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BEFORE THE CALIFORNIA ENERGY COMMISSION

In the Matter of:)
)
Application for Certification for)
the STANTON ENERGY RELIABILITY)
CENTER) Docket No. 16-AFC-01
_____)

PREHEARING CONFERENCE

STANTON ENERGY RELIABILITY CENTER

CALIFORNIA ENERGY COMMISSION

ART ROSENFELD HEARING ROOM

1516 9TH STREET

SACRAMENTO, CALIFORNIA

WEDNESDAY, JULY 25, 2018

10:08 A.M.

Reported by:
Peter Petty

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Janea Scott, Presiding Member

Karen Douglas, Associate Member

ADVISORS

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Rhetta deMesa, Advisor to Commissioner Scott

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APPEARANCES (CONT.)

INTERVENORS

Clean Coalition

Doug Karpa, Policy Director

Miles Maurino, Staff Attorney

INTERESTED PARTIES

South Coast Air Quality Management District

Bhaskar Chandan

Vicky Lee

Rizaldy Calungcagin

I N D E X

	Page
Meeting Agenda	
1. Call to Order	5
2. Oral Argument and Consideration of Pending Motions	7
a. Applicant's Motion to Strike Intervenor Clean Coalition's Opening Testimony and Rebuttal Testimony	
b. Other pending motions	
3. Prehearing Conference	17
4. Public Comment	58
5. Closed Session (if necessary) Committee Closed Session consideration of the following item:	17
Application for Certification of the Stanton Energy Reliability Center.	
6. Adjourn	62
Reporter's Certificate	63
Transcriber's Certificate	64

1 MR. GALATI: Scott Galati, Counsel to
2 Stanton Energy Reliability Center.

3 COMMISSIONER SCOTT: Good morning.
4 And how about the staff?

5 MS. DECARLO: Good morning. Energy
6 Commission Staff Attorney Lisa DeCarlo.

7 MR. HEISER: Good morning, Energy
8 Commission. This Jon Heiser, Project Manager.

9 COMMISSIONER SCOTT: Good morning.
10 And how about Intervenor Clean Coalition.

11 MR. KARPA: Yeah, Doug Karpa for Clean
12 Coalition.

13 MR. MAURINO: My name is Miles Maurino. I'm
14 a Staff Attorney for the Clean Coalition.

15 COMMISSIONER SCOTT: Good morning.
16 And do I have Bob Sarvey or Helping Hand

17 Tools? And if you're on the phone, please go ahead
18 and speak up. Everyone is unmuted on our end. Okay.

19 Then, let me turn to our Public Adviser,
20 Rosemary Avalos. She's in the back of the room
21 there, waving at everybody. Good morning, welcome.

22 And then, let's go to agencies. Do we have
23 any folks from the Federal Government, either -- I
24 don't see any in the room. But on the phone, if so,
25 please go ahead and identify yourself.

1 Okay, how about agencies of the State of
2 California? Native American Tribes?

3 I know we have a few folks from South Coast
4 Air Quality Management District. Please go ahead and
5 introduce yourselves, again.

6 MR. CHANDAN: Yeah, hi. This is Bhaskar
7 Chandan from South Coast AQMD. I'm the Supervising
8 Air Quality Engineer. And I'm here with my
9 Engineers, Vicky Lee and Rizaldy Calungcagin.

10 COMMISSIONER SCOTT: Great. Good morning.

11 Do I have any representatives from Orange
12 County, the City of Stanton, or any other nearby
13 towns or cities, or other agencies?

14 Okay. So, at this time thank you for the
15 introductions. I will turn the conduct of the
16 Prehearing Conference over to Hearing Officer Ken
17 Celli.

18 HEARING OFFICER CELLI: Thank you,
19 Commissioner Scott. Good morning everybody. Before
20 I begin our Prehearing Conference, I just want to
21 note that I have one person who has identified
22 themselves as anonymous, which is completely
23 appropriate and okay. So, if people don't want to
24 identify themselves, they do not have to.

25 I have one person who called in, is call-in

1 user 3. You are the last person to have called in.
2 And if you wouldn't mind identifying yourself, we
3 would type in your name so it shows that you were
4 here, and then we can identify you if we get a
5 comment from you or whatever.

6 So, go ahead. If you're on the phone and
7 you haven't identified yourself, please speak up.
8 Call-in user 3? Okay. Well, call-in user 3 will
9 then be call-in user 3 from here on out.

10 So, the Committee noticed today's Prehearing
11 Conference in a Notice. The Notice was entitled
12 Notice of Prehearing Conference and Evidentiary
13 Hearings, issued on June 20th, 2018.

14 I just want to remind everybody that we did
15 change the date and time for the Evidentiary Hearing.
16 It has previously been noticed for August 3rd, 2018,
17 at 10:00 in the morning. It is now set for August
18 2nd, at 1:30 in the afternoon. The same location in
19 Stanton. The hearing will start at 1:30 at the
20 Stanton Community Center and City Hall, at 7800
21 Katella Avenue, Stanton, California 90689.

22 And we will take public comment at the close
23 of evidence on that day, if we finish early. We
24 never really know when we're going to finish taking
25 evidence. But we'll take public comment at the close

1 of evidence and we will take public comment, again,
2 at 5:30 p.m., so that people who are working can kind
3 of come by on their way home.

4 As explained in the Notice, the basic
5 purposes of the Prehearing Conference are first, to
6 hear argument today on the Applicant's Motion to
7 Strike Intervenor Testimony.

8 If you wouldn't mind, Ralph, we'd like to
9 put the -- I have an agenda, a PDF of an agenda, if
10 you wouldn't mind putting that up? Thank you.

11 And when I mention Ralph, for the record I'm
12 talking to Ralph Lee, who's from the Hearing Officer,
13 and he's helping us with the WebEx this morning.

14 So, the first purpose is to hear argument on
15 Applicant's Motion to Strike Intervenor's Testimony,
16 Opening Testimony.

17 Secondly, to assess the project's readiness
18 for hearing and the parties' readiness. To clarify
19 areas of agreement or dispute. Next, to identify
20 witnesses and exhibits. After that, to determine
21 upon which areas the parties need to question the
22 other parties' witnesses, and to get answers to
23 questions from the Committee. Such as, how long the
24 construction phase really is, because we have some
25 question about that.

1 Also, lithium ion batteries are listed as 10
2 megawatts/5 megawatt hours, but then there were
3 changes between the PSA and the FSA that says 10
4 megawatts/4.3 megawatt hours, but not every section
5 says that. So, we just need it to be clarified, some
6 clarification on that.

7 And we will probably have some question
8 about land use. We will find out.

9 To achieve these purposes, we required that
10 all parties file a Prehearing Conference Statement by
11 July 13th, 2018. Timely Prehearing Conference
12 Statements were filed by all parties except Bob
13 Sarvey and Helping Hands Tools.

14 I'm just going to ask again, because I don't
15 see them, I know who they are and they're not here
16 today, if Bob Sarvey, are you on the phone? Please
17 speak up. Or Rob Simpson, are you on the phone? If
18 either of you are there, please speak up.

19 These are Intervenors who have -- whose
20 petitions to intervene were granted and they really
21 haven't participated. And so, they don't have to,
22 but I just want to make sure that we accommodate
23 them.

24 Staff published its Final Staff Assessment,
25 which I will refer to as an FSA. What happens,

1 folks, as we get caught up in the conference we'll
2 start talking in terms of abbreviations. And FSA is
3 a Final Staff Assessment. A PSA is a Preliminary
4 Staff Assessment. The AFC is the Application for
5 Certification. You may hear us talk about a PMPD.
6 That's the Presiding Member's Proposed Decision. I
7 think are really the main ones. I might -- someone
8 might refer to the project as SERC, which is Stanton
9 Energy Reliability Center.

10 Otherwise, I try to spell them out before we
11 go on with the abbreviations. But those are the ones
12 that come to mind right now.

13 In any event, staff published their FSA,
14 their Final Staff Assessment on June 7th, 2018. The
15 FSA serves as the staff's testimony on all subject
16 areas. The FSA has been marked for identification as
17 Exhibit 300.

18 Staff's rebuttal testimony was filed on July
19 6th, 2018 and it was marked for identification as
20 Exhibit 304.

21 Timely testimony was filed by the Applicant,
22 Stanton Energy Reliability Center. That is
23 application, the application itself, testimony and
24 exhibits. And these were filed seriatim between
25 October 26th, 2016 through July 6th, 2018. These

1 exhibits have been marked for identification as
2 Exhibits 1 through 103.

3 Opening testimony has been marked for
4 identification as Exhibit 100. And rebuttal
5 testimony has been marked for identification as
6 Exhibits 101 and 102.

7 The Intervenor Clean Coalition's evidence
8 was timely filed and marked for identification as
9 Exhibits 900 through 917. And just to be clear,
10 there was one marked as I think 901-A. We don't have
11 the alpha. We only have numeric. So, I put it in as
12 917, so just so you know.

13 They will now appear on the exhibit list. I
14 put exhibit lists out for everybody on the table.
15 For those of you who are here in the audience, if you
16 want to look at the exhibit lists, there's a stack of
17 them out on the table in the foyer.

18 Rebuttal testimony from Clean Coalition has
19 been marked for identification as Exhibit 901.

20 And again, Bob Sarvey and Helping Hand Tools
21 have filed no evidence.

22 So, today's procedure, as you can see, is
23 first we're going to have a hearing on the motion to
24 strike Intervenor Clean Coalition's opening
25 testimony, brought by the Applicant.

1 Secondly, we will go into a closed session.
2 We have a little room on the side here. We'll just
3 go in briefly to discuss the motion and come back on
4 the motion. And when I say "we", I'm talking about
5 the Committee. And the Committee are the people who
6 are sitting at the dais, now.

7 Thirdly, we will discuss certain
8 inconsistencies in the FSA testimony that I already
9 alluded to, in terms of the phase of the
10 construction, and the duration of construction, and
11 so forth.

12 After that, we'll discuss the parties'
13 Prehearing Conference Statements, which would be the
14 exhibit lists, the witness lists, and the hearing
15 agenda.

16 After that, we will discuss the conduct of
17 the evidentiary hearings and briefing.

18 And after that, we will provide an
19 opportunity for the public to comment. I see there's
20 a number of people here. I'd say we have about 8, 8
21 or 9 people that I don't really recognize as being
22 associated with staff or the press, and so -- or the
23 Chief Counsel's Office. So, we may have -- okay, we
24 may have public comment here.

25 We usually proceed by way of the people in

1 the room first and then we go to the telephones. And
2 if necessary, the Committee may break into another
3 closed session after the public comments or we will
4 adjourn, depending on the necessity of the moment.

5 So, with that let's go to Item Number 1,
6 which is the Applicant's Motion to Strike Intervenor
7 Clean Coalition's Opening Testimony, which was filed
8 on July 9th, 2018. And it seeks to strike the
9 testimony on the following grounds: One, the filings
10 are not accompanied by declarations to ensure that
11 they are made under oath. Two, the filings do not
12 identify who the witnesses will be. Three, the
13 filings do not provide a resume or summary of
14 qualifications to ensure the witness is a qualified
15 expert. Four, the filings contain legal arguments
16 that are not factual expert opinions. And five that
17 the opening testimony includes footnotes and
18 reference to documents that have not been docketed in
19 the SERC proceeding.

20 So, with that I'm going to hand it over to
21 Mr. Galati for the Applicant.

22 MR. GALATI: Thank you. Good morning,
23 Commissioners, Hearing Officer Celli, and Advisors.

24 I'll try to make this easy. Clean Coalition
25 has cured four of the five defects in their testimony

1 and appreciate that because we think we can do our
2 work. So, I'm withdrawing all of the grounds for a
3 motion to strike, except one. Which is, in their
4 opening testimony there is a paragraph that contains
5 legal argument and conclusions, as if it were expert
6 opinion. And in their rebuttal testimony is legal
7 argument, only.

8 And so, I would ask -- you know, the
9 Commission has had a long-standing principle, I've
10 had it enforced against me, and others, which is if
11 you're a lawyer, while you may be an expert on what
12 you think the law is, there is no such thing as the
13 law being stable. So, we don't testimony in hearing
14 what the law requires or what the law says.

15 We do that in briefs. And I recognize Clean
16 coalition doesn't have a long history at the Energy
17 Commission, but they can certainly make those
18 arguments in their briefs.

19 And so, I would just ask that those be
20 stricken as testimony and the rest of their testimony
21 is fine, now that it's been cured.

22 HEARING OFFICER CELLI: Thank you.

23 Clean Coalition?

24 MR. KARPA: Yes, thank you, Mr. Galati for
25 that. Appreciate recognizing that we did cure things

1 as soon as we figured this out. And, yes, this is, I
2 think, our first rodeo. It's our first time
3 appearing as actually an Intervenor, as opposed to an
4 expert witness.

5 And on the issue of legal testimony, I think
6 we're willing to stipulate to strike those arguments
7 because we agree that legal argument doesn't belong
8 in testimony.

9 HEARING OFFICER CELLI: Thank you.

10 Staff?

11 MS. DECARLO: Lisa DeCarlo. Yeah, staff
12 agrees that legal argument is best preserved for
13 briefing and not as testimony.

14 HEARING OFFICER CELLI: Excellent. That
15 makes it easy. Thank you.

16 What I'd like to do now, everybody, if you
17 would bear with us, it's almost 10:25 in the morning.
18 The Committee is going to go into this little room on
19 the side for, hopefully, a very brief closed session
20 to deliberate on this motion. And then, we will
21 reconvene in a moment.

22 In fact, Ralph --

23 (Telephone interference)

24 HEARING OFFICER CELLI: Okay, that is -- it
25 says podium. Okay, good work.

1 MR. LEE: Disappearing guy.

2 HEARING OFFICER CELLI: Oh, that's good.

3 Now, we know "Mr. Period's" voice. Okay.

4 I put up a little thing for the people on
5 the phone that says the Committee's going into a
6 closed session and will return momentarily. If you
7 wouldn't mind putting that up, and then let's quickly
8 go into a closed session.

9 (Closed Session convened at 10:24 a.m.)

10 (Open Session reconvened at 10:36 a.m.)

11 HEARING OFFICER CELLI: The motion is
12 denied. And so, we're on to the next part of our
13 agenda today, to talk about certain inconsistencies
14 in the FSA testimony.

15 This is really addressed to staff. TN
16 223446, Mr. Galati filed that. He responded to
17 comments on May 8th, 2018, saying, "Construction for
18 the SERC facility is anticipated to last 12 months,
19 including 10 months of construction and 2 months of
20 power plant commissioning. Completion of the
21 electric interconnection facilities by Southern
22 California Edison is forecasted to require an
23 additional 2 months. Total elapsed time for the
24 construction for the SERC facility, with all
25 interconnections, startup and commissioning, is

1 expected to require 14 months."

2 Okay, so, and I took that to mean that the 2
3 months of -- because you couch it as additional 2
4 months for the transmission, Mr. Galati, I took that
5 to mean it would kind of follow the construction or
6 be at the tail end of the construction phase.

7 Now, for purposes of staff's testimony this
8 is -- because, remember, we raised this before, after
9 the PSA. And now, in the FSA what I have is Waste
10 Management and Noise and Vibration says that
11 construction is 12 months. Public Health says
12 construction phase is 11 months. Bio, Air Quality
13 and Traffic are all 14 months, which I think comports
14 with what Mr. Galati posted. And Project Description
15 says 12 months, plus 2 months for commissioning. And
16 Socio says 12 months, plus 2 months for the
17 interconnection.

18 So, if we can just tighten that up so that
19 the PMPD is consistent, that would be really great.

20 Is there any question about that?

21 MS. DECARLO: No. So, you're suggesting we
22 file some supplemental testimony clarifying what
23 staff considered in each of those technical areas?

24 HEARING OFFICER CELLI: Yes. And then, it
25 would be nice of the expert for each of those, the

1 technical expert made some mention as to whether that
2 affects his ultimate conclusion or not.

3 MS. DECARLO: Sure.

4 HEARING OFFICER CELLI: Just so we know.

5 MS. DECARLO: Certainly. And follow all
6 that with declarations.

7 HEARING OFFICER CELLI: That would be great,
8 thank you.

9 Oh, that's right.

10 (Conferencing with Commissioners)

11 HEARING OFFICER CELLI: That's right. Thank
12 you, Commissioner.

13 I'm going to return to the Item 1 on the
14 agenda, everybody. The first thing I wanted to do is
15 see if there's anybody in the room who would like to
16 comment on the Applicant's Motion. Anyone? Seeing
17 none, the Public Adviser's shaking her head no.

18 Is there anyone on the telephone who would
19 like to comment on the Motion to Strike Clean
20 Coalition's Opening Testimony? Please speak up, now.
21 Anyone?

22 Okay, hearing none, then we've -- thank you,
23 we've taken the comment.

24 The other point I forgot to make is that the
25 Motion to Strike is granted as to the legal argument.

1 So, the Motion to Strike the testimony is denied, but
2 the motion to Strike the legal argument is granted.
3 By stipulation, in this case.

4 So, getting back to -- any question about
5 that, by the way, Applicant?

6 MR. GALATI: Yes, I didn't catch which
7 document you referred to when you said that we had
8 filed -- can you give me the exhibit number where we
9 described the construction?

10 HEARING OFFICER CELLI: 223446 is the TN
11 number. 223446.

12 MR. GALATI: Was that -- is that an exhibit,
13 as well?

14 HEARING OFFICER CELLI: No, I don't know if
15 it is or not.

16 MR. GALATI: Was it a status report, maybe?

17 HEARING OFFICER CELLI: Yeah, a status
18 report or something like that.

19 MR. GALATI: Okay. Because I don't mark
20 status reports as exhibits. I didn't think you
21 wanted them as testimony.

22 HEARING OFFICER CELLI: And it's not
23 testimony, anyway.

24 MR. GALATI: It came from my mouth.

25 HEARING OFFICER CELLI: That's right. So,

1 but I thought it was good guidance and I -- just this
2 is a conference. This isn't a hearing. So, we're
3 just kind of doing some housekeeping here. So,
4 that's where that came from.

5 Any further question about that from staff
6 or Clean Coalition?

7 MS. DECARLO: No. We'll try to get you the
8 clarification you need for that.

9 HEARING OFFICER CELLI: Okay, thank you.
10 And, hopefully, before the evidentiary hearing so the
11 other parties can see it.

12 Clean Coalition?

13 MR. MAURINO: No comment.

14 HEARING OFFICER CELLI: Okay, thank you.

15 Next, construction of Stanton is -- oh, the
16 next one has to do with the battery storage system.
17 I gathered, in reading the FSA after the PSA that the
18 -- like almost every section had changed the 10-
19 megawatt/5-megawatt hour lithium ion battery
20 capacity, I guess that is, to 10 megawatts/4.3
21 megawatt hours. And so, I suspect you probably want
22 that across the board.

23 Where did I find it? Alternative says 5
24 megawatt hours, still.

25 But I would like one of your all-purpose

1 utility witnesses, like Mr. Knight, or whoever is
2 here, your person who knows all to say that, you
3 know, we can say that across the board in all
4 sections. In case I encounter that discrepancy
5 again, I can just correct it.

6 MS. DECARLO: Sure, we're include that with
7 the filing on the project.

8 HEARING OFFICER CELLI: Great, thank you.

9 MS. DECARLO: Stretch the schedule.

10 HEARING OFFICER CELLI: Thank you very much.

11 The last matter has to do with land use.
12 This, again, is directed to staff. It's come to our
13 attention that the LORS analysis did not tackle the
14 question of setbacks, which is part of the Municipal
15 Code of Stanton. I recognize that we have a letter
16 in the record from the City of Stanton saying, hey,
17 it all looks good to us, basically, and everything
18 seems to be good and you're complying with the
19 spirit, if not the letter of all of their local
20 ordinances. But that that omission was identified
21 and we would appreciate it if your land person could
22 add that.

23 And if you'll look at the FSSA, there is a
24 nice table. So, if they could perhaps put in another
25 row for that omission and just look to see if there's

1 anything else in the Municipal Code that would apply
2 that just needs to -- you know, we need to know
3 whether there is any analysis for a Conditional Use
4 Permit for that. Because I don't really know what
5 the setbacks are. Yeah, I know that there's a
6 railway right-of-way on one side. You've got the
7 street, Dale Street. You've got, you know, the
8 properties on the back.

9 And so, that would be very helpful. So,
10 thank you to staff.

11 Any question about that from the Applicant?

12 MR. GALATI: No.

13 HEARING OFFICER CELLI: Okay or Clean
14 Coalition?

15 MR. KARPA: No.

16 HEARING OFFICER CELLI: Okay. Anything
17 further from staff on that?

18 MS. DECARLO: No, we'll get you all of those
19 items.

20 HEARING OFFICER CELLI: Thank you.

21 So, now, let's talk about -- I want to talk
22 about the Prehearing Conference Statements, and we'll
23 talk about the hearing agenda as well. But I want to
24 talk about what we received from the parties.

25 It appears that all three parties agree, and

1 I'm saying all three parties, but I want to
2 acknowledge there are five parties in this matter.
3 There is -- there are two Intervenors that are not
4 here today, Mr. Bob Sarvey representing himself, and
5 the Helping Hand Tools, which is represented by Rob
6 Simpson.

7 Is Mr. Sarvey or Mr. Simpson on the
8 telephone right now? Okay, it appears that they're
9 not.

10 So, the parties that I think that are going
11 to the hearing, since the parties did not provide a
12 Prehearing Conference Statement, which is sort of a
13 prerequisite to participating in the hearing, will be
14 the three parties that are here today, Clean
15 Coalition, staff, and Applicant.

16 So, all three of the parties that are here
17 today agree that the topics are all ready to proceed.
18 Is that correct? I see nodding heads from all of the
19 parties.

20 MR. GALATI: Yes.

21 MR. KARPA: Yes.

22 MS. DECARLO: Yes.

23 HEARING OFFICER CELLI: Thank you. And with
24 regard to topics in dispute that need adjudication,
25 Applicant said none, staff said none. Clean

1 Coalition says Alternatives, only, whether there are
2 feasible alternatives identified either in the staff
3 assessment or in testimony that could reduce or avoid
4 the project's significant environmental impacts, the
5 specific sub-issues that will shed light on whether
6 alternative designs could be deemed feasible will
7 turn on the specific engineering requirements for the
8 SERC Project, and the capabilities design alternates
9 and cost issues related to both solar and storage
10 alternatives, and the battery energy storage
11 alternatives.

12 So, I just cut and paste with that.

13 MR. KARPA: Okay.

14 HEARING OFFICER CELLI: So, basically, it
15 sounds like what the hearing is pretty much going to
16 be reduced down to is Alternatives, only.

17 MR. KARPA: That was our intention, yes.

18 HEARING OFFICER CELLI: Okay. And that was
19 Clean Coalition.

20 And that's your understanding, Mr. Galati?

21 MR. GALATI: I think it's even more
22 restricted than that. It is whether those
23 alternatives are feasible. I don't believe that it
24 is a broad-based discussion on alternatives and
25 comparing environmental impacts as there have been no

1 additional testimony provided that this SERC project
2 does not result in significant impacts. And so, I
3 think that it is it just, given those facts which are
4 now, I believe, complete, is there -- are these other
5 alternatives feasible.

6 HEARING OFFICER CELLI: Yeah, let me turn to
7 staff. Is this your understanding of what -- what
8 I'm trying to do is zero in on what are we going to
9 be talking about at the evidentiary hearing?

10 MS. DECARLO: Sure. Yeah, I think the
11 factual issue presented by Clean Coalition is the
12 feasibility of the two alternative options that they
13 included in their testimony. Obviously, the ultimate
14 legal issue is what import does that have to the
15 Commission's determination, but that's something we
16 can handle in briefing.

17 So, the factual issue for evidentiary
18 hearings, I agree with the Applicant, would be
19 limited to the feasibility of the two options
20 presented by Clean Coalition.

21 HEARING OFFICER CELLI: And Clean Coalition,
22 what -- please describe those two. And I just want
23 to say that I got the sense that there was an
24 objection, as I recall, that the range of
25 alternatives was too narrow. I just remember seeing

1 that somewhere in your filings.

2 MR. KARPA: That's correct, yeah. Our
3 primary issue -- so, the first alternative is the
4 battery energy storage alternative that staff did
5 consider, albeit subject to certain constraints that
6 seem somewhat artificial. And the second being a
7 solar plus storage alternative, largely leveraging on
8 experience in other contexts where facilities like
9 that have been installed to meet specific needs. So,
10 those are the two alternatives that we'd like to have
11 considered.

12 HEARING OFFICER CELLI: Okay. And so, and
13 you are free to make argument later, such as, you
14 know, this isn't a reasonable range, or whatever. I
15 just -- you know, I don't mean to cut you off at the
16 knees if you've got -- you have more argument than
17 just these two alternatives. Then, as long as we're
18 within the umbrella of Alternatives, then I don't --
19 I think you're free to make those arguments.

20 MR. KARPA: Yeah. Yeah, I think that's
21 pretty much the purpose of our invention, really, is
22 to make sure that those alternatives are considered.

23 To some extent, I realized, actually, in
24 reading some of the rebuttal testimony that there's
25 some issues also with the -- it ties in with the

1 project description, as well, as a subject. Because,
2 of course, presenting an alternative has to -- from
3 an engineering stand point has to meet what the
4 project is designed to do, which the project
5 description wasn't as clear as it might have been,
6 which is sort of a sub-issue.

7 But, ultimately, it's about -- I think we'd
8 agree it's about the feasibility of other facilities
9 that could meet the same need.

10 HEARING OFFICER CELLI: And do you think
11 that those questions with regard to project
12 description that you'd be able to get clarification
13 on cross-examination, say, at the hearing?

14 MR. KARPA: Oh, absolutely, I should think
15 --

16 HEARING OFFICER CELLI: Okay.

17 MR. KARPA: -- that, yeah, would be doable.

18 HEARING OFFICER CELLI: Okay, excellent. So
19 --

20 MR. GALATI: Mr. Celli?

21 HEARING OFFICER CELLI: Yes.

22 MR. GALATI: I just wanted to make sure, in
23 Clean Coalition's testimony they have a third
24 alternative that was -- and I don't know if they
25 missed it or we no longer need to respond to it. But

1 the third alternative was demand response. So, I'm
2 assuming we're going to continue to have, at the
3 evidentiary hearing, factual discussion of demand
4 response, staff's B alternative, or the battery
5 energy storage, and the solar plus storage
6 alternative.

7 MR. KARPA: Yeah, that's correct. I was
8 envisioning the demand response as a component of the
9 solar plus storage package, or what we think of as a
10 community microgrid alternative, which has sort of
11 the constellation of all DER working in concert to
12 meet that engineering need.

13 HEARING OFFICER CELLI: That's good. That's
14 why we're having this conference. So, I want to make
15 sure that we know what we're facing when we go into
16 the hearing. So, thank you for that clarification.

17 MR. GALATI: I just wanted to make one other
18 clarification to make sure it's being as clear as
19 possible, and that is when I use the term
20 "feasibility", I use the legal definition of
21 feasibility. But more than that, it also includes
22 the project objectives. So, I didn't want anyone to
23 not -- to misconstrue that, factually, I think there
24 is some determination on the project objectives that
25 we'll be presenting evidence on.

1 And so, I didn't want just feasibility to be
2 construed as just economic feasibility, but there's a
3 project objective component to that.

4 HEARING OFFICER CELLI: Of course.

5 MR. GALATI: It's factual.

6 HEARING OFFICER CELLI: I mean, that is
7 always the question is whether an alternative -- how
8 many of the objectives are actually met by a posited
9 alternative. So, you know, that would be part and
10 parcel of the whole discussion is the objectives of
11 the Stanton Energy Reliability Center.

12 MR. GALATI: And I have a follow-up
13 question. If we are -- if that is the scope of this
14 hearing, I'm assuming, since there's no competing
15 testimony or anything that needs to be adjudicated,
16 for example, on Water Use, or Air Quality, or Noise,
17 then I don't have to bring those witnesses to testify
18 live, unless the Committee were to ask me. But we're
19 not engaging in that kind of factual discussion at
20 the hearing, correct?

21 HEARING OFFICER CELLI: Yeah, you're -- once
22 again, you're sussing out where I'm going with this
23 and we will get to that. That's a separate section
24 and we will talk about the witnesses that you need
25 and how we're going to deal with that.

1 So, I think what we just successfully
2 determined is what is, really, the scope of our
3 hearing and what are we going to be talking about,
4 which are these three alternatives. And so, with
5 that --

6 MR. KARPA: Yeah, if I may?

7 HEARING OFFICER CELLI: Yes.

8 MR. KARPA: Just to follow on the point
9 about the project objectives, I'm envisioning that
10 some of the discussion about what is and is not an
11 appropriate objective, you know, for the purposes of
12 CEQA and the Warren-Alquist Act is going to play out
13 more in briefing than based on actual factual -- you
14 know, the facts presented in the hearing.

15 HEARING OFFICER CELLI: That's true.

16 MR. KARPA: Okay.

17 HEARING OFFICER CELLI: That is accurate.
18 That's the way it goes, yes.

19 Okay, great. I want to next shift our
20 discussion to the exhibit list. Everybody should
21 have their exhibit lists with you. If you are in the
22 audience and you're interested in looking at the
23 exhibit list, I had exhibit lists put out on a table.

24 What happens, you know, as a practical
25 matter only the Energy Commission has access to the

1 ability to assign exhibit numbers. And so, the
2 staff, the Applicant, and the Intervenors provide the
3 Hearing Office with their requested exhibit list. We
4 do our best to give you the exhibit numbers you asked
5 for, given the constraints of our computer.

6 And so, I want to make sure that, you know,
7 you may not have gotten the number or the order that
8 you wanted them in, but I do want to make sure that
9 every exhibit you want to move into evidence is on
10 that list. And if not, please inform me of that.

11 Oh, I want to say something for the record.
12 The exhibit list, I actually sent a list to the
13 parties earlier. On the 19th, I sent the exhibit
14 list to the parties. That was TN 224213. And then,
15 followed up with an e-mail yesterday, which is TN
16 224282.

17 That was in response to a request from the
18 Applicant's counsel to designate 224018 as Exhibit
19 100, as Applicant's Exhibit 100, which was mistaken
20 -- which had previously mistakenly designated 22406,
21 which is Clean Coalition's Excel spreadsheet that has
22 now been identified as Exhibit 917.

23 So, in other words, Exhibit 100 was
24 accidentally that exhibit. So, we made the
25 Applicant's Exhibit 100, as requested, and then we

1 made your exhibit, the spreadsheet, which was the
2 opening testimony supplement, is now Exhibit 917.
3 Okay.

4 MR. GALATI: Very good.

5 HEARING OFFICER CELLI: Which was the last
6 in order. We also added Exhibit 101, which is TN
7 224083, which is SERC or the Stanton Alternatives
8 rebuttal testimony package.

9 I should also mention to Clean Coalition,
10 you know, and for the benefit of everybody, simply
11 filing a document doesn't make something an exhibit.
12 It has to be designated as an exhibit.

13 So, we did receive witness statements and
14 declarations. I know that because that was filed in
15 response, after the notice to strike. But those have
16 to be -- if we're going to comply with 15384 of the
17 CEQA Guidelines, they should be exhibits.

18 So, I'm going to ask that between now and
19 the evidentiary hearing if you would please e file
20 designated exhibit numbers for the Declaration of
21 Doug Karpa, Declaration of Miles Maurino, and your
22 resumes. And go through and please make sure that
23 anything else that you want to move into it as an
24 exhibit is in there, so that the parties can look at
25 it, and they can object to it, they're aware of it

1 before we get to hearing.

2 MR. KARPA: Okay.

3 HEARING OFFICER CELLI: Thank you.

4 MR. KARPA: Actually, on a follow-up on
5 that. So, we would be able to put in more exhibits
6 up until the hearing?

7 HEARING OFFICER CELLI: Yeah, we kind of
8 frown on that. That's the whole purpose of today.
9 But we recognize that, oops, I forgot to put in this
10 or that. Things like that happen.

11 So, are you aware of anything else that you
12 wanted to put in that you have not?

13 MR. KARPA: Well, I wanted to raise the
14 question that -- in rebuttal testimony there have
15 been a number of sort of critiques of this spread
16 sheet that have been made, that I think are probably
17 material to the conclusions that are in there. And
18 it would be worthwhile to essentially kind of run
19 another version and make some corrections to say
20 capacity factors, and so forth, to see how the
21 results change. And that --

22 HEARING OFFICER CELLI: That's fair.

23 MR. KARPA: Okay.

24 HEARING OFFICER CELLI: In other words, like
25 for instance today staff filed corrections to

1 something having to do with AIR Quality or GHG. And
2 we want accurate numbers. We want the parties to be
3 dealing with the facts and the experts to be speaking
4 the same language.

5 So, if you've found that you've got some
6 errors, absolutely correct the errors and, please,
7 resubmit and give it an exhibit number, and designate
8 it for us so that we can assign the exhibit numbers
9 that you want.

10 MR. KARPA: Okay, very good. Thank you.

11 HEARING OFFICER CELLI: Yes, thank you.

12 MR. GALATI: I just have to register an
13 objection to that. Basically, the errors that they
14 are going to be correcting are the ones we pointed
15 out in rebuttal testimony. So, they're getting
16 another opportunity to file rebuttal testimony that
17 then we would need to check to see if there are
18 errors there. So, at some point it has to stop.

19 HEARING OFFICER CELLI: Yeah, and this is --

20 MR. GALATI: So, I mean, they can come to
21 the -- I don't see the need for them to do additional
22 modeling and submit it in, in order to be able to
23 make their case. They can come and say why we were
24 wrong with the changes we made, and that's the
25 purpose of the hearing.

1 So, I feel compelled that if they file a new
2 spread sheet, we're going to want to go through it
3 and file an amended spread sheet to ours, if we
4 disagree with them. This will continue.

5 HEARING OFFICER CELLI: Really, I'm speaking
6 about clerical errors.

7 MR. GALATI: Yeah, so if they're changing it
8 --

9 HEARING OFFICER CELLI: I'm not talking
10 about a reanalysis.

11 MR. GALATI: And I think that's what he was
12 describing is things in the rebuttal testimony were
13 raised and brought out that they now want to modify
14 their testimony. I think that is done at hearing.

15 HEARING OFFICER CELLI: Yes. So, but as I
16 said we do want the -- we want everybody to be
17 speaking the same language. And if your people can
18 get pre-filed evidence that they fix their clerical
19 errors, and then you see that that may change one or
20 the other of your witnesses' opinions.

21 MR. GALATI: I agree with clerical errors
22 like what staff made. They caught an error. I
23 didn't file a resume. It didn't get attached, so I
24 filed it separately. I a hundred percent agree with
25 that.

1 I just didn't want to reopen that Clean
2 Coalition gets another opportunity to file rebuttal
3 to rebuttal.

4 HEARING OFFICER CELLI: Right. Surrebuttal,
5 as it were.

6 MR. GALATI: Surrebuttal.

7 HEARING OFFICER CELLI: Yes. So, is that
8 clear?

9 MR. KARPA: Yeah, it is. And I guess that's
10 sort of the question I was hoping to get some clarity
11 on. You know, because the -- sort of in our view we
12 are aiming, as you say, to get the sort of most
13 accurate, best analysis put forward. And with any
14 analysis, you know, very educated, smart people
15 looking at it will come up with critiques. And our
16 view is, you know, where those are well-founded, we
17 should take those into account and see if the
18 conclusions change. That's, you know, as a modeler
19 this is kind of what we do.

20 And I would think that if we could do that
21 at hearing and say, you know, I reran the numbers and
22 they came out this different way then, you know, then
23 Applicant's only hearing about that at the hearing
24 for the first time. And I would think that it might
25 be of value to have it in hand, say, a week ahead of

1 time.

2 I wouldn't necessarily envision like an
3 endless -- I mean, yeah, I can understand why we
4 wouldn't want to do an endless cycle and I've been
5 around modeling circles long enough to know that in
6 fact we could do this for 20, 30 years, no problem.
7 Not what we want to be doing, for sure. But, you
8 know, where there are some clear, significant issues
9 that have been identified, I feel like it would be
10 worthwhile to get that in everybody's hands as
11 quickly as we could.

12 So, I'm perfectly happy to handle it
13 however, you know, you see fit to do it. So, it's
14 really -- yeah, it's up to you and Applicant how you
15 want to handle it.

16 HEARING OFFICER CELLI: Mr. Galati?

17 MR. GALATI: Here's the concern that I have.
18 The concern I have is, while I'd love to see what
19 they're going to say at the hearing, we're talking
20 about a spread sheet which would be made an exhibit.
21 They did a spread sheet, we did a spread sheet.
22 There's enough to talk about there.

23 What I'm concerned with is that new
24 evidence, new things get incorporated that they
25 shouldn't be doing, if what they filed was their

1 testimony of how they think the numbers should have
2 been run.

3 So, if they made a clerical error, like they
4 had an extra zero, or if they forgot to include a
5 cell because it just didn't show up in the printing,
6 or something like that, that makes all the sense in
7 the world.

8 But to take our rebuttal testimony, which we
9 filed appropriately and on time, and then rerun the
10 model again to make the model -- you know, to rebut
11 what we put in our model, I think that's an
12 appropriate discussion to have at hearing.

13 So, I'm just concerned that -- and if the
14 Committee saw fit to do that, you know, I would like
15 to have a couple of days to be able to file our own
16 corrections to that modeling for the same reason that
17 they are. They're responding to what we said.

18 HEARING OFFICER CELLI: Uh-hum.

19 MR. GALATI: I'd like to respond to what
20 they said. And it would help them to have it ahead
21 of time, as well.

22 So, again, I'd ask for another round. And
23 we're responding to what they're saying. They're the
24 ones that are saying it's economically feasible.
25 They wrote that. We said it wasn't. If they're

1 going to rebut that, now, I think we should have an
2 opportunity to file as well.

3 HEARING OFFICER CELLI: Let me ask you this,
4 did you look at staff's filings, was it this morning
5 or yesterday?

6 MS. DECARLO: Yesterday.

7 HEARING OFFICER CELLI: That was, from my
8 reading of it, that was a big jump in number. It was
9 like --

10 MR. GALATI: It was a clerical error that
11 they made, they caught and they fixed, in a table.
12 It was not in response to anything Clean Coalition
13 filed or that we filed that said, oh, we see now we
14 need to fix this. That wasn't it. It was a clerical
15 error.

16 That's why there's no objection sitting
17 here, coming from me, for something that got filed
18 after the day for testimony.

19 Similarly, if there's any corrections to the
20 spread sheet that they made that are not prompted by
21 our rebuttal testimony, those are fair game, I think.
22 But I think we should stop the battle of the models.

23 HEARING OFFICER CELLI: Okay. Because a
24 large part of my motivation in asking these questions
25 would be to the benefit of the Applicant and staff to

1 have a heads up of what's coming at the hearing. But
2 you seem to be arguing for cutting it off, unless
3 it's a clerical error, now, and you'll deal with
4 whatever shows up at the hearing.

5 MR. GALATI: Correct. We're comfortable
6 going to hearing with what's in the record now.
7 Because I can't see how we could allow Clean
8 Coalition to file another round, without asking if --
9 I don't know what's going to be in it.

10 HEARING OFFICER CELLI: Yeah.

11 MR. GALATI: To have the ability for us to
12 file another round on this model. I think that would
13 be -- if you wanted to have it in, then I think we
14 should have an opportunity, too. That's all I'm
15 saying. I think there's enough now.

16 HEARING OFFICER CELLI: Let me hear from
17 staff on this.

18 MS. DECARLO: Yeah, I agree with the
19 Applicant. It becomes a slippery slope when you
20 start allowing filings after the close period.

21 I believe Clean Coalition can address our
22 testimony, pointing out the incorrectness of their
23 various assumptions. They can address that at
24 evidentiary hearing and staff is happy to respond to
25 what they say at the hearing.

1 I don't think we necessarily need to see
2 something in writing beforehand.

3 HEARING OFFICER CELLI: Okay. Just one
4 moment, if we can.

5 (Hearing Officer and Commissioners Confer)

6 HEARING OFFICER CELLI: Thank you. We're
7 still on the record.

8 So, the resolution of this is I think the
9 points are well-taken by staff and Applicant. And
10 what I did see in the record, and I'm speaking to
11 Clean Coalition, is there were a lot of filings after
12 the Prehearing Conference, I think in response to
13 points raised to your defects, raised by the
14 Applicant in their motion to strike the testimony.

15 What I noticed was that none of those were
16 in your list of exhibits. I didn't -- in other
17 words, articles that were footnoted and things like
18 that, I didn't know whether you wanted to do that or
19 not.

20 So, what the resolution of the problem would
21 be is that anything that is as of now already in
22 dockets, that all of the parties have and have seen,
23 because it's in dockets, if you were going to -- if
24 you wanted to add any of those as exhibits, that
25 would be acceptable.

1 MR. KARPA: Okay.

2 HEARING OFFICER CELLI: But we are persuaded
3 by the points made by the Applicant and staff that we
4 just don't want to play ping pong until up to the
5 moment of the hearing. So, we would leave things as
6 they are.

7 That said, clerical errors, as we've just
8 described, you know, you've got an extra zero or
9 you've got some clear clerical error, we welcome
10 those kinds of corrections.

11 And you can also do that at hearing. Say,
12 oh, for the record, we note that we have an extra
13 zero on line whatever. So, that, I hope, clears up
14 that for you, Mr. Karpa.

15 MR. KARPA: Absolutely.

16 HEARING OFFICER CELLI: Okay, great.

17 MR. KARPA: So, thank you.

18 MS. DECARLO: And just for the record, Lisa
19 DeCarlo, Staff Attorney, the changes that we made
20 yesterday, in yesterday's filing, was not a
21 significant change. There was a misplaced comma.
22 There wasn't a huge shift in numbers. We just moved
23 the comma and then rounded. So, just to make sure
24 that the record is clear, it wasn't a substantial
25 change.

1 HEARING OFFICER CELLI: Thank you. And the
2 other thing I just want to mention for the benefit of
3 everybody is that in that filing you had -- there
4 were -- the table contained bold and unbold text, but
5 the change was bold and underlined. And so, just to
6 be clear the only change was the one number that was
7 bold and underlined.

8 MS. DECARLO: Correct.

9 HEARING OFFICER CELLI: Okay, good. Thank
10 you.

11 Now, we are moving on. So, that's it with
12 exhibit lists. You know, we want to be accurate.
13 When we get into the hearing and we're referring to
14 things, we refer to exhibit this, exhibit number 10,
15 exhibit whatever. We want to be right about that.
16 So, if you see any errors and you didn't catch it
17 today, please shoot me an e-mail. I'll put it up and
18 docket the e-mail. But I just want to make sure that
19 we all have all the exhibits numbered.

20 Witnesses. The witness estimates are --
21 well, I've got hand it to staff, who estimated that
22 20 minutes on direct and 15 minutes on cross. To me,
23 that's the ballpark. That's reasonable.

24 But when I add up everybody's direct and
25 cross-examination, it comes to 85 minutes of direct

1 and 4, maybe 5 hours of cross. Just so you know,
2 because I know that you're relatively new to the
3 Energy Commission, we are usually able to get about
4 five topic areas, Biology, Cultural, Water done in
5 five hours. Okay, we're down to very small
6 alternatives. This shouldn't take that long.

7 The beauty of the way that we do things in
8 terms of prefiling all of the testimony is we don't
9 need a lot of direct testimony. We've already got
10 it. That is the direct testimony.

11 So, really, the hearing is rebuttal. You
12 know, we go around, but it's really about the experts
13 talking about who's right or wrong, whose numbers are
14 right, or whatever.

15 So, what I'm going to say is that it seems
16 to me reasonable, and Clean Coalition, you are the
17 proponent of this evidence, and so you will have the
18 burden in this case. So, we would -- I think it's
19 reasonable to say that in about an hour and a half
20 that's reasonable for direct and cross for everybody,
21 on all witnesses.

22 Okay, now --

23 MR. KARPA: Okay.

24 MR. GALATI: Yes.

25 HEARING OFFICER CELLI: WebEx, I want to

1 talk about WebEx. We have WebEx. We're using WebEx
2 right now. You've heard us having the conversation
3 with the people from South Coast on the WebEx. It
4 works brilliantly and beautifully in this room. It
5 always has. We've got, you know, sound proofing in
6 here and everything's great.

7 But we're having the evidentiary hearing at
8 the Stanton City Hall's multipurpose room and there's
9 no telling. And we can't guarantee that WebEx is
10 going to work.

11 And this goes to your question earlier, Mr.
12 Galati, about having your witnesses appear. My
13 recommendation would be -- we don't say whether you
14 should have witnesses appear or not. That's on the
15 parties. But we can't guarantee that WebEx would
16 work.

17 And so, if you've got people out there on
18 the phone, there's a lot of things that can go wrong.
19 It has failed in the past on a couple of my hearings.
20 So, if you intend to have your witnesses appear
21 telephonically, you do so at your own risk.

22 That said, it usually works. I'm going to
23 have -- Gary Madrigal's going to be down there. He's
24 a technical person. He's going to be running it. I
25 believe that the Applicant will have sound people

1 there. We are going to do everything we can to make
2 sure that this works, but we just can't guarantee it.

3 So, the parties will have to make
4 determinations on their own of how important these
5 witnesses are and whether you're willing to roll the
6 dice on the telephone lines.

7 I want to say that if WebEx isn't working,
8 this is not going to provide a basis for a
9 continuation, or a continuance, rather. Okay.

10 If you can't hear your witness -- if you are
11 going to use WebEx and we can't hear your witness,
12 oftentimes the transcript will show nothing but
13 unintelligible in parentheses, and that's what we get
14 as a record. And that's your record.

15 I've run into this where people are calling
16 in from cars and it sounds like they're calling from
17 6 feet underground. We have people, especially
18 sometimes people have really thick accents, coupled
19 with a bad connection.

20 And so, we want you all to be mindful of
21 that, please.

22 And one of the ways to avoid technical
23 difficulties with WebEx is -- well, the obvious one
24 is to have your witness appear in person. But we
25 recommend that your witnesses call on their own

1 separate line. Okay. Staff, for instance the
2 Spiderphones, I remember it was in Alamitos and we
3 had David Vidaver and it was ridiculous, we couldn't
4 hear a thing. I mean, we were getting sound, but it
5 was completely unintelligible.

6 So, don't use the Spiderphones, please. Try
7 to use -- don't use hands-free speaker phones,
8 either, the same problem. So, use your phone, talk
9 into the old-fashioned way, hand to your ear. You'll
10 burn a calorie.

11 So, any question about WebEx from Applicant?

12 MR. GALATI: Well, my question was whether
13 the Committee has questions for us outside the
14 limited scope of Alternatives that would more likely
15 be testified to by an Air Quality expert, or a Public
16 Health expert, or a Water expert. Because I was not
17 planning on having any of those witnesses either call
18 in or available, since the only evidence in the
19 record is there's no significant impacts, the
20 mitigation is fully agreed to with staff, and we're
21 only talking about whether these feasible
22 alternatives should have been brought forward for
23 analysis. But weren't going to get into an
24 environmental comparison of those alternatives, in
25 which I would need my people.

1 So, I just needed guidance from the
2 Committee on that so I don't bring 23 technical
3 experts. Because I'll bring them in person, based on
4 what you just said, even though this Applicant
5 actually paid for good phones and internet in this
6 room, and it worked well at site visit. And the PSA,
7 I understand what you're saying, it doesn't always
8 work.

9 HEARING OFFICER CELLI: Right. Well, let me
10 -- I'm going to go -- we'll stay on the record, I'm
11 just going to have a quick conference with the
12 Commissioners.

13 (Hearing Officer and Commissioners Confer)

14 HEARING OFFICER CELLI: Thank you. So, all
15 of the questions the Committee had, we've already
16 asked. They were directed to staff, really, in terms
17 of the state of the testimony as we know it today.

18 That said, questions, Alternatives spans
19 more than just that single silo, if you will, of
20 legal and factual questions. So, what we would say
21 is it's incumbent upon the parties to anticipate any
22 ancillary topic experts that you might need as it
23 relates to the Alternatives. Because we are limiting
24 the whole hearing to Alternatives, but as you know
25 Alternatives bleeds out into other issues.

1 I don't know if we're going to get into Air
2 Quality, maybe Efficiency. I don't know what. But
3 it's on the parties to have whichever witnesses they
4 feel are necessary available, so that you can use
5 them if needed.

6 MR. GALATI: Thank you. I understand that
7 and I can see how that would happen in many cases,
8 but in this case, there is no pre-filed testimony
9 about impacts from Clean Coalition. They're the ones
10 with Alternatives. I don't believe that they should
11 be discussing, at the evidentiary hearing, what their
12 belief is on impacts because they've failed to
13 provide any testimony on that piece.

14 And that's what I was asking is if, in fact,
15 it is limited to scope, then I wouldn't need to rebut
16 it.

17 HEARING OFFICER CELLI: Right. We're
18 talking about feasibility, really.

19 MR. GALATI: Thank you.

20 HEARING OFFICER CELLI: And that was -- I'm
21 sorry, I didn't mean to speak it so broadly but, yes,
22 feasibility.

23 Okay, any question about that from Clean
24 Coalition?

25 MR. KARPA: No, no, I think that's right.

1 We're not planning on raising issues about impacts,
2 really.

3 HEARING OFFICER CELLI: Okay, great.

4 MR. KARPA: So, this should hopefully work.

5 HEARING OFFICER CELLI: Thank you. Staff?

6 MS. DECARLO: No questions.

7 HEARING OFFICER CELLI: Okay. And I see,
8 you know, Mr. Pittard here, and others, that are
9 listening to our problems with WebEx, and let's just
10 not have those problems. I mean, WebEx is a great
11 thing and it prevents the State from having to ship
12 40 people to Stanton for the day and send them back.
13 If they can appear telephonically, that's great for
14 the taxpayers, but it's got to work.

15 MS. DECARLO: And just so the Committee's
16 aware, we'll have some managers at the evidentiary
17 hearing in case testimony strays a little bit beyond
18 the specific core of Alternatives that we discussed
19 today. And we'll try to have staff available on
20 phone, as well, in case additional questions come up.

21 But, yeah, we're really focused on having
22 the staff that we identified in our witness list,
23 focused on Alternatives, certainly will be present.

24 HEARING OFFICER CELLI: Thank you.

25 So, now, I'm going to move on to a

1 discussion of the informal procedure that we may use.
2 To save time, we will not take time to describe the
3 exhibits that are moved into evidence or to describe
4 topics covered by declaration.

5 Regarding direct examination, we will deem
6 all parties' opening and rebuttal testimony as their
7 direct testimony. There is no need to discuss
8 experts' resumes, if we have them in writing and
9 there's no objection to the qualifications of the
10 witness as an expert.

11 So, yes, you can make objections to
12 qualifications, but basically if you don't, there's
13 no point in getting into that. And you don't need to
14 lay a foundation for your expert if we've received
15 and there's no objection to their CV, and the
16 declaration.

17 If you do have an objection, state the
18 objection first. Avoid speaking objections.

19 I know that you, Mr. Maurino and Mr. Karpa,
20 are both members of the California State Bar. I know
21 you know what a speaking objection is. I don't need
22 to get into that.

23 But we actually have non-lawyers appear
24 quite often as Intervenors, and so this is largely
25 what drives my remarks at this time.

1 Rather than taking the time with the usual
2 formal question and answer, the Committee may call
3 witnesses to testify as a panel. The testimony may
4 include discussions among the panel, without the
5 lawyers asking questions. Instead, the Committee
6 would ask questions of the panel. If time permits,
7 the Committee may allow questioning of the panel by
8 the parties. But if the parties appear to be unduly
9 confrontational, combative, or the questioning
10 becomes otherwise unproductive, the Committee will
11 take over the questioning.

12 The discussion will continue until the
13 Committee determines that it has heard enough
14 evidence. If this process proves difficult or
15 unproductive, the Committee may revert to standard
16 formal examination at their discretion.

17 What we've done successfully in the past is
18 what I consider to be a hybrid of the informal
19 process. That means that we call, as a panel, all of
20 the witnesses and have them sworn. But, instead, we
21 allow each party to ask questions on direct, and then
22 we go around and do cross until we get back to the
23 original question, which is the questioner is -- the
24 order of questions is driven by who has the burden.
25 And then, we may or may not allow rehabilitation at

1 the end, depending on the state of the evidence and
2 what we've heard.

3 So, that is more likely the way we do it.
4 But why it saves time is because everybody's sworn in
5 and you may have questions of multiple, or we want
6 the best expert, who's in the best position to answer
7 a question, rather than necessarily the one you asked
8 of, to answer that question.

9 Because this is about -- we're not making a
10 record, like this isn't criminal court. We're trying
11 to assist the Committee in making the best decision
12 with regard to the evidence that we get. And so,
13 that's why we want to hear from the expert who is
14 best qualified to answer those questions.

15 So, that's the way we will go about it. So,
16 you can ask questions of all of them, or one of them.
17 Someone will speak and that takes care of it. And
18 then, we go around in the usual order. Okay, so
19 that's the way we would normally do it.

20 As to cross-examination, and again these are
21 my remarks that I've written long ago to include non-
22 lawyers, but there will be no time for thinking on
23 the fly. If you can't come up with good cross-
24 examination in the quiet of your work space, you will
25 not do any better in the heat of the hearing.

1 Have your cross-examination written out. Be
2 prepared to tell the Committee how many questions you
3 have before you begin your cross. There will be no
4 time for floundering and no fishing, or else the
5 Committee will curtail your cross-examination, which
6 we do.

7 The legal definition of a moment is 10
8 seconds. Be ready to state the page number and line
9 of any testimony you seek to cross-examine the
10 witness about. Allow the witness to finish their
11 answer and admonish your witnesses not to talk over
12 each other, for the benefit of the court reporter's
13 transcript.

14 So, is there any question about the way
15 we're going to proceed in terms of the procedure of
16 the hearing?

17 Mr. Galati?

18 MR. GALATI: Yeah, no questions.

19 HEARING OFFICER CELLI: Clean Coalition?

20 MR. KARPA: No questions. I think we --
21 given our logistical constraints, we may actually
22 have a non-lawyer there, appearing to do the direct,
23 since I'm both our lawyer and our expert. So, I
24 would be wearing the expert hat and then we'd have a
25 non-lawyer actually doing the examination.

1 MR. GALATI: Okay. Great. I understand the
2 constraints. There won't be an objection from me if
3 Dr. Karpa can change hats cleanly, so we know which
4 one he's doing. I don't mind him providing cross-
5 examination, even though he's on the panel, as long
6 as his panel testimony, his testimony, and his cross-
7 examination is lawyerly cross-examination.

8 I understand Mr. Maurino may not be able to
9 make it and was intended to call in. So, I don't
10 have an objection with him doing that, as long as he
11 makes it clear who he is at the time.

12 HEARING OFFICER CELLI: Okay, that's fine.

13 MR. KARPA: I'm happy to do that.

14 HEARING OFFICER CELLI: And you'll be under
15 oath so, you know, you don't really change hats.
16 You're an expert witness throughout, once you're
17 under oath. So, you have to be mindful of that. But
18 I appreciate that.

19 I did look into the ethical constraints with
20 regard to an employer appearing as their own witness.
21 This isn't a jury trial. This is adjudicative in
22 nature, but we're not before a judge. And so, we've
23 allowed non-lawyers to appear both as advocate and as
24 an expert, but they're not members of the Bar. You
25 are. But as I read it, I'm not sure that an

1 administrative adjudicatory hearing, before a Hearing
2 Officer and a Committee, rises to the level of jury
3 or trial.

4 But given Mr. Galati's waiver, then, I don't
5 think that it's an issue.

6 Staff, anything on that?

7 MS. DECARLO: No objection, no questions.

8 HEARING OFFICER CELLI: Okay, thank you.

9 Next, briefing. Both staff and Applicant
10 seek to dispense with briefing altogether. But
11 Applicant recommends one week after the hearing
12 transcripts are available to file opening briefs, and
13 one week after that for filing of rebuttal briefs.

14 Clean Coalition makes no recommendation
15 regarding briefs.

16 At this time, the Committee will not require
17 briefs and we won't set a briefing schedule.
18 Although, you know, of course you're going to need
19 transcripts and we ordered 3-day transcripts in this
20 case. Who knows when we get them off, but that's
21 what we asked for.

22 But I'm thinking we can revisit the question
23 at the evidentiary hearing. So, at the close of
24 evidence, I'll ask the parties again how you feel
25 about whether there's a necessity for briefing or

1 not, and then we'll talk about by when at the
2 evidentiary hearing.

3 If that's okay, Applicant?

4 MR. GALATI: Yeah, that's okay. Thanks.

5 HEARING OFFICER CELLI: Staff?

6 MS. DECARLO: Sure, yes.

7 HEARING OFFICER CELLI: And Intervenor?

8 MR. KARPA: Yes.

9 HEARING OFFICER CELLI: Okay, great.

10 Then, if there's nothing further, I would
11 get to public comment at this time. Anything from
12 Applicant?

13 MR. GALATI: I have one thing that you
14 always hear from me at the end of the Prehearing
15 Conference meeting. Is we do believe that we've
16 worked very hard with staff to have a very clean
17 project. I don't even have commas or changes to
18 conditions of certification to talk about here or at
19 the PMPD Conference Hearing. It's been a while since
20 I've been in that position. I'm really thankful that
21 I have an Applicant that worked well with staff and
22 that staff worked with us, as well.

23 With that in mind, we only have this one
24 issue in Alternatives. I would hope that the
25 Committee would begin preparing the PMPD in those

1 areas that are not in dispute because we would really
2 like to be on the October 10th Business Meeting for
3 Commission hearing. Which means that we would like
4 the Committee to put out their Presiding Member's
5 Proposed Decision at the end of August or early
6 enough in September to allow us to go to Business
7 Meeting, should they approve the project, in October.

8 So, I thought I would just at least tell
9 you, you know, make my ask for that kind of a time
10 frame. So, thank you.

11 HEARING OFFICER CELLI: Okay. Staff?

12 MS. DECARLO: Staff doesn't have any comment
13 on that.

14 HEARING OFFICER CELLI: Anything from Clean
15 Coalition?

16 MR. KARPA: No comment.

17 HEARING OFFICER CELLI: Okay. Also, one
18 point. In the Prehearing Conference, Lisa DeCarlo
19 was listed as a witness to be crossed. She's not a
20 witness. So, we -- I just -- we won't be going
21 there. She'll have abundant witnesses available for
22 you to cross.

23 There was something that you raised, Mr.
24 Galati, that I wanted to -- how did you start off,
25 again, because I want to -- I need to recall that

1 thread?

2 MR. GALATI: What I was saying is I would
3 like the Committee to consider, since there's a lot
4 of evidence in the record that is uncontested --

5 HEARING OFFICER CELLI: Yeah.

6 MR. GALATI: -- that the Committee could
7 begin writing the Presiding Member's Proposed
8 Decision on those particular topic areas so that they
9 could get a start and, therefore, you wouldn't need
10 to wait for rounds and rounds to briefs. And then
11 begin writing the PMPD, which would push us past an
12 October Business Meeting.

13 So, again, that was all made for the idea
14 that we'd like to make the October 10th Business
15 Meeting, and I thought about what that would mean to
16 you. And I think that the PMPD might be able to get
17 working before you receive the briefs, on those areas
18 that are not in --

19 HEARING OFFICER CELLI: Oh, certainly. I
20 mean, really, as soon as we close the record we get
21 right on it. So, that's the way we do things. So,
22 hopefully, we'll get it out quickly.

23 I just want to go to the -- well, first in
24 the room. Is there any member of the public who
25 would like to make a comment about anything having to

1 do with the Stanton Energy Reliability Center?

2 Anyone? Okay, there's nobody who wants to make a
3 comment in the room.

4 Let's go to the phones and see if there is
5 anyone who would like to make a comment. If you're
6 on mute, please unmute your phone. And if you wish
7 to make a comment, we need you to just speak up. And
8 the most aggressive commenter gets to go first.

9 So, please, go ahead. If you're on the
10 telephone and you wish to make a comment about the
11 Stanton Energy Reliability Center, please speak up.

12 Okay, hearing none, then let me just check
13 one second.

14 (Pause)

15 HEARING OFFICER CELLI: Okay. As I'm
16 getting older, I forget things. I, at some point,
17 had requested that the Applicant and staff put
18 together a compendium of conditions. And I don't
19 know if you've done that, yet. But if so, I would
20 appreciate it that you both -- basically, that it's
21 acceptable to everybody and you post that to the
22 dockets, if you would.

23 How soon can we get that?

24 MS. DECARLO: Well, staff has completed the
25 compendium. So, what we were thinking we would do is

1 docket that, so that all parties can see it, and that
2 that would give the chance for the Applicant to
3 review it to ensure that it accurately represents the
4 conditions as they were written in the Final Staff
5 Assessment.

6 And then, Applicant would either acknowledge
7 to the Committee that it does, through writing, or at
8 the evidentiary hearing, or indicate where it is
9 inaccurate.

10 HEARING OFFICER CELLI: Great, thank you.
11 That covers all of the issues that I had.

12 Again, one last shot, anybody on the
13 telephone who would like to make a comment at this
14 time, before we adjourn?

15 Okay, hearing none, Commissioner Scott,
16 who's our Presiding Member.

17 COMMISSIONER SCOTT: We are adjourned.

18 (The hearing was adjourned at 11:34 a.m.)

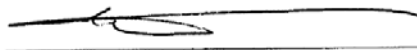
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REPORTER'S CERTIFICATE

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 8th day of August, 2018.



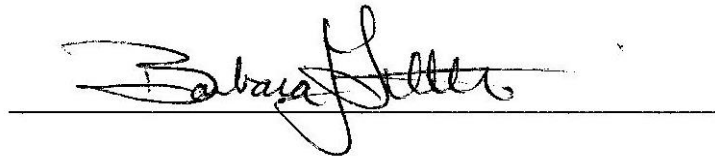
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I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were transcribed by me, a certified transcriber.

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IN WITNESS WHEREOF, I have hereunto set my hand this 8th day of August, 2018.

A handwritten signature in black ink, appearing to read "Barbara Little", is written over a horizontal line.

Barbara Little
Certified Transcriber
AAERT No. CET**D-520