services to the CPUC.  
10 Under this agreement the Energy Commission staff will  
11 provide technical support to the CPUC to prepare California  
12 Environmental Quality Act documents and transmission  
13 planning analysis needed as part of the CPUC's formal  
14 review of electric infrastructure regulatory applications.

15 The Energy Commission has exclusive jurisdiction  
16 over the licensing of thermal generating facilities 50  
17 megawatts or greater, as well as the appurtenant  
18 transmission lines to the first point of interconnection  
19 with the Grid.

20 Energy Commission staff, therefore, has the  
21 technical skills to conduct the necessary environmental  
22 review of transmission systems and to conduct transmission  
23 system evaluations and modeling simulations to analyze the  
24 reliability implications of proposed infrastructure  
25 projects.

1           The CPUC typically contracts technical services  
2 to consultants, so this interagency agreement represents a  
3 shift of technical work to existing civil service  
4 employees.

5           The term of the agreement runs from October this  
6 year to March 31, 2021 but the effective date begins with  
7 the approval of the Department of General Services.

8           The CPUC Executive Director approved the  
9 interagency agreement on September 28, 2017. The CPUC will  
10 reimburse the staff costs to the Energy Commission up to a  
11 maximum amount of \$5 million through the term of the  
12 agreement.

13           The CPUC staff indicated that there is a  
14 transmission re-conductering (phonetic) project expected to  
15 apply for permits to build next month, with more project  
16 expected in the next several years.

17           The Energy Commission is prepared to take on the  
18 necessary analysis to support this Interagency Agreement.

19           And with that, I would like to turn to Mr. Baker,  
20 to ask if he would like to make comments regarding this  
21 agreement.

22           MR. BAKER: I would. Thank you, Mr. Pittard.

23           Good afternoon Mr. Chairman, members of this  
24 Commission. I'm happy to be here on behalf of our agency,  
25 the California Public Utilities Commission.

1           Our Executive Director, Tim Sullivan, regrets  
2 that he was unable to be here himself, but he's asked me to  
3 convey his strong commitment to making this partnership  
4 work on behalf of our agency.

5           The goal of this collaboration is to leverage  
6 state resources and expertise of our sister agency. And in  
7 so doing, reduce the PUC's reliance on consultants doing  
8 some of this work now, to the extent possible with our own  
9 expertise in permitting linear gas and electric projects  
10 and the CEC's equal expertise in permitting power plants  
11 and the associated inner ties.

12           This new partnership has tremendous potential.  
13 We now have the opportunity to capitalize on each other's  
14 technical skills and knowledge, including GIS databases,  
15 power flow analysis and CEQA work.

16           Very recently, the Energy Commission staff  
17 provided us some ad hoc assistance on a power flow modeling  
18 issue in a pending transmission permitting case. And the  
19 Energy Commission's modeling work helped us to resolve a  
20 protested issue in a contested case. So there's good  
21 reason for optimism, going forward.

22           Our respective legal and technical staffs work  
23 diligently to put a framework in place to ensure that the  
24 PUC continues to fulfill its mandate in the environmental  
25 review and permitting of transmission projects, while

1 making best use of state's resources and talents.

2 As Mr. Pittard noted we've already identified a  
3 project, which will be our first test case. And we'll be  
4 moving forward on that expeditiously as possible. Just  
5 last week our joint staffs held a kickoff meeting to  
6 identify the opportunities and the implementation issues  
7 that need to be worked through as we embark on this effort.

8 In the initial phase we expect significant  
9 management attention. And staff attention will be required  
10 to establish new procedures and concretize working  
11 relationships. But the PUC remains committed to that  
12 process.

13 We look forward to this partnership yielding  
14 positive results as it unfolds. And I thank you for this  
15 opportunity today.

16 CHAIRMAN WEISENMILLER: Yeah, thank you for being  
17 here. You got to see, probably more of our proceeding  
18 than you expected, but anyway thanks. Thanks again.

19 And comments from anyone in the room or on the  
20 phone?

21 (No audible response.)

22 CHAIRMAN WEISENMILLER: Let's transition to the  
23 Commissioners.

24 I'll just kick it off by saying that the prior  
25 President of the PUC noted there were years where the

1 President of the PUC and the Chair of the Energy Commission  
2 never spoke. It was probably a symbolism of the --  
3 obviously we've had a much better relationship in recent  
4 years. And this came out of President Picker asking me  
5 awhile back for if we could give them some assistance in  
6 this area. And I think maybe we're getting there, we're  
7 looking forward to helping the PUC deal with some of these  
8 complicated issues.

9           And then certainly, I think getting working teams  
10 together. As you said, I think we're both going to learn  
11 as we move forward.

12           COMMISSIONER DOUGLAS: And I'll just add I  
13 appreciate the staffs of all the agencies working together  
14 for many months to pull this together and to come up with a  
15 framework for working together and making this interagency  
16 agreement work. And I think there is tremendous potential  
17 here for our agencies to support each other. And in  
18 particular, in the case of this interagency agreement, for  
19 siting staff to provide various kinds of analysis; as you  
20 mentioned CEQA, power flow and other kinds of analysis that  
21 can support PUC decisions.

22           So I'm in strong support. I just want to thank  
23 you all for your work. And also President Picker's Office  
24 and the Chair's Office for their leadership on this.

25           I'll go ahead and move approval of this item.

1 COMMISSIONER SCOTT: Second.

2 CHAIRMAN WEISENMILLER: All those in favor?

3 (Ayes.)

4 CHAIRMAN WEISENMILLER: This item passes 5-0.

5 Thanks. Thanks again.

6 Let's go on to Item 7.

7 MR. JENSEN: Good afternoon, Commissioners. My  
8 name is Erik Jensen. I'm in the Existing Buildings and  
9 Compliance Office. And I'm here today to request adoption  
10 of regulations implementing the whole-building data access,  
11 benchmarking, and public disclosure provisions of Assembly  
12 Bill 802 of 2015. And I have a brief presentation. Next  
13 slide please.

14 There are a number of measures, a number of  
15 provisions in AB 802. Only two of them are relevant to  
16 these regulations.

17 First, utilities are required to provide  
18 building-level energy use data to a building owner, owner's  
19 agent, or operator upon request. We refer to this as the  
20 data access provision, and this went into effect January  
21 1st, 2017.

22 Second, AB 802 directed the Energy Commission to  
23 create regulations to benchmark and publicly disclose  
24 energy use for certain buildings. And the data provided  
25 through the data access provision is what makes this

1 possible. Next slide, please.

2 This slide shows the relationship between the  
3 groups of buildings that are affected by the two provisions  
4 I just mentioned. On the left we have buildings with no  
5 residential utility accounts, which I'll refer to as,  
6 commercial buildings. On the right we have buildings with  
7 one or more residential utility accounts, which I'll refer  
8 to as residential buildings.

9 Any commercial building receiving energy from a  
10 utility is a covered building, which means that it --  
11 means that it's one for which utilities are required to  
12 provide energy use data on request.

13 A covered commercial building that's larger than  
14 50,000 square feet is also a disclosable building, which  
15 means it's one for which the owner will be required to  
16 provide building characteristic and energy use information  
17 to the Energy Commission annually. And one for which  
18 certain information will be publicly disclosed.

19 Moving over to the residential side, buildings  
20 with fewer than five utility accounts are not covered, so  
21 utilities are not required to provide data for those  
22 buildings. A residential building with five or more  
23 utility accounts is a covered building. And a residential  
24 building with 17 or more residential utility accounts and  
25 more than 50,000 square feet of floor area is a disclosable

1 building. Next slide, please.

2 Here's a brief history of how we got to where we  
3 are today. So in 2015 and 2016 staff held three pre-  
4 rulemaking workshops to receive stakeholder input. We used  
5 that input to create initial rulemaking language, which we  
6 posted in February for a 45-day comment period.

7 Due to the comments we received during that  
8 period as well as internal staff deliberation, we created  
9 revised regulations, which we posted in September for a 15-  
10 day comment period. That period ended on September 29th  
11 and we don't feel that any of the comments we've received  
12 require further revision to the regulatory language. Next  
13 slide, please.

14 Here's a tentative timeline going forward. If  
15 the regulations are adopted today, they'll go into effect  
16 either in the first quarter or at the beginning of the  
17 second quarter of 2018. They would require the owners of  
18 commercial disclosable buildings to report building  
19 characteristic and energy use information to the Energy  
20 Commission by June 1st, 2018 and annually thereafter. And  
21 the owners of residential disclosable buildings to do the  
22 same by June 1st, 2019 and annually thereafter.

23 The Energy Commission will not publicly disclose  
24 a building level information received in the first year for  
25 either of those groups, to give the owners an opportunity

1 to become familiar with the reporting process and to  
2 improve the performance of their buildings if they wish to  
3 do so.

4 For information received in the second reporting  
5 year for each of those groups the Energy Commission will  
6 disclose certain building level energy performance  
7 information on a public website, so that building owners,  
8 prospective buyers and tenants, researchers, energy  
9 services companies and the general public can better  
10 understand the buildings in which we live and work. Next  
11 slide, please.

12 Here's information on subscribing to the  
13 benchmarking mailing list in case you'd like information on  
14 the rulemaking process or the implementation of the  
15 regulations, as well as my contact information in case  
16 you've got questions on either of those things.

17 And with that I'd like to request adoption of  
18 these regulations. And I'm happy to take any questions.

19 CHAIRMAN WEISENMILLER: Thank you.

20 Let's start with public comment for those in the  
21 room. Bob Raymer?

22 MR. RAYMER: Thank you Mr. Chairman,  
23 Commissioners. I'm Bob Raymer, representing the California  
24 Building Industry Association and also representing the  
25 Building Owners and Managers Association and the California

1 Business Properties Association.

2 And I'm pleased to say that both the residential  
3 and the commercial building industries are in strong  
4 support of the adoption of these regulations. Not to  
5 belabor the point, but I've been privy to some of the  
6 opposition that was referenced over the last year or year  
7 and a half, mostly related to the legislative process and  
8 the administrative process. We tried our best to  
9 understand those concerns.

10 I have to tell you this process was very open.  
11 Commissioner McAllister and his team did a fantastic job of  
12 responding to any concerns that popped up. It was a very  
13 open proceeding. And to that you've got a very solid set  
14 of regulations. We need access to this data to make  
15 informed decisions. And what you're passing hopefully  
16 today, helps gets us get to that end.

17 So with that we support adoption. Thank you.

18 CHAIRMAN WEISENMILLER: Thank you.

19 Anyone else in the room? Please.

20 MS. GRENE: Hi. Good afternoon Commissioners,  
21 thank you so much for the opportunity to provide comment  
22 today on the Item Number 7 -- I dashed over here -- whole  
23 building data access and statewide benchmarking.

24 My name is Hanna Grene and I'm here on behalf of  
25 the Center for Sustainable Energy. I'm also speaking on

1 behalf of the California Benchmarking Collaborative, which  
2 is a diverse group of local governments, building owners  
3 and representatives, as well as environmental groups and  
4 policy organizations such as ours, who have worked to  
5 support this initiative.

6 We uh -- whew!

7 COMMISSIONER MCALLISTER: Yeah, you can catch  
8 your breath if you need to. (Laughter.)

9 MS. GRENE: Thank you. I didn't know I could  
10 still do a flat mile that fast, but apparently I can't do  
11 it and then talk. Thank you.

12 So we have been exceptionally pleased with the  
13 way that this regulation and rulemaking process has gone.  
14 And want to thank the Commission for your support in  
15 helping further data access standards. And to create  
16 streamlined, statewide guidelines for that data access for  
17 building owners and operators. We also want to speak in  
18 support of the statewide benchmarking program and  
19 collaboration that's been taking place with local  
20 governments, who have been leaders in this policy measure.

21 We hope through implementation, to see continued  
22 collaboration with local governments. We see them as being  
23 the front line really for training, outreach and reaching  
24 building owners and operators on the ground. As well as  
25 working with their local utilities to ensure that that data

1 transfer is going smoothly and that we have really the  
2 wheels of data to building owner and operator --  
3 owner/operator -- providing that data forward to you for  
4 compliance in motion, and really seamless in time.

5 So we look forward to being partners with you on  
6 that effort. And thank you for your leadership and  
7 support, your vote today. Thank you.

8 CHAIRMAN WEISENMILLER: Thank you.

9 Anyone else in the room? Anyone on the phone?

10 Go ahead, Valerie.

11 MS. WINN: -- the utilities and with the  
12 regulations for --

13 CHAIRMAN WEISENMILLER: Could you start again?  
14 Could you just --

15 MS. WINN: Oh, I'm sorry.

16 CHAIRMAN WEISENMILLER: That's fine, just for  
17 some reason you just started sort of mid-sentence, so if  
18 you'll just start at the very beginning we're set.

19 MS. WINN: Certainly, Valerie Winn, with Pacific  
20 Gas and Electric Company. And I wanted to add our support  
21 for the adoption of this regulation. And I would note that  
22 PG&E and our other utilities in California, Southern  
23 California Edison and San Diego Gas and Electric, have also  
24 been working very closely with the CEC in developing these  
25 regulations. And I really wanted to voice our appreciation

91

1 for the engagement from the CEC team and the collaborative  
2 nature of this process and their willingness to have  
3 discussions with us continuously throughout the development  
4 of the regulations.

5 So, with that again, just wanted to support the  
6 adoption of this. And we look forward to continuing to  
7 work with the CEC as we implement this and start that  
8 benchmarking process. Thank you.

9 CHAIRMAN WEISENMILLER: Great. Thank you.

10 Anyone else on the line?

11 (No audible response.)

12 CHAIRMAN WEISENMILLER: Okay, we'll transition to  
13 Commissioner McAllister.

14 COMMISSIONER MCALLISTER: Well, great. So I want  
15 to just first thank Erik and staff. I mean, this has been  
16 a long process. It has been very interactive I think as  
17 the speakers have also said. And that's by design. I  
18 mean, these regs, I think energy efficiency in particular  
19 has the quality that we just have so many stakeholders.  
20 And we really do depend on them to act out there in the  
21 world.

22 And our regulations have to respect to where  
23 they're at. And getting them right really depends on  
24 having a conversation that's based in their reality. And  
25 so I think there's a lot of ways, there are a lot of

1 moments and ways that the translation between statute and  
2 regs can go wrong. And I think that we've really engaged  
3 in a process that catches those possibilities and really  
4 fixes them and corrects.

5 But with the utilities, with the local  
6 governments, all the stakeholders -- and I just want to  
7 thank all the stakeholders, the collaborative, and  
8 certainly CSE for your facilitation. And CBIA has been at  
9 the table at every moment. And I just -- and the leading  
10 local governments: San Francisco and L.A. and many others.  
11 Really, your input has been critical to get where we are.

12 So I am so excited about this, because I feel  
13 like it's developing the infrastructure for getting data to  
14 flow around to the right places at the right moments so  
15 that better decisions can be taken. And that's not just at  
16 the policy level. We're excited, because we'll know more  
17 about the building stock and that is good for us. But  
18 also, out there in the world where people who are making  
19 decisions about which buildings to be in, which ones they  
20 want to rent, which investments they want to make if they  
21 own a building, can be just better informed. And that's  
22 just good for the economy, generally, and certainly good  
23 for our reaching our energy goals in the state of  
24 California.

25 We built on a lot of experience across the

1 country in various cities. And that was the first large  
2 state -- first statewide program, actually. And so we're  
3 definitely a big chunk of the nation's benchmarking program  
4 now.

5 The beautiful thing about this also is that it  
6 covers a lot of square feet. Okay, we're starting with the  
7 50,000-square foot and up for disclosure and require  
8 benchmarking, time certain, and the disclosure much, much  
9 beyond that for just data availability. But this is a lot  
10 of coverage.

11 And actually assuming everything goes well, and  
12 I'm confident it will in the implementation, the  
13 possibilities are kind of obvious I think going forward,  
14 for expanding and maybe lowering the square-footage  
15 threshold and things like that. All within reason and all  
16 to follow some kind of a conversation like the one we've  
17 been having to get to where we are now.

18 So I'm very excited to kind of -- this is an  
19 iterative process, the getting data to flow around is  
20 something that you start where you are and then you just  
21 get better over time. And that's a necessary step,  
22 iterative process that will follow.

23 So once we get any sort of kinks out of the  
24 process and make sure everything's functioning well then,  
25 we'll to be able to have a further conversation here in

1 this building and also with the Legislature. Because I  
2 think we're all going to be pleasantly -- well, not  
3 surprised -- we're all going to see the value I think, at  
4 each step of having the kind of openness that we're looking  
5 for in terms of understanding our building stock.

6           So again, I want to just thank staff. And just  
7 look very optimistically towards the future in doing better  
8 efficiency policy, more targeted programs, more informed  
9 policy decision making. And it's all for the good to help  
10 us double efficiency. Which, as we all know, is a big, big  
11 ask. And so this is going to be a really fundamental  
12 building block for showing what can be done and for just  
13 moving forward at a very proactive and, I think positive  
14 and collaborative way.

15           COMMISSIONER DOUGLAS: And I'll just step in  
16 briefly and say that I'm really pleased to have gotten to  
17 this point with this program and thank Commissioner  
18 McAllister. I know that it was not easy to get here. And  
19 data is so critical and it's so important to make this  
20 information available to people to make decisions at  
21 various levels of the economy. And that better information  
22 will lead in many cases, to better decisions and support  
23 our state goals. And so I'm pleased to see it.

24           It's also not simple. And it's far from simple  
25 and so I know it was a lot of work to get here.

1           COMMISSIONER MCALLISTER: I definitely like the  
2 graphics that you put up, Erik. They're really nice to  
3 show the world which buildings are covered and how they're  
4 covered, so I really appreciate that.

5           COMMISSIONER DOUGLAS: You've got Commissioner  
6 Scott.

7           COMMISSIONER SCOTT: Yeah, just wanted to say a  
8 thank you to Bob and to Hanna and to Valerie for taking a  
9 few minutes in their public comments to us to compliment  
10 the open and transparent public process. As the Public  
11 Member on the Commission I'm always cheered to hear about  
12 that.

13           And also to say thank you so much to Commissioner  
14 McAllister and his whole team for always having such a  
15 robust public process. It really matters, especially on  
16 things as complex and important as this. So, thank you.

17           COMMISSIONER MCALLISTER: All right. So, I will  
18 move this item.

19           COMMISSIONER DOUGLAS: Second.

20           CHAIRMAN WEISENMILLER: All those in favor?

21           (Ayes.)

22           CHAIRMAN WEISENMILLER: This passes 5-0.

23           Thank you.

24           MR. JENSEN: Thank you.

25           CHAIRMAN WEISENMILLER: Let's go on to Item 8,

1 City of Lancaster.

2 MS. NEUMANN: Good morning Chair Weisenmiller and  
3 Commissioners. My name is Ingrid Neumann from the Building  
4 Standards Office. I'm here to present Item 8, the City of  
5 Lancaster.

6 Local governmental agencies wishing to enforce  
7 their locally adopted energy standards are required to  
8 apply to the Energy Commission for a finding that the local  
9 energy standards will require buildings to be designed to  
10 consume no more energy than permitted by the adopted  
11 statewide Energy Standards found in Title 24, Part 6.

12 This finding can be made by the Commission once a  
13 complete application has been received. The complete  
14 application is posted for a 60-day public comment period.  
15 And the Executive Director issues a written recommendation  
16 on the application.

17 A complete application consists of the following  
18 items: 1) The proposed energy standards, 2) The local  
19 governmental agencies findings and supporting analyses on  
20 the energy savings and cost effectiveness of the proposed  
21 energy standards, 3) A statement or finding by the local  
22 government agency that the local energy standards will  
23 require buildings to be designed to save energy when  
24 compared to energy consumption levels permitted by Title  
25 24, Part 6 and 4) Any findings, determinations,

1 declarations or reports required pursuant to the California  
2 Environmental Quality Act.

3 Staff has reviewed the City of Lancaster's  
4 application and has found that the application was complete  
5 as of July 27th of 2017, consisting of Items 1 through 4,  
6 mentioned previously.

7 No public comments have been received by the  
8 Energy Commission during the 60-day comment period, which  
9 ended on September 29th of this year.

10 Subsequently, the Executive Director issued a  
11 written recommendation in which he recommended approval of  
12 this item.

13 On January 24th of 2017 Lancaster City Council  
14 approved the adoption of Ordinance 1020, requiring  
15 installation of solar photovoltaics and newly constructed  
16 single-family homes, with the alternative of paying a solar  
17 mitigation fee that will contribute to city-managed  
18 renewable resources.

19 Two watts of PV are to be installed per square  
20 foot of each newly constructed single-family residence.  
21 This amount of PV is more than the Energy Commission  
22 anticipates requiring in the 2019 Standards, because  
23 current state policy is to limit grid interaction.

24 The City of Lancaster's utility, however, is a  
25 community choice aggregator, Lancaster Choice Energy, and

1 may be subject to unique local utility rates and  
2 conditions. The City of Lancaster and Lancaster Choice  
3 Energy work closely with energy solution staff to develop  
4 the cost effectiveness study that was submitted with the  
5 city's completed application.

6 The City of Lancaster determined that the  
7 addition of PV system, as described in Ordinance 1020,  
8 provided a cost benefit ratio of 1.74 to 3.00 dependent on  
9 the option chosen by the builder and the size of the home.  
10 The cost effectiveness study was heard and approved by  
11 Lancaster City Council on July 25th of this year.

12 Staff found the application to be complete and  
13 confirmed a reduction of energy consumption required by the  
14 local ordinance. Staff therefore recommends the findings  
15 be approved and the Energy Commission Resolution be signed.

16 I am available to answer any questions you may  
17 have, as are Patti Garibay and/or Warren Bennett with the  
18 city of Lancaster, who are on the phone. Thank you.

19 CHAIRMAN WEISENMILLER: Great. Thank you.

20 First, is there anyone in the room who has any  
21 comment on this? On the phone? Do you want to say  
22 anything or just answer questions?

23 (No audible response.)

24 CHAIRMAN WEISENMILLER: Okay. Let's transition  
25 to the Commissioners. Mr. McAllister?

1                   COMMISSIONER MCALLISTER: So thanks for that  
2 Ingrid. This is another in the long line of a growing  
3 line, I guess. And it's not across the state quite yet,  
4 but Lancaster is really a nice city to have in a leadership  
5 position here. And I really give them kudos for all the  
6 great work they're doing on their built environment and  
7 really promoting things that are completely aligned with  
8 the state's goals.

9                   And so local governments have a lot of  
10 flexibility with how they influence their local building  
11 stock. And that's as it should be, right? They have the  
12 building department and they have the local leadership and  
13 they have the vision and they're in touch with their  
14 populations. And so I think Lancaster is just a really  
15 great example of that kind of leadership.

16                   And we take that at the Energy Commission and we  
17 look across the state and learn from each and every one of  
18 these jurisdictions to figure out what's doable on a  
19 statewide level within our statutory constraints. And  
20 we're going to do that here as well, to really determine  
21 with all the climate zones and all the diversity we have  
22 across the state, what is -- what really ought to be the  
23 most aggressive -- what's the most aggressive, kind of  
24 least common uniform requirements, that we can put in place  
25 across the state.

1           So we've got a few examples that are really  
2 pushing the envelope in local governments and it's great.  
3 It's all for the good, because we learn a lot from that and  
4 we take lessons that we can apply to everyone. So thanks  
5 for all the work, both by you Ingrid, and also just the  
6 Building Standards Office and Christopher and his team for  
7 vetting these proposals. And bringing up good issues about  
8 sort of what statewide goals are best met with the  
9 different components of what a local government might be  
10 doing. I think that's not always easy to do, because goals  
11 vary across the state.

12           So anyway, I'll stop there, I think. Thanks to  
13 Lancaster and early kudos for all the great work you're  
14 doing.

15           COMMISSIONER DOUGLAS: I'll just add too  
16 Lancaster has been showing a lot of leadership for a number  
17 of years. And this is another step in that. It's very  
18 good to see and be able to support today.

19           COMMISSIONER MCALLISTER: All right, so I'll move  
20 Item 8.

21           COMMISSIONER DOUGLAS: Second.

22           CHAIRMAN WEISENMILLER: All those in favor of  
23 Item 8?

24           (Ayes.)

25           CHAIRMAN WEISENMILLER: Item 8 passes 5-0.

1 Thank you.

2 Let's go on to Item 9.

3 MR. MICHEL: Good afternoon Chair and  
4 Commissioners, my name is David Michel with the Local  
5 Assistance and Finance Office within the Efficiency  
6 Division.

7 This afternoon I am respectfully requesting an  
8 approval of an Energy Conservation Assistant Act, also  
9 known as ECAA. The loan is to Soledad Unified School  
10 District in Monterey County. The application is for a \$3  
11 million ECCA-Ed funded loan to construct five parking lot  
12 canopy photovoltaic structures, and one structure on a  
13 playground in one of the campuses.

14 The installed PV systems will total 675 kilowatts  
15 of direct current at five campuses, including the District  
16 Office, generating an estimated 1,023,654-kilowatt hour of  
17 electricity annually.

18 The District will save approximately \$196,480 in  
19 electric utility costs and reduce 353 tons of greenhouse  
20 gas emissions each year.

21 The Energy Commission staff has determined that this  
22 loan is technically justified. And based on the loan  
23 amount in calculated simple payback is approximated as 15.3  
24 years for this loan, well within the 20-year payback period  
25 requirement under the loan program and within the 20-year

1 Effective Useful Life of the solar photovoltaic  
2 performance.

3 I request your approval of this item for the Soledad  
4 Unified School District. I'm happy to answer any  
5 questions. Thank you.

6 CHAIRMAN WEISENMILLER: No. Thank you.

7 Is there anyone in the room who wants to comment  
8 on this item? Anyone on the line?

9 (No audible response.)

10 CHAIRMAN WEISENMILLER: Then let's transition to  
11 the Commissioners. Commissioner McAllister?

12 COMMISSIONER MCALLISTER: Yeah. So thanks Dave  
13 for the presentation. I don't really have any deep  
14 comments on this one. But it's really good to see the  
15 robust participation of ECAA-Ed and good that that program  
16 actually is going to continue and get a guidelines update.

17 So with that, I'll move this item.

18 COMMISSIONER DOUGLAS: Second.

19 CHAIRMAN WEISENMILLER: All those in favor?

20 (Ayes.)

21 CHAIRMAN WEISENMILLER: Okay. This item passes  
22 5-0.

23 Thank you.

24 MR. MICHEL: Thank you.

25 CHAIRMAN WEISENMILLER: Let's go on to Item 10.

1           MR. SERRATO: Hello Chair and Commissioners. My  
2 name is Sebastian Serrato. I work in the Fuels and  
3 Transportation Division. I'm here today presenting the  
4 possible approval of an interagency agreement with the  
5 Governor's Office of Business and Economic Development, or  
6 GO-Biz, to fund a portion of the Zero Emission Vehicle  
7 Infrastructure Unit.

8           The amount of the Agreement is \$150,000 to  
9 reimburse the cost of work done on behalf of the Energy  
10 Commission, by the Zero Emission Vehicle Infrastructure  
11 Unit at GO-Biz, for a maximum of one year.

12           Under this agreement, representatives from GO-Biz  
13 will work with local, state and federal government  
14 agencies, hydrogen station developers, planners and  
15 installers in addition to the automobile manufacturers to  
16 facilitate and accelerate the permitting and establishment  
17 of the hydrogen refueling and electric vehicle charging  
18 infrastructure.

19           Representatives from GO-Biz will convene a high-  
20 level governmental working group dedicated to the hydrogen  
21 refueling infrastructure throughout California. They will  
22 also develop and implement strategies to remove barriers  
23 and expedite hydrogen refueling station equipment  
24 installation and to plan for and install electric vehicle  
25 charging infrastructure.

1           The fuel cell and all electric vehicles will be  
2 addressed through the GO-Biz activities with the goal of  
3 resolving barriers related to deployment.

4           It will also include construction of 100 hydrogen  
5 refueling stations, including streamlining permitting,  
6 expediting site utility connections and optimizing  
7 electricity rates, analyzing supply chain efficiencies and  
8 financial opportunities. And working toward growing ZEV  
9 deployments outside of California.

10           The GO-Biz representatives will monitor the  
11 progress of implementing the 2016 Zero-Emission Vehicle  
12 Action Plan, promulgated by the Governor's Interagency  
13 Working Group on ZEVs, which highlights new actions and  
14 priorities agencies may take in pursuit of the milestones  
15 in the Governor's Executive Order B-16-2012. The actions  
16 include raising consumer awareness and education about  
17 ZEVs, ensuring ZEVs are accessible to a broad range of  
18 Californians, making ZEV technologies commercially viable  
19 in different sectors aside from light duty applications,  
20 and aiding ZEV market growth outside of California.

21           Automobile manufacturers have initiated the  
22 rollout of hydrogen fuel cell vehicles with over 1,600 DMV  
23 registrations as of April 2017 and others reporting 2699  
24 vehicles. California's share of the U.S. market for plug-  
25 in electric vehicles currently stands at nearly 47 percent.

1           The California Energy Commission's Alternative  
2 and Renewable Fuel and Vehicle Technology Program has  
3 funded the expansion of the network to 31 open retail  
4 hydrogen stations and 29 funded and planned.

5           California is committed to commercializing zero-  
6 emission vehicles, including those that use hydrogen as  
7 fuel and electric vehicles that use chargers in homes,  
8 workplaces and public spaces.

9           Representatives from the Governor's Office of  
10 Business and Economic Development, the California Air  
11 Resources Board, and the California Fuel Cell Partnership  
12 and others are here or on the phone today and would like to  
13 make a comment.

14           We are happy to answer any questions you may  
15 have. Thank you.

16           CHAIRMAN WEISENMILLER: No. Thank you.

17           Let's start with Tyson, please.

18           MR. ECKERLE: Well, thank you very much. It's an  
19 honor to be here. It's hard to believe it's been three-  
20 and-a-half years that we've been working on this project.  
21 I think we've accomplished an awful lot together, but we  
22 also have a very long way to go. I think that it's an  
23 incredibly exciting in the ZEV market and we're really  
24 eager to keep this work going. And very grateful and  
25 thankful for the opportunity to work with the Energy

1 Commission, and have been appreciative of the support so  
2 far.

3 And so I'll just keep it short for that, but  
4 happy to go into any questions then.

5 CHAIRMAN WEISENMILLER: Yeah, thanks for being  
6 here.

7 Let's -- ARB, please?

8 MR. ACHELNIK: Good afternoon Chair and  
9 Commissioners. I'm Gerhard Achelik, the Manager of the  
10 Zero Emission Vehicle Infrastructure Section at the  
11 California Air Resources Board. And I'm here to express my  
12 support of the proposed resolution for continued co-funding  
13 of the Zero Emission Infrastructure Unit within the  
14 Governor's Office of Business and Economic Development.

15 And GO-Biz plays an important role in  
16 facilitating and expediting both hydrogen and plug-in  
17 electric vehicle infrastructure. GO-Biz also facilitates  
18 the interactions of various government entities in  
19 industry, including helping make coordinating efforts in  
20 response to a federal effort, such as the request for the  
21 Highway Alternative Fuels Corridors Identification Act.  
22 And leading efforts to share California's learnings with  
23 other states, which is important to help with the success  
24 of zero emission vehicle deployment. Because California  
25 has learned it the most in the USA or worldwide, and is

1 sharing that information to help the success, to see this  
2 success replicated otherwise.

3 And then ARB is co-funding GO-Biz and is planning  
4 to renew this agreement by early next year. And I think  
5 our -- contractually, we're just on a different timeline.

6 And I want to also state that I appreciate this  
7 opportunity to express my support and I appreciate the  
8 great working relationship my team has with Jean (phonetic)  
9 and her team. And we're doing all of this work to help  
10 California its achieve its Ambient Air Quality Standards.  
11 Thank you.

12 CHAIRMAN WEISENMILLER: Thank you. Thanks for  
13 being here.

14 MR. ACHELNIK: Thank you.

15 CHAIRMAN WEISENMILLER: Fuel Cell Partnership?

16 MR. ELRICK: Thank you Chair, thank you  
17 Commissioners.

18 I just want to state our extreme gratitude and  
19 appreciation for this support. It, the collaboration, the  
20 coordination, the leadership that Tyson and the staff and  
21 the team that has been developed out of this across  
22 government and industry stakeholders, has just been  
23 tremendous.

24 Whether it's been the outreach at the local  
25 levels with some of CEC's own staff that have helped get

1 stations constructed and up and open faster, whether it's  
2 the ZEV Action Plan and really all the guidance and  
3 direction and actions that come out of that, where now  
4 we're starting to see this beyond California reach.  
5 Because we know it's a necessity not just to succeed here,  
6 but to help the others' follow us.

7           And so looking at that, looking at maybe what's  
8 next of really the nexus between electricity and hydrogen  
9 and how all this needs to come together, we couldn't put  
10 more support behind this. And thank you very much.

11           CHAIRMAN WEISENMILLER: No, thank you. Thanks  
12 for being here.

13           Anyone else in the room? How about on the phone  
14 line?

15           MR. MCCLORY: This is Matt McClory with Toyota.  
16 Can you hear me?

17           CHAIRMAN WEISENMILLER: Yes, we can.

18           MR. MCCLORY: Hi. So first I want to thank the  
19 Chair, Commissioners and staff for preparation of this  
20 item. On behalf of Toyota we sincerely appreciate the  
21 activity of the GO-Biz Zero Emission Vehicle Infrastructure  
22 Unit.

23           Since the inception of this program function GO-  
24 Biz has provided a critical role to coordinate solutions to  
25 barriers to infrastructure development in California.

1           As one small example, as it relates to hydrogen  
2 refueling for FCEVs, there have been numerous cases where  
3 the role of GO-Biz was instrumental in resolving stalled  
4 and delayed hydrogen refueling station projects across the  
5 state due to issues that were occurring at the local  
6 community level. And so this was a very big advantage in  
7 being able to have this type of support from the state.

8           In addition, the role as a communication liaison  
9 between the Governor's Office, state agencies, automakers,  
10 fuel and electricity providers and other key stakeholders  
11 have been fundamental, we believe in addressing the  
12 challenges towards our collective zero emission future.

13           We fully support the proposed funding to continue  
14 this role of GO-Biz. And appreciate the opportunity to  
15 provide comment. Thank you very much.

16           CHAIRMAN WEISENMILLER: Thank you.

17           Anyone else on the phone?

18           (No audible response.)

19           CHAIRMAN WEISENMILLER: Then let's transition to  
20 the Commissioners. Before, as I hand off to Commissioner  
21 Scott, I was going to point out this relationship started  
22 as a favor from Mike Rossi to me. It was clear we needed  
23 help in this area and the question was where and whom? And  
24 Mike said, "Yeah, if you insist, we're doing GO-Biz." So  
25 anyway and obviously, the -- we've had a very good

1 relationship with GO-Biz all along, but certainly this has  
2 been part of that.

3 COMMISSIONER MCALLISTER: And then he went to  
4 Hawaii.

5 CHAIRMAN WEISENMILLER: Yeah. And then he went  
6 to Hawaii, but anyway,

7 COMMISSIONER SCOTT: Well, I would just highlight  
8 that you are hearing a lot of enthusiasm for hydrogen.  
9 That may be a carryover from Sunday, which was World  
10 Hydrogen Day, which is 1008, which is the atomic weight of  
11 hydrogen -- 1.008. So just in case you didn't know that's  
12 what's taken place this week. We're all excited about  
13 that.

14 I just wanted to really state also my strong  
15 support for the partnership that we've had there. Some  
16 real-world benefits that you have heard on the other  
17 speakers and commenters talk about. Just an anecdote from  
18 an event that I was at the other day where someone who --  
19 some folks who were new into this space said they were  
20 really surprised to know how many jurisdictions already  
21 know what hydrogen is, that the fire marshals have already  
22 been talked to, that the City Councils are ready to go,  
23 where the various permittees kind of have the information  
24 they need on hydrogen already.

25 And that's due to the fantastic work that Tyson

1 has done, that Jean Baronas on our staff and our team have  
2 done just literally going all around the state, meeting  
3 with the City Councils, county supervisors, other folks who  
4 play a role. So this has just been invaluable.

5 And I'd also just like to say thanks for the good  
6 collaboration to our sister agencies and to all of the  
7 stakeholders who have been working with us on hydrogen.

8 So unless you have questions I will move approval  
9 of Item 10.

10 COMMISSIONER HOCHSCHILD: Second.

11 CHAIRMAN WEISENMILLER: All those in favor?

12 (Ayes.)

13 CHAIRMAN WEISENMILLER: This item passes 5-0.

14 Thanks. Thanks for being here.

15 Let's go on to 11.

16 MS. BARKALOW: Hello, Chair and Commissioners. My  
17 name is Gina Barkalow with the Research and Development  
18 Division. I'm requesting approval of an applied research  
19 and development project recommended for award under the  
20 EPIC Bioenergy Competitive Solicitation.

21 The remaining projects under this solicitation  
22 will be presented at future business meetings.

23 This project, with All Power Labs, Incorporated,  
24 is designed to develop a forest biomass-to-electricity  
25 project. The project will develop what is planned to be

1 called the Powertainer+, an innovative and improved biomass  
2 gasification power system based on All Power Lab's mobile,  
3 containerized Powertainer.

4           The Powertainer+ will include a combined heat-  
5 and-power module, increase the power capacity from 150  
6 kilowatts to between 210-250 kilowatts, and increase the  
7 forestry waste processing capacity to up to 2,200 bone-dry  
8 tons per year.

9           The Powertainer+ will also boost biochar  
10 production capacity and maintain with a -- mobility with a  
11 shipping-container enclosure in a net energy metering pilot  
12 project at a Shasta County mill site.

13           The fuel source will be byproducts of sustainable  
14 forest management as defined by the CPUC BioMAT program.  
15 And the mill site is now receiving over 80 percent of their  
16 materials from CAL FIRE designated High Fire Hazard Zones.

17           The technology will provide non-weather  
18 dependent, renewable energy and can be used to provide  
19 local capacity and improved grid reliability in hard-to-  
20 serve rural areas, while also reducing peak demand charges  
21 for rural businesses.

22           Staff from All Power Labs is on the phone to  
23 answer any questions. And I ask for your approval of this  
24 project. Thank you.

25           CHAIRMAN WEISENMILLER: Great. Thank you.

1           First, is there anyone in the room who has  
2 comments on this?

3           (No audible response.)

4           Then let's switch to the gentleman on the phone.

5           MR. ARMIN-HOLLAND: Hi. Yeah, I'm not sure if  
6 you can hear me. My name is Joel Armin-Holland and I'm  
7 with--

8           CHAIRMAN WEISENMILLER: We can. We can hear you.

9           MR. ARMIN-HOLLAND: Okay, thanks. Yeah, I'm with  
10 All Power Labs and I'm just here -- I think Gina summarized  
11 the project really well. I think it's a really important  
12 project that will significantly increase the value of  
13 distributed scale biomass gasification to support the  
14 statutory energy goals of California. And help us contend  
15 with the unprecedented tree mortality goals that we've been  
16 seeing, while also creating really important economic  
17 development in our rural areas, which have been really hurt  
18 by tree mortality fire risk and also a decline of the  
19 timber industry.

20           And this enables a really positive way to allow  
21 forestry resources to support local economies, while not  
22 really being an extracted economy that is environmentally  
23 destructive.

24           One important characteristic that I think is  
25 important to highlight is the fact that it will produce a

1 substantial amount of biochar, making the entire process a  
2 carbon-negative process. So it actually enables carbon  
3 dioxide removal when paired with sustainable forest  
4 management. And it enables carbon dioxide removal, not  
5 just zero emission, like solar or wind. And this is a  
6 really important technology for California to pioneer.

7 And we really appreciate the support. And I'm  
8 here if you have any questions. I'm happy to answer them.

9 CHAIRMAN WEISENMILLER: Yeah, we really  
10 appreciate your hard work on this area. I mean, obviously,  
11 this can be tough at times, making and putting all the  
12 pieces together. And this could be an important part of  
13 really helping the economy in that area and help us deal  
14 with some of the tree mortality issues.

15 I'm looking at -- I was just trying to figure out  
16 if there's a CEQA issue here or not.

17 MS. VACCARO: No, you don't have one. In fact,  
18 the backup materials always anticipate for these types of  
19 agreements, whether or not there's something in particular  
20 that must be done with respect to CEQA. So we always do  
21 the analysis and you'll find that the backup materials  
22 identify that there are exemptions that apply in this  
23 instance to this particular project.

24 CHAIRMAN WEISENMILLER: Okay. Great, that's on  
25 top of it, Gina.

1 MS. BARKALOW: Okay. Thank you.

2 CHAIRMAN WEISENMILLER: Thank you.

3 MS. BARKALOW: Thank you.

4 CHAIRMAN WEISENMILLER: Yeah. Yeah. So we --  
5 hold on, we need to vote on this. So I need a motion.

6 COMMISSIONER SCOTT: I'll move approval of Item  
7 11.

8 COMMISSIONER HOCHSCHILD: I'll second.

9 CHAIRMAN WEISENMILLER: All those in favor?

10 (Ayes.)

11 CHAIRMAN WEISENMILLER: So this passes 5-0.

12 Thank you.

13 Let's go on to 12.

14 MR. SOKOL: All right. Good afternoon Chair and  
15 Commissioners. Michael Sokol, and today I'll provide an  
16 update on the Energy Commission's implementation of Senate  
17 Bill 350.

18 With all the difficult headlines in the news  
19 lately, I thought today would be a good chance to reflect  
20 on some of the significant, positive accomplishments that  
21 have been achieved and the forward momentum that has been  
22 generated by the Energy Commission's SB 350 implementation  
23 efforts.

24 It's hard to believe, but it's already been just  
25 over two years since SB 350 was signed by the Governor, so

1 the timing seems right to revisit the major milestones that  
2 have been achieved during that time. Next slide, please.

3 The transformational energy policies codified by  
4 SB 350 started out with strong California leadership,  
5 beginning at the top with the Governor. Governor Jerry  
6 Brown initially laid out his vision for doubling down and  
7 expanding California's clean energy future in his 2015  
8 Inaugural Address, where he highlighted the major energy  
9 goals for his administration.

10 Senate pro Tem Kevin de Leon then continued the  
11 state's strong leadership by spearheading the development  
12 and passage of Senate Bill 350, the Clean Energy and  
13 Pollution Reduction Act of 2015.

14 Finally, on October 7th, 2015 Governor Brown  
15 signed SB 350 into law, officially memorializing the  
16 numerous clean energy and pollution reduction mandates and  
17 sparking implementation efforts by the numerous entities  
18 impacted by the bill, including the Energy Commission.  
19 Next slide.

20 So to quickly recap the major points of the  
21 legislation, SB 350 included the following high level  
22 goals. An increase in the amount of renewable energy that  
23 must be procured by utilities to 50 percent by 2030, a  
24 doubling of energy efficiency savings and electricity and  
25 natural gas end uses by 2030, transportation

1 electrification and supporting infrastructure to be  
2 encouraged across the utility service territories, a shift  
3 to integrated resource planning for the state's largest  
4 utilities to reduce greenhouse gas emissions at least costs  
5 while balancing a number of other state and local  
6 priorities, and a strong priority for enabling benefits for  
7 low-income customers and disadvantaged communities across  
8 energy and transportation programs.

9           To date, over 40 publicly noticed workshops,  
10 meetings, requests for comments, and other public  
11 engagement opportunities have been posted by the Energy  
12 Commission to facilitate implementation of these goals and  
13 development of the products required by SB 350. Note that  
14 this number does not include the countless informal  
15 conversations and meetings that have been conducted by  
16 staff and Commissioners throughout the past two years,  
17 related to these efforts.

18           In total well over 20 papers, reports, including  
19 drafts, technical appendices and other deliverables have  
20 been published thus far, with more to come. All in all  
21 this accounts for thousands of hours of staff work,  
22 countless headaches and potentially even some tears along  
23 the way. But all in all it should leave the Energy  
24 Commission family with a sense of pride in the way that  
25 we've been able to mobilize our efforts in pursuit of the

1 important goals of SB 350. And that doesn't even account  
2 for the numerous other agencies that have also put forth  
3 monumental efforts to implement the bill. Next slide.

4 On the renewable energy front SB 350 augmented  
5 the renewable portfolio standard requirements from 33  
6 percent by 2020, to 50 percent by 2030, including a series  
7 of interim renewable energy procurement targets.

8 The bill also required a number of other  
9 revisions to be made to the RPS program including new  
10 compliance requirements, a move towards more long term  
11 contracting, and allowing more flexibility to retail  
12 sellers and publicly owned utilities in meeting the RPS  
13 targets.

14 To enact these changes the Energy Commission  
15 adopted a set of changes to the RPS Eligibility Guidebook,  
16 Ninth Edition, in January of this year.

17 And staff is also working to implement changes to  
18 the RPS enforcement regulations for POUs and is currently  
19 in the pre-rule making phase of this effort.

20 While the full extent of RPS revisions required  
21 by SB 350 are still being implemented on track with the  
22 schedule, the good news is the state continues to make  
23 great progress towards the 50 percent renewable energy  
24 goal. Our latest tracking progress numbers show that at  
25 the end of 2016 the state was at approximately 29 percent

1 renewable energy. And all signs indicate that we're on  
2 track, if not ahead of schedule, towards achieving the 50  
3 percent goal by 2030. Next slide.

4 SB 350 required the Energy Commission to  
5 establish targets that achieve a statewide doubling of  
6 electricity and natural gas end use energy savings by 2030.  
7 Staff has been working diligently in coordination with the  
8 Public Utilities Commission, the publicly owned utilities  
9 and a number of other stakeholders to establish these  
10 targets by the November deadline given by the Legislature.

11 Commissioners can expect to see a Commission  
12 final report on the agenda for the November 8th business  
13 meeting for consideration of adoption.

14 As the charts on this slide show, on the left is  
15 for the electricity and on the right is for the natural  
16 gas. And I should note that these are from the staff  
17 Commission draft report that was published in September.  
18 The analysis shows that the state can get close to  
19 achieving the 2030 doubling target with hard work from both  
20 rate-payer funded and non-rate payer funded programs. But  
21 there's still a small gap to be filled.

22 Recommendations to address this gap include  
23 expanding funding for and refining existing programs,  
24 exploring the development of potential new programs that  
25 meet the criteria laid out in SB 350, and better use of

1 detailed data and verification to improve existing program  
2 design and reporting.

3 To support the energy efficiency doubling SB 350  
4 also requires the Energy Commission to regularly update the  
5 Existing Building Energy Efficiency Action Plan, which  
6 outlines a number of strategies to increase energy  
7 efficiency savings in California's fleet of existing  
8 buildings. The first such update was adopted by the Energy  
9 Commission in December of 2016.

10 Lastly, earlier today the Commission heard  
11 consideration of the proposed regulations implementing the  
12 Assembly Bill 802 Building Energy Use, Benchmarking and  
13 Disclosure Program. This program is seen as a key strategy  
14 for driving additional opportunities for future energy  
15 efficiency savings to support the doubling goal, beginning  
16 with the state's largest commercial and multifamily  
17 buildings. Next slide.

18 SB 350 also encourages wide-spread transportation  
19 electrification across California's utility territories.  
20 And the Energy Commission is charged with working with the  
21 publically owned utilities to support development of plans  
22 that consider deployment of electric vehicle charging  
23 infrastructure to reduce GHG emissions, while supporting  
24 grid reliability and minimizing adverse ratepayer impacts.

25 The primary vehicle for the Energy Commission to

1 address transportation electrification with the publicly  
2 owned utilities is through the development of integrated  
3 resource planning guidelines for the publicly owned  
4 utilities. But Energy Commission staff has also been  
5 working closely with the Public Utilities Commission in  
6 developing transportation electrification plans, for the  
7 state's investor owned utilities as well.

8 A series of workshops were held by the Energy  
9 Commission to encourage collaboration and holistic thinking  
10 across utilities on strategies to increase electrification  
11 across light, medium and heavy-duty transportation sectors.  
12 Next slide.

13 SB 350 required that specified publicly owned  
14 utilities adopt and submit integrated resource plans to the  
15 Energy Commission by early 2019 that are intended to  
16 minimize greenhouse gas emissions in line with the 40  
17 percent statewide reduction by 2030. The publicly owned  
18 utility integrated resource plans must also meet a number  
19 of other requirements as specified in SB 350. And address  
20 a diverse portfolio of resources while balancing rate  
21 impacts and local priorities.

22 Similarly, the CPUC is charged with overseeing  
23 development of integrated resource plans for the state's  
24 load serving entities, including the investor owned  
25 utilities.

1           To govern this emission and review of the public  
2 owned utility IRPs, SB 350 allowed the Energy Commission to  
3 develop guidelines to govern this process. These guideline  
4 were developed in a public process in coordination with  
5 publicly owned utilities and other stakeholders, and were  
6 ultimately adopted at the Energy Commission business  
7 meeting in July of this year.

8           As required by SB 350, the Energy Commission is  
9 also working closely with the California Air Resources  
10 Board and the Public Utilities Commission to determine  
11 appropriate methodologies for establishing entity-specific  
12 GHG emission reduction planning targets for use in  
13 integrated resource planning that are consistent with the  
14 40 percent sector-wide reduction, by 2030. Next slide.

15           SB 350 also requires the Energy Commission to  
16 complete a study on the barriers faced by low-income  
17 customers in accessing energy efficiency, weatherization  
18 and renewable energy, as well as the contracting barriers  
19 faced by small businesses located in disadvantaged  
20 communities. In parallel, the California Air Resources  
21 Board was tasked with developing a companion study on the  
22 barriers faced in accessing clean transportation options.

23           The Energy Commission's Barrier Study was adopted  
24 in December 2016 after an extensive development effort,  
25 including literature review of over 100 articles and

1 papers, a series of community engagement meetings in  
2 disadvantaged communities across the state, several  
3 technical workshops to discuss identified barriers and  
4 propose solutions with key experts, multiple open comment  
5 periods to solicit public feedback and a thorough review  
6 process of the report itself. An outreach campaign was  
7 also conducted in multiple languages to be as inclusive as  
8 possible and ensure widespread circulation of the report  
9 results.

10           Ultimately the Barrier Study identified a range  
11 of common barriers faced by low-income customers and  
12 culminated in 12 crosscutting recommendations and actions  
13 for agencies to take to begin addressing them.

14           Similarly, the Air Resources Board Transportation  
15 Study posted in April, 2017, identifies an extensive list  
16 of potential action items that agencies should take to  
17 address the identified barriers.

18           Since both studies were posted, the Energy  
19 Commission and the Air Resources Board have been working  
20 closely with the Governor's Office and other impacted  
21 agencies to coordinate detailed plans for the  
22 implementation of the recommendations under the vehicle of  
23 a multiagency task force.

24           As articulated by the Governor's Office, the  
25 intent of this taskforce is to ensure that all relevant

1 agencies incorporate guidelines and best practices  
2 discerned from the barrier studies, to cement a long-term  
3 priority for benefitting low-income customers in  
4 disadvantaged communities in clean energy and  
5 transportation programs. As such, these implementation  
6 efforts will continue into the next year and beyond. Next  
7 slide.

8           So SB 350 also laid out the groundwork for the  
9 California independent system operator to become a regional  
10 organization, to promote greater sharing of energy  
11 resources across the western states. Over the past two  
12 years the Energy Commission has facilitated and  
13 participated in a number of workshops and stakeholder  
14 meetings to discuss the proposed details of this regional  
15 grid operator. Public discussions have focused on  
16 potential modifications to California independent system  
17 operators governance model that would be needed to  
18 facilitate the transition to a regional organization, while  
19 protecting California's environmental and energy policies.

20           Given the complexities with transitioning to a  
21 regional governance model, stakeholder discussions are  
22 still ongoing involving the Governor's Office, the  
23 Legislature and leaders from the energy agencies across the  
24 western states.

25           Specific legislative proposals were put on hold

1 for 2017, to allow for additional time for these  
2 discussions to take place, into the next year. Next slide.

3 One of the outstanding items from SB 350 is for  
4 the Public Utilities Commission and the Energy Commission  
5 to establish a Disadvantaged Community Advisory Group to  
6 review programs developed under SB 350 and provide  
7 recommendations to improve benefits for California's most  
8 burdened communities.

9 A staff draft paper, outlining the proposed  
10 framework for this group was published on August 1st and a  
11 number of comments were received from interested parties.  
12 Staff from both Commissions are now working to finalize a  
13 charger for this group and solicitation for applications,  
14 both of which will be released in the near future.

15 As envisioned, the advisory group would consist  
16 of 11 members representing California's diverse regions and  
17 interests, each with a connection to a local disadvantaged  
18 community across the state as defined by CalEnviroScreen.

19 Once applications are received, ten members will  
20 be jointly selected by representatives of the Energy  
21 Commission and the Public Utilities Commission and the  
22 eleventh member would be selected by the Governor's Tribal  
23 Liaison to represent the interests of the tribal  
24 communities across the state.

25 Additional details on the scope, purpose and

1 ideal candidates for participation in this group will be  
2 included in the charter and solicitation letter once  
3 they're published. And the next and last slide, please?

4           So there are several other items that are still  
5 outstanding for SB 350 requirements, but there are efforts  
6 to move these forward. So starting with a review of some  
7 of the technology incentive research and various programs,  
8 to ensure that they're providing benefits to disadvantaged  
9 communities consistent with recommendations, looking at  
10 establishing a publicly available tracking system to  
11 provide up to date information on the progress of SB 350  
12 implementation and that's an ongoing conversation, but  
13 various pieces are coming into play.

14           And lastly, looking at adopting and implementing  
15 and enforcing responsible contractor policies for use  
16 across ratepayer funded efficiency programs and some  
17 consumer protection energy efficiency guidelines to go  
18 along with that.

19           So moving forward, there's lasting implications  
20 for all the various new programs I have just described, as  
21 well as some of these outstanding action items here. And,  
22 of course there's new legislation, not only this past year  
23 but in the future cycles that of course have impact for  
24 some of the programs described previously.

25           There's a big effort to report out an additional

1 detail on SB 350 implementation in the 2017 Integrated  
2 Energy Policy Report, which will be coming soon. And then  
3 there's ongoing reporting for some of the key pieces in  
4 future IEPR cycles, starting in 2019. So next slide  
5 please.

6 And with that I'll go ahead and leave it there  
7 and ask if there's any questions or comments from  
8 Commissioners.

9 COMMISSIONER SCOTT: Well, this is a fantastic  
10 summary. It's like, oh this is why we've been so busy this  
11 year. So I just want to say thank you so much for this.  
12 It really is -- we have gotten a lot done in a year if you  
13 think about this. This has got a lot of key components for  
14 the state, how we're going to meet our greenhouse gas  
15 goals. Just the energy efficiency, we've got the Renewable  
16 Portfolio Standard. It's got the energy efficiency, making  
17 sure that we bring our disadvantaged and low income  
18 communities along with us.

19 There have been key deadlines, for example  
20 getting our IRP Guidelines out by August. The publicly  
21 owned utilities asked us to get those them about 18 months  
22 before they needed to start and we got that done. So this  
23 is a fantastic summary, a lot of great work.

24 I don't have any questions for you. But I would  
25 just note that yeah, this is why we've been so busy. Thank

1 you so much for your great work in herding all the cats and  
2 to Alana and all of the folks who have kind of rolled up  
3 their sleeves and helped us get going.

4           And then as you mentioned with the Barrier Study,  
5 for example, we've identified the 12 potential solutions.  
6 We're working hard to figure out how to get some of those,  
7 or hopefully all of them, but in place and start making  
8 progress on those as well.

9           So there's a lot left to do, but we've actually  
10 done quite a bit since the Governor signed this. So thanks  
11 for the year update.

12           COMMISSIONER MCALLISTER: Yeah. I guess since  
13 it's been two years and I agree, it's kind of time to take  
14 stock I'm continually impressed with 350 and just the  
15 foresight that went into its development. And it  
16 integrated a lot of things, some of which we were doing  
17 anyway, but it kind of tied it all together in a way that I  
18 think got our attention, got the other agencies attention,  
19 and sort of made sure that we were focused on the right  
20 things.

21           And we've been at it for a couple of years.  
22 There's a lot left to do, but I think we're on the right  
23 track and it's a big lift. It's a really big lift. So I  
24 think a lot of us have gotten -- it has put some wind in  
25 our sails in a way that I think only legislation sometimes

1 can do. So I appreciate that resource and certainly the  
2 Governor's leadership and the Legislature's backing for all  
3 of what we're trying to accomplish as a state.

4 So thanks for the update, Mike.

5 CHAIRMAN WEISENMILLER: I was just going to  
6 basically say, I think the one thing in looking at the  
7 process questions, we've done a lot. I mean there's a lot  
8 to do. It's one of those one small steps for the -- one  
9 giant step for the Energy Commission, one small step for  
10 California, in some respects. But having said that I think  
11 again it's been a lot of work, a lot of progress made here,  
12 a lot more to do.

13 I think the one thing we may need to think about  
14 some more, this is a unique approach we've taken just given  
15 that 350 was designed to cut across our silos. And so  
16 we've approached it in a very integrative fashion. And at  
17 some point -- so I think going forward I'm sort of leaning  
18 towards continuing this sort of integrated approach.  
19 Realizing at some point that some of these activities might  
20 be able to just sort of move off in their own direction.  
21 But at least, I'm going to say for the next year or two, my  
22 guess is we'll continue this sort of collective approach.

23 But yeah, certainly we welcome --

24 COMMISSIONER SCOTT: I very much like the  
25 collaborative approach.

1                   CHAIRMAN WEISENMILLER:  -- now or later, you know  
2 when we get into more obviously a new session we can talk  
3 about it, but again looking for people to also think about  
4 how this has worked or not worked and how we can do better,  
5 going forward.

6                   Okay.  Thanks, Michael.  Thanks again for your  
7 hard work on this.

8                   So let's go to the Minutes, Item 13.

9                   COMMISSIONER SCOTT:  Move approval on the  
10 minutes.

11                  COMMISSIONER HOCHSCHILD:  Second.

12                  CHAIRMAN WEISENMILLER:  All those in favor?

13                  (Ayes.)

14                  CHAIRMAN WEISENMILLER:  The Minutes pass 5-0.  
15 Thanks.

16                  Lead Commissioner Reports, Commissioner Scott?

17                  COMMISSIONER SCOTT:  Okay.  I am supposed to be  
18 in two places right now, so I'm going to make mine short  
19 for you all.

20                  But I did want to highlight that on Monday I was  
21 at the Torrance hydrogen station ribbon cutting.  That's  
22 hydrogen station number 30 for California.  It was great to  
23 get to go there and celebrate.  Senator Bradford was there  
24 as well as Assemblymember Muratsuchi, so it was a nice  
25 chance to talk a little bit about the program, the

1 Alternative and Renewable Fuel and Vehicle Technology  
2 Program, and some of the progress that we have made. So  
3 yeah that was great, joined by the Mayor of the City of  
4 Torrance and so that was quite fun.

5 On Tuesday, John Kato went to the San Ramon  
6 ribbon cutting, so yet another hydrogen station opened,  
7 also very exciting. Number 31 in the state, so 31 open  
8 retail stations. That's pretty exciting, because you can  
9 drive up with your fuel cell electric vehicle, run your  
10 credit card through, fuel up and just keep on going. And  
11 that's pretty neat. And we're headed, as you all know,  
12 towards 100, and we've funded 60 so far. So we're getting  
13 there.

14 I had a great chance to meet with the MPOs over  
15 at the SACOG building a couple of weeks ago and just talk a  
16 little bit about what the Energy Commission is doing in the  
17 transportation space. And really talk about electric  
18 charging infrastructure, which is something they're very  
19 interested in. Because in some instances, they have  
20 planning dollars from the Energy Commission where they've  
21 been able to kind lay out where they'd like to see the  
22 infrastructure. And in other cases some of the MPOs have  
23 done that on their own, but they're really interested in  
24 seeing how do you take those plans and turn them into  
25 chargers on the ground? And I am also interested in seeing

1 how you take those plans and turn them into chargers on the  
2 ground. So it was a nice change to get to go and trade  
3 notes and information.

4 I also had a chance to go visit our Vandenberg  
5 Air Force Base, which is really neat. It's out near  
6 Lompoc. And I had no idea it's just like Cape Canaveral,  
7 except here on the West Coast, so they launch all types of  
8 rockets and other things from Vandenberg. They have a  
9 solar array out there, which they took us to see they're  
10 very proud of. It's in different spots along the base.  
11 And they're working on that.

12 They're also interested in figuring out how to  
13 save water and many of the things that the Commission and  
14 Department of Air Force overlap together on. So it was  
15 great to get to see that. We almost saw a launch, but it  
16 got postponed until after we left. So that's a good reason  
17 to try and get back and visit Vandenberg again. But they  
18 were wonderful hosts; put together a great visit for us.

19 And then I would like to say welcome to Drew.  
20 I'm very much looking forward to working with you in your  
21 new role as the Executive Director. Congratulations. I'm  
22 very excited about that and that's all I'll say for now.

23 COMMISSIONER MCALLISTER: All right, quickly.  
24 Let's see, so I really just am making -- well I've made few  
25 brief sort of lightning trips just a round, just reporting

1 on those quickly.

2 NASEO's annual meeting was in the New Orleans a  
3 few weeks ago, so it's always a good event. And I'm always  
4 astonished that in spite of what we read in the news at the  
5 top level every day, the states are doing stuff to get it  
6 done. They really are just very practical and they --  
7 increasingly I think we're talking at the state level  
8 across all the states about how to better engage with the  
9 local government. And that comes up at every business  
10 meeting for us. And increasingly there's an appreciation  
11 for that at the state energy office level. So that's all  
12 good to see. And other than that it's sort of fighting  
13 retrenchment at the federal level and sort of locking arms  
14 or taking a knee or whatever at the state level to try to  
15 keep it positive on the developments at the budget level at  
16 the federal government.

17 And then from there it went directly to the VERGE  
18 Conference. I think Commissioner Hochschild was there as  
19 well and I'm not sure who others were there. But it's  
20 always a good one. It's got this sort of Silicon Valley  
21 innovation sheen to it and remains substantive, but it's  
22 really sort of a quick, high velocity kind of event. So  
23 they keep it interesting. It's not just sitting there at a  
24 conference and just listening. It's really active with  
25 everybody, so they're talking about the right things.

1 I was on a policy panel that ACEEE put together.  
2 And it was the whole morning with ECOB, NRV, DOE and CEC,  
3 so innovative companies doing wonderful things on behavior,  
4 on customer engagement. So there's just a lot of really  
5 innovation there. It's exciting.

6 Then a couple of weeks ago, I went to the -- I  
7 kind of was the Commissioner at the IP meeting, so up in  
8 Fallen Leaf. So it's always a good engagement just to keep  
9 plugged in to what they were doing and obviously they're a  
10 bunch of key stakeholders for us. So it's good to engage.  
11 And they were interested in the energy efficiency world and  
12 350, as we heard just a moment ago.

13 And then finally went to the -- well almost  
14 finally -- went to the National Governor's Association  
15 meeting in Denver, where they had a sort of energy day. It  
16 mostly turned out to be an electricity day, which is okay.  
17 And I was on a panel about data and cyber on the one hand,  
18 the protection and security piece of it, but also on an  
19 innovation piece of it. So I think they understand that  
20 there's a lot of upside to facilitating the development of  
21 this eco system in various forms, but also are trying to do  
22 it right. And so it's a good engagement there.

23 And so really I felt like California was good to  
24 have there, to kind of socialize about what we're working  
25 on, and make it seem that the other states could do it too.

1 So that was kind of the way I approached that.

2           And then finally, I keynoted the North American  
3 Passive House Conference in Oakland, last week. And it was  
4 just a beautiful bunch of stakeholders, really. They are  
5 focused on building excellent, well performing, beautiful,  
6 comfortable, elegant buildings and so one of these sorts of  
7 communities that really I kind of think can help us achieve  
8 our goals, certainly in new construction. But also there's  
9 a lot of thinking about how to do good retrofits. And I  
10 think also provides another kind of third party approach to  
11 getting good buildings done, which I think if we play our  
12 cards right, we can use to our advantage in the Building  
13 Code and help provide pathways for compliance as well. So  
14 we're starting to talk about that.

15           But on the same panel with Mayor Schaaf in  
16 Oakland, and then also the Building's Representative from  
17 the UN who was over from Paris. So there's kind of a  
18 global movement that has a lot of common themes in it. And  
19 again, people are looking to California for leadership in  
20 that, so really good stuff.

21           So finally, I just have to thank my staff. I  
22 have been leaning on them inordinately I think, for the  
23 last really many months, but particularly the last four to  
24 six months. And I am happy that -- you know I'm talking  
25 about Donna. I'm talking about Bryan and Martha. And

1 Donna has kept all the trains running on time just  
2 incredibly well, with a smile. And Brian and Martha, I am  
3 so happy to give them professional development  
4 opportunities so they can -- I think lately, Martha's been  
5 to Irvine and Phoenix, on my behalf. And they've done a  
6 spectacular job, and Brian to Mexico and to Monterey.  
7 Well, Mexico City and then Monterey, California. But just  
8 I couldn't have really kept the plate spinning without them  
9 engaged and really carrying a lot of water that probably is  
10 beyond what they expected to do when they started in my  
11 office. And so I just want to thank them profusely. And  
12 then I also wanted to reiterate congratulations to Drew for  
13 stepping into that role, big shoes to fill, metaphorically.  
14 And I'm sure he'll do great, but we definitely want to  
15 collaborate in any way we can. So certainly I do, so  
16 welcome.

17           And then finally, I wanted to just announce that  
18 we're -- let's see on the 17th, which is this coming  
19 Tuesday if I'm not mistaken, Amory Lovins is going to give  
20 a talk over at the Secretary of State's office, 1:00  
21 o'clock. And he's going to be in town for a couple of  
22 different events: the Behavior Conference that ACEEE does  
23 in Sacramento, periodically and a couple of other things.  
24 But we wanted to take advantage to get a public lecture on  
25 the books for him.

1           And he's going to talk about energy efficiency.  
2 I think this is his original topic that he made his career  
3 on early on and now I think has a much broader and  
4 integrated perspective on things, as many of us do. But  
5 energy efficiency still has a cornerstone of California  
6 climate policy. So he's going to talk about the energy  
7 efficiency potential and so again over just a block or two  
8 away from here at the Secretary of State's auditorium at  
9 1:00 on next Tuesday, the 17th. Thanks.

10           COMMISSIONER DOUGLAS: I think I will pass on any  
11 reports, but join in welcoming Drew. Thank you.

12           COMMISSIONER HOCHSCHILD: Yeah, so did the VERGE  
13 Conference with Commissioner McAllister, the Carlyle Group  
14 Investors Symposium. I'm speaking of ACORE tomorrow in San  
15 Francisco and then the Sustainable Investors Forum in San  
16 Diego after that.

17           One thing I wanted to share. I was very, very  
18 impressed -- and I told him so -- with the ISO Vision  
19 Document, which I think is honestly the boldest document  
20 that agency has ever produced. And it talks about  
21 regionalization, electrification, electric vehicles,  
22 distributed generation. And it's, I just think, a very  
23 bold and visionary thing. And I thanked Steve Berberich  
24 and the team there, Tom Doughty and the rest of the members  
25 of the Board of Governors for putting that out there. And

1 I think it also asked a number of the key questions that we  
2 got to address. So I was really glad to see that.

3 One other highlight I want to share. I did a  
4 site visit last week, to Proterra. And we give away a lot  
5 of grant money and not all of it home runs. This company I  
6 was thoroughly impressed with. They have bus contracts,  
7 now in 40 states: states like Arkansas, North Carolina,  
8 Oklahoma, Texas. They just completed their -- I don't know  
9 if you saw the news there -- test. They fully charged  
10 their new bus and they drove it at 15 miles an hour, which  
11 is the most efficient speed, it went 1,100 miles. So I  
12 mean, it was really a new milestone and just great to see  
13 that taking off.

14 And one interesting thing in their business plan,  
15 after municipal fleets, the next area of focus is in the  
16 school buses. And the reason we should be excited about  
17 that actually is the match with renewables integrating in  
18 the Grid is perfect, because these vehicles are in use in  
19 the morning and then late in the afternoon, but they're  
20 plugged in, in the middle of the day. And I think there's  
21 a big nexus there that's really exciting.

22 Final update, I just wanted to share was I just  
23 learned last night that that UC Davis, so we'll doing an  
24 event there, is starting an URG program equivalent to  
25 Berkley's. They have 16 --

1 UNIDENTIFIED SPEAKER: Not equivalent, but --

2 COMMISSIONER HOCHSCHILD: -- not equivalent.

3 Their ambition is going to be equivalent, but --

4 CHAIRMAN WEISENMILLER: Minor league, minor  
5 leaguer.

6 COMMISSIONER HOCHSCHILD: It is a minor league,  
7 yes so far, but big, big ambitions. And it's, I think 16  
8 students enrolled, and are eager to partner with us. So we  
9 should be looking for opportunities to do that do that  
10 request. And that's it for me.

11 COMMISSIONER MCALLISTER: I wanted to just  
12 comment quickly, so the Proterra event Janea couldn't make  
13 it, so I went down to the Proterra, like a ribbon-cutting  
14 event, a new facility. And it wasn't that long ago, it was  
15 maybe a few months ago and the Governor gave this rabble or  
16 just incredible speech. And Jennifer Granholm, the former  
17 Governor of Michigan was also there and she's very involved  
18 in this space now and it was just an incredible event.

19 I'm not as daily involved in the transportation  
20 side as some of you are and it was really uplifting. I  
21 mean, it was just such a positive energy and a very clear  
22 business plan, very clear value proposition and just all  
23 cylinders firing, as it were. So anyway, I'm glad to hear  
24 that momentum going forward.

25 CHAIRMAN WEISENMILLER: Just a couple of things,

1 really. I went back to DC for their -- I am the Safety  
2 Liaison with the NRC, for the State of California. There's  
3 about 37 of us in the country and so every two years they  
4 have a couple-day session and go through what the NRC is up  
5 to at a given time and in terms of regulatory proceedings  
6 or internal stuff.

7           Like we had a really fascinating conversation  
8 about what the NRC does to deal with cyber security in its  
9 facilities. And one of the things in the past year, we've  
10 actually had a nuclear plant that was hacked in the U.S..  
11 But this was again, I presume that's bad, but if you could  
12 really get into the NRC it would be even more so.  
13 Basically trying to understand what they do as state of the  
14 art on cyber and certainly and certainly, we need to step  
15 up our game some in that area, is the bottom line.

16           But it was -- I mean obviously the NRC has never  
17 been great. There are more people coming, which will  
18 probably make it -- and we will be focused on the -- the  
19 study and proceeding on decommissioning will be focused on  
20 participating in that. It sort of -- you don't see a  
21 policy on that. It's been a little ad hock in a sense that  
22 when you come up to decommissioning they remove the  
23 licensing conditions, which only apply to operating plants,  
24 which makes sense. But they don't have a -- this is what  
25 we want to decommission, what to do when you're

1 decommissioning. It's just this is what you don't have to  
2 do now that you are basically not operating. So anyway  
3 they can do a little better. We'll try there.

4           And while I was there, I went with Dan Carroll to  
5 talk to the people at DOE and FERC on the White House,  
6 basic on the infrastructure question. It was -- I mean,  
7 obviously the Trump people are different than we are. So  
8 these were not sort of enthusiastic meetings, where -- but  
9 we're certainly trying to find where we have common  
10 interests. And infrastructure is probably one of those  
11 areas, so we'll keep the pushing on that.

12           I think most people know that Secretary Perry  
13 sent a request or a directive to the FERC to look at  
14 basically how the (indiscernible) fuel supply and  
15 resilience. Obviously, California is going to respond to  
16 that and working with Governor's Office, the PUC, and  
17 actually the ISO, the ARB.

18           Going back to the '80s, there was an MOU worked  
19 out between the PUC and the Energy Commission that  
20 basically says the PUC represents the state before FERC.  
21 And that was at a period where we and the PUC did dueling  
22 filings at FERC on some gas issues, so we are sort of  
23 harmonizing things better. So anyway we're working on this  
24 together on this, but they're certainly going to take the  
25 lead as will the ISO on their specifics.

1 I think that's all I have. So let's go to Chief  
2 Counsel's Report.

3 COMMISSIONER HOCHSCHILD: Sorry, did you go to  
4 China, or are you still --

5 CHAIRMAN WEISENMILLER: I'm going to go to China  
6 on the 28th --

7 COMMISSIONER HOCHSCHILD: Of this month.

8 CHAIRMAN WEISENMILLER: -- and will be back on  
9 the 4th.

10 MS. VACCARO: Well, I know it's been a long day,  
11 but I have one introduction I'd like to make. Chief  
12 Counsel's Office really tries to do its part to attract  
13 talent to the agency. And we've had an opportunity to  
14 bring on board an attorney who had other offers, but was  
15 very interested in the mission and the work in Energy  
16 Commission. So from the State Lands Commission, we now  
17 have Senior Attorney Kathryn Colson, who's joined us. And  
18 she's joining us in the Transactions Unit. That's really  
19 her area of expertise.

20 And I think it's timely, given that we now have  
21 some new mandates and a lot more money to pass through.  
22 That to keep bringing in really experienced talented folks  
23 to the Transactions Unit is going to continue to be  
24 important. So I'm just really pleased that she's joined  
25 our team and is committed to the Energy Commission's

1 mission.

2 CHAIRMAN WEISENMILLER: Welcome aboard. That's  
3 great.

4 How about Executive Director Report, and  
5 congratulations.

6 MR. BOHAN: Thank you. I just want to take a  
7 brief moment to say thank you very much for your confidence  
8 in me. This is an incredible honor to serve the California  
9 Energy Commission, as its Executive Director and to serve  
10 each of you as you try to carry out the Governor's very  
11 ambitious goals. And as we all know, from working on them,  
12 some of them are really, really hard.

13 But the good news is we've got nearly 700 staff  
14 who are extremely committed. And Kourtney and I didn't  
15 plan this, but I'm excited to hear Kathryn from State Lands  
16 is joining us. We've got a lot of people like her, who  
17 come to work every day and feel really committed to our  
18 mission. A lot of organizations have staff that have jobs,  
19 and they come to work and they do them and they leave. We  
20 have a lot of people who are really, really committed and  
21 that's why you see the results that Mike Sokol showed in  
22 the 802 program coming to fruition, finally. That's not by  
23 accident. It's really the folks that we have working here.

24 I wanted to also just say Rob is an extremely  
25 tough act to follow. Shoes may not be the issue, but he

1 really, I think is a tremendously dedicated public servant  
2 and he served this organization very well.

3           You have my pledge. I look forward to the  
4 challenge. I'll give you 100 percent every day. And again  
5 I just wanted to say thank you very much.

6           CHAIRMAN WEISENMILLER: Again, thanks.

7           Alana?

8           MS. MATHEWS: Good afternoon. So I have a couple  
9 of things that I want to share. The first is that I had  
10 the opportunity to be the guest speaker at LAHEAF's  
11 (phonetic) quarterly meeting. So I think it's important to  
12 note that in addition to the other agencies and  
13 stakeholders we have service providers who are really  
14 interested in partnering in how they can help implement the  
15 recommendations. So there are some community -- they just  
16 wanted to know a little bit more about it and how their  
17 organizations would be able to partner with the Energy  
18 Commission to help those implementing the recommendations.

19           Also, we had a follow-up community meeting with  
20 the tribal leaders. You may remember during the Barrier  
21 Study, we had a meeting in Redwood. And Michael Sokol was  
22 actually able to go in my place and represent and to share  
23 on how we can continue to work together in improving  
24 California's clean energy and transportation goals. And  
25 ARB was also at that meeting.

1           I also wanted to share that we are happy to  
2 announce that we're kind of rolling out two important  
3 resources in our diversity efforts and commitment. The  
4 first is an internal database, which is a resource that  
5 will help us track our diversity outreach efforts, which we  
6 are engaged in to increase participation in our funding  
7 programs.

8           As well as we'll be beginning to launch a new  
9 pilot of a new clearing house. And that is an external  
10 resource and platform to help the Commission reach its ABA  
11 65 mandate to establish an outreach program to increase  
12 participation of diverse business enterprises, such as  
13 woman owned, disabled veteran, minority and LGBT-owned  
14 businesses and funding opportunities.

15           And then lastly, this is sort of in the public  
16 participation world, it's not a big deal with the Energy  
17 Commission, but we were highlighted. And I had the  
18 opportunity to participate in a discussion with the  
19 Brookings Institute about how we have been so successful in  
20 our public participation engagement and efforts.

21           Then lastly, following up with Commissioner Scott  
22 today is International Day of the Girl. And so I also  
23 wanted to share that as a Board Member and national  
24 delegate for the Girl Scouts of the United States of  
25 America I had an opportunity to represent the Energy

1 Commission. And talk about how girls and women can have  
2 opportunities and careers in energy in our STEM and STEAM  
3 focus. That's it.

4 CHAIRMAN WEISENMILLER: Nice.

5 Public Comment?

6 (No audible response.)

7 Okay. The meeting is adjourned.

8 (Adjourned the Business Meeting at 2:58 p.m.)

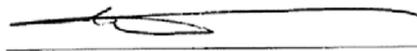
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I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a certified electronic court reporter and a disinterested person, and was under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

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 19th day of October, 2017.



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PETER PETTY  
CER\*\*D-493  
Notary Public

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

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Myra Severtson  
Certified Transcriber  
AAERT No. CET\*\*D-852

- 1) Page No. 33 Line No. 11 & 12 Delete "Negating" and insert "The" and lowercase "gating" at beginning of sentence: "The gating statute..."
- 2) Page No. 34 Line No. 13 Insert single end quote after "resources": "...resources' at time that the..."
- 3) Page No. 34 Line No. 17 Insert single quotes around phrase, "eligible renewable energy resource": "...'eligible renewable energy resource' was eligible if..."
- 4) Page No. 34 Line No. 22 & 23 Insert quotes around phrase, "eligible renewable energy resource": "It doesn't reference "eligible renewable energy resource," it doesn't..."
- 5) Page No. 34 Line No. 23 & 24 Insert quotes around phrase, "renewable electrical generation facility": "...it doesn't reference "renewable electrical generation facility." And despite ..."
- 6) Page No. 35 Line No. 22 Change "steam" to "scheme": "...so-called chaos in the regulatory scheme."
- 7) Page No. 35 Line No. 25 Insert comma after "resources": "... to this patchwork of ineligible resources, however,..."
- 8) Page No. 36 Line No. 16 Change "contractor" to "contract": "...any contract or any facility forward, we ..."
- 9) Page No. 36 Line No. 25 Insert comma and "it" after "appeal": "...while it has appeal, it has no ..."
- 10) Page No. 37 Line No. 6 & 7 Insert quotes around the phrase, "narrowly tailored": "...these "narrowly tailored" exceptions."
- 11) Page No. 37 Line No. 20 Delete quote after "ambiguity," insert quote in front of "vague": "... ambiguity it references a "vague reference to rules in place" among..."
- 12) Page No. 37 Line No. 21 Remove hyphen between "five" and "bill" analyses: "No less than five bill analyses indicate ..."
- 13) Page No. 38 Line No. 1 Insert quote in front of phrase, "all existing": "...bill, "all existing ..."

- 14) Page No. 38 Line No. 4 Insert end quote after "resources":  
"... renewable resources."
- 15) Page No. 38 Line No. 15 Insert quotes around phrase "generalized statements":  
"... as mere "generalized statements.""
- 15) Page No. 39 Line No. 2 Insert quotes around phrase "vaguely worded":  
"... is "vaguely worded" -- page 14..."
- 16) Page No. 39 Line No. 5 & 6 Insert quotes around phrase "generalized statements":  
"... is "generalized statements." But..."
- 17) Page No. 40 Line No. 25 Insert comma between words "it" "we're":  
"... the way we look at it, we're facing..."
- 18) Page No. 41 Line No. 3 Delete word "a" before "legislation":  
"... about legislation that was..."
- 19) Page No. 47 Line No. 17 Delete word "the" in front of "respect":  
"And with respect to -- I ..."
- 20) Page No. 47 Line No. 23 Change "pass" to "passed":  
"...that when they passed this law we submit..."
- 21) Page No. 59 Line No. 7 Change Mrs. Guerrero to Mr. Guerrero:  
"MR. GUERRERO: Thank you, Counsel,..."
- 22) Page No. 59 Line No. 9 Change "it found" to "to respond":  
"I just want to respond very briefly ..."
- 23) Page No. 62 Line No. 10 Delete period after "effect" and change to lowercase "and":  
"...SBX1 2 took effect and the time..."
- 24) Page No. 62 Line No. 11 Insert comma after "program":  
"...voluntary program, ended."
- 25) Page No. 69 Line No. 17 Delete word "in" after "to":  
"...had no objection to a stay."