

<b>DOCKETED</b>	
<b>Docket Number:</b>	18-IEPR-01
<b>Project Title:</b>	2018 Integrated Energy Policy Report Update
<b>TN #:</b>	226037
<b>Document Title:</b>	2018 En Banc Hearing of the California Public Utilities Commiss
<b>Description:</b>	EN BANC HEARING  OF THE CALIFORNIA PUBLIC UTILITIES COMMISSION  AND THE  CALIFORNIA ENERGY COMMISSION  DRAFT GAP ANALYSIS/CHOICE ACTION PLAN
<b>Filer:</b>	Cody Goldthrite
<b>Organization:</b>	California Energy Commission
<b>Submitter Role:</b>	Commission Staff
<b>Submission Date:</b>	12/7/2018 8:29:50 AM
<b>Docketed Date:</b>	12/7/2018



APPEARANCES

COMMISSION EN BANC ON THE DRAFT GAP ANALYSIS

Michael Picker, President, California Public Utilities Commission

Robert B. Weisenmiller, Chair, California Energy Commission

Andrew McAllister, Commissioner, California Energy Commission

David Hochschild, Commissioner, California Energy Commission

Karen Douglas, Commissioner, California Energy Commission

Martha Guzman-Aceves, Commissioner, California Public Utilities Commission

Clifford Rechtschaffen, Commissioner, California Public Utilities Commission

Liane M. Randolph, Commissioner, California Public Utilities Commission

Carla J. Peterman, Commissioner, California Public Utilities Commission

PRESENTERS

Diane Fellman, Moderator, California Public Utilities Commission

Nidhi Thakar, Chief of Staff to CPUC President Picker

AD HOC COMMITTEE

Ralph Cavanagh, Senior Attorney, Natural Resources Defense Council

Pat Wood III, Principal, Wood3Resources, Past Chair Texas Public Utility Commission of Texas and Federal Energy Regulatory Commissions

LSE and CONSUMER RESPONSE PANELISTS

Caroline Choi, Senior Vice President, Regulatory Affairs,  
Southern California Edison

Shalini Swaroop, Director of Regulatory and Legislative  
Policy, Marin Clean Energy

Mary Lynch, Director, Wholesale Market Development,  
Constellation Energy (an Exelon Company)

Matthew Freedman, Staff Attorney, The Utility Reform  
Network

STAKEHOLDER RESPONSE PANELISTS

Emily Watt, Senior Energy Project Manager, Microsoft  
Corporation

Matt Vespa, Staff Attorney, Earthjustice

Marc Joseph, Attorney, Adams, Broadwall, Joseph & Cardozo

Elise Hunter, Policy and Regulatory Affairs Director,  
Grid Alternatives

Jith Meganathan, Attorney, Law Offices of Jith  
Meganathan, P.C.

PUBLIC COMMENT

Melissa Brandt, Senior Director of Public Affairs and  
Deputy General Counsel, East Bay Community Energy

## AGENDA

	<u>Page</u>
<b>Purpose of the Day &amp; Safety Announcement</b>	
Diane Fellman, CPUC	6
<b>Welcome -</b> President Michael Picker	6
<b>Opening Remarks</b>	
CEC Chair Robert B. Weisenmiller	8
CPUC Commissioner Liane M. Randolph	-
CEC Commissioner David Hochschild	12
CPUC Commissioner Clifford Rechtschaffen	12
CPUC Commissioner Martha Guzman Aceves	8
CEC Commissioner Andrew McAllister	10
CPUC Commissioner Carla Peterman	9
<b>Response from the Hoc Advisory Committee</b>	
Introduction: Diane Fellman	13
Ralph Cavanagh, Senior Attorney, Natural Resources Defense Council	16
Pat Wood III, Principal, Wood3 Resources	40
<b>LSE and Consumer Response</b>	
Moderator: Diane Fellman	66
IOU: Caroline Choi, SCE	96
CCA: Shalini Swaroop, MCE	101
ESP: Mary Lynch, Constellation Energy	106
CONSUMER GROUP: Matt Freedman, TURN	110

AENDA (Cont.)

	<u>Page</u>
<b>Stakeholder Response Panel</b>	
Customer: Emily Watt, Microsoft Corporation	156, 162
Environmental: Matt Vesp, Earthjustice	156
Labor: Marc Joseph, Adams, Broadwell, Joseph & Cardozo	166
Consumer Protection (Rooftop Solar):	171
Elise Hunter, Grid Alternatives	175
Jith Meganathan, Law Offices of Jith Meganathan	
<b>Public Comment</b>	193
<b>Adjournment</b>	198
<b>Reporter's Certificate</b>	199
<b>Transcriber's Certificate</b>	200



1 combine heat and power, but now with rooftop solar,  
2 battery storage, technologies available for the  
3 Small Generator Incentive Program, and of course  
4 the old staple of energy efficiency where people  
5 can actually have a hand in meeting their  
6 electrical needs without -- or with the aid of a  
7 central entity.

8 As we continue to see these different patterns of  
9 people's choice of electricity service and  
10 electricity use emerge, of course it puts a lot of  
11 stress on a process that is heavily dependent on  
12 centralized decision making.

13 So we've heard from people talking about the  
14 challenges. We have looked at what people --  
15 what's been happening in other states. Here, we  
16 bring together a significant amount of staff work  
17 and comment from a variety of different parties as  
18 to what the gaps are that we'll face from as we  
19 move from a centralized process to a decentralized  
20 process.

21 So with me are some of my fellow Public Utilities  
22 Commission members. Cliff Rechtschaffen will join  
23 us shortly. Bob Weisenmiller and members of the  
24 California Energy Commission, we've been partners  
25 in dealing with these issues, so I'm going to turn

1 it over both to my colleagues from the CPUC but  
2 also from the CEC to make some introductory remarks  
3 before we move into our panels.

4 So, Bob.

5 CEC CHAIR WEISENMILLER: Good morning. As  
6 President Picker indicated, this is part of a  
7 series of workshops we've had. I appreciate the  
8 staff paper that's been put out to help frame the  
9 issues. I think basically the notion is to  
10 identify where the gaps are. Staff has laid out  
11 their identification of gaps in some approaches,  
12 and this is our chance to hear back from you on  
13 other potential approaches. So, again, thanks for  
14 your participation today.

15 CPUC PRESIDENT PICKER: So Commissioners.

16 CPUC COMMISSIONER GUZMAN ACEVES: Thank you. I  
17 wanted to highlight a couple of the things that are  
18 in the Gap Analysis and Action Plan. I just come  
19 from a place where I don't fundamentally believe  
20 that markets and competition solve everything. I  
21 think what I've seen in the past year and a half is  
22 some considerable abuse within the elderly, the  
23 non-English-speaking, and the poor customers in our  
24 different territories where the marketing of  
25 competition has really led to abuse for these

1 customers and ultimately higher bills.

2 And I want to really see that some of these Gap  
3 Analysis recommendations and Action Plans really do  
4 prioritize consumer protections, which I am  
5 particularly excited about.

6 And, finally, I think it provides an overall  
7 framework for this continued dialogue, so I look  
8 forward to hearing from all of you in how we can  
9 fill these gaps.

10 CPUC COMMISSIONER PETERMAN: Good morning. Good  
11 to see all of you today. It seemed just like  
12 yesterday that we were all here together around  
13 Halloween time. And I want to thank everyone for  
14 their continued efforts on these issues over the  
15 last year and throughout the last few years.

16 I'll just add to my colleagues' -- first of all,  
17 I'm Commissioner Peterman, the California Utilities  
18 Commission. Let me just add to my colleagues'  
19 comments that I greatly appreciate the diligence,  
20 the deliberateness, the discipline with which staff  
21 has approached this issue and this analysis. There  
22 are a lot of different issues entangled here and I  
23 think a challenge for the Commission has been to  
24 figure out where do we start. And by starting with  
25 putting down experiences from other states and

1 countries, identifying how those experiences align  
2 with what we're doing, I think is a very pragmatic  
3 approach.

4 There is a lot of good work within this Gap  
5 Analysis, a lot of particular highlighting of what  
6 further needs analysis, and so we'd I'd like to  
7 better understand is get feedback from  
8 stakeholders: Do you agree with the areas that  
9 need further analysis, on what time line do we need  
10 to do this work, are there certain efforts that  
11 should be prioritized over others or are precursors  
12 for making good decisions as we go forward.

13 We know customers are interested in choice and we  
14 have responsibilities as regulators, as a state to  
15 make sure we set up a framework in which that  
16 choice can be exercised in a sustainable manner,  
17 and so I look forward to the discussion today about  
18 how to move that agenda along. Thank you.

19 CEC COMMISSIONER MCALLISTER: Good morning,  
20 everybody. I'm Andrew McAllister, Commissioner at  
21 the Energy Commission. I want to also just give  
22 kudos staff and Diane and crew for putting together  
23 a really clear report. I agree that sort of  
24 presenting these issues in a clear and sort of  
25 fact-finding and factual way, in a rigorous

1 structure like this report does, I think is really  
2 helpful, as we separate the issues where  
3 appropriate and link them up where needed.

4 You know we're in this distributed-energy world  
5 and we have to de-carbonize. And, you know, in  
6 particular, there are lots of great issues in here  
7 that we will work through during the course of the  
8 day and subsequently.

9 You know distributed means highly disaggregated  
10 decision making across the state, and so I'm really  
11 interested in the kinds of policy imperatives that  
12 we can -- the policy directions we can take to  
13 enhance that. So part of this choice discussion  
14 really gets to how do we inform markets to allow  
15 that to happen and then shore up where needed. I  
16 agree with Commissioner Guzman Aceves on that  
17 point.

18 And, in particular, a few of the things that are  
19 here that I'm particularly interested in are demand  
20 response and efficiency, and making those all they  
21 can be. Certainly in the CCA context that's, I  
22 think, an open question about how we do that. Rate  
23 transparency and the ratemaking process I think  
24 becomes even more critical, and then data access to  
25 allow markets to function and allow policymakers to

1 understand what's going on in a much more granular  
2 and temporal way.

3 So all that in the context of de-carbonization,  
4 and I think those are the sort of mix of high-level  
5 key themes that we have to struggle with going  
6 forward, and I think this is a good sort of  
7 platform to have those discussions, so thanks.

8 CEC COMMISSIONER HOCHSCHILD: Good morning. I  
9 just want to say thank you to President Picker and  
10 Chair Weisenmiller, Diane, Nidhi, and the staff and  
11 stakeholders here.

12 And just as a point of privilege, to note that  
13 Commissioner Peterman announced she's stepping down  
14 after a number of years both at the Public  
15 Utilities Commission and at the Energy Commission,  
16 I just wanted to give a round of applause for her  
17 service to the State.

18 (Applause)

19 CPUC PRESIDENT PICKER: Commissioner  
20 Rechtschaffen, do you have anything you want to  
21 observe at this point?

22 CPUC COMMISSIONER RECHTSCHAFFEN: No. I  
23 forfeited my ability to talk by coming late.

24 (Laughter)

25 CPUC PRESIDENT PICKER: So I want to just thank,

1 and I will probably thank them again, the staff,  
2 core staff who really helped to make this work:  
3 Diane Fellman, who has remained the manager of this  
4 program through the last six months; Nidhi Thakar,  
5 and Rohimah Moly from my staff; and then a number  
6 of people throughout the Energy Division of the  
7 California Utilities Commission. I don't know  
8 exactly who has been supplying us with financiers  
9 that we have been getting from the California  
10 Energy Commission, but I will thank Chair  
11 Weisenmiller on behalf of the folks here today.

12 Our first panel is a group of stalwart -- excuse  
13 me. Oh, you're going to do the safety briefing?  
14 Okay, great.

15 MS. FELLMAN: Excuse me. This is Diane Fellman.  
16 And thank you so much, Commissioners, for your  
17 opening remarks and your appreciation. I want to  
18 underscore that today is for the -- dedicated to  
19 the response by the stakeholders to the Gap  
20 Analysis and for the Commissioners to have an  
21 opportunity for direct conversation with the  
22 stakeholders.

23 A couple of administrative matters. First of  
24 all, we are not going to do lengthy presentations  
25 except for me. I guess that's an author's

1 privilege, and hopefully it's very short. I will  
2 do an overview of the Gap Analysis. Then we have  
3 our Ad Hoc Committee followed by representatives  
4 from all LSEs, and then a representative of  
5 stakeholders including customer interests.

6 Each presenter will -- we have provided their  
7 bios for you in writing. They're also posted  
8 online for those who are watching, so we will not  
9 have lengthy introductions either.

10 I also want to say that based on the advice of  
11 our Legal Division and ALJ Division, that  
12 participants in the public comments can make  
13 statements regarding specific proceedings.  
14 However, this is not a place for advocacy. If  
15 specific proceedings are mentioned, it is  
16 considered an ex parte contact legally, however it  
17 is not required to be reported because this is a  
18 publicly-noticed meeting and all Commissioners are  
19 here at the same time.

20 Finally, I want to state that we will be taking  
21 public comments at the end of the day, and if you  
22 are interested there is a table in the back with  
23 our Public Adviser to sign up. And those will  
24 start after the panels.

25 I will now do the safety briefing which is: If

1     there is an emergency, -- and we only too recently  
2     have seen one, -- there are doors marked "Exit,"  
3     please follow the Exit signs out and gather on the  
4     Capitol Lawn.

5     I will now turn it over to President Picker.  
6     Thank you for changing your name cards. And I --  
7     you were starting to introduce the Ad Hoc Panel,  
8     so, --

9     CPUC PRESIDENT PICKER: I was.

10    MS. FELLMAN: -- Ralph and Pat, can you please  
11    step up.

12    CPUC PRESIDENT PICKER: So three individuals who  
13    have had a long history of working within regulated  
14    and deregulated markets in the U.S. have been our  
15    advisers throughout this process, Ralph Cavanagh,  
16    Patrick -- Pat Woods, and Melanie Kenderdine.  
17    Melanie Kenderdine was with the Secretary of Energy  
18    and is currently a consultant. Mr. Wood was the  
19    chair of the Texas Commission when they deregulated  
20    the electricity markets, and then moved on to sit  
21    on FERC and watch the failure of California's  
22    deregulated markets. And then Ralph Cavanagh is  
23    the architect of our deregulation, as I'm sure  
24    he'll explain to you in great detail right now.

25    So any thoughts on our Gap Analysis?

1 MS. FELLMAN: Ralph.

2 MR. CAVANAGH: Commissioners, I'm Ralph Cavanagh  
3 from the National Resources Defense Council,  
4 although for today's purposes I'm principally here  
5 as your historical memory.

6 I think we should acknowledge at the outset that  
7 the deregulation process of which Chairman Picker  
8 has just generously granted me full authorship,  
9 largely occurred in this room. This is the place  
10 where the Joint Committee of the Assembly and  
11 Senate met in what is now in some quarters called  
12 the death march to develop a restructuring plan for  
13 the California electricity sector.

14 Today we will aim to do better. The original  
15 restructuring plan, of which I emphatically was not  
16 the principal author, emerged with no gap analysis,  
17 because to every question about -- of concern --  
18 about the uncertainties of the future that was  
19 described by the legislation in 1996, there was  
20 always one answer, which appears in several  
21 California PUC decisions, which is that the genius  
22 of the marketplace will suffice.

23 The genius of the marketplace was insufficient.  
24 And for all of you as we look forward, and the Gap  
25 Analysis repeatedly underscores this, the question

1 is how are we not -- that we're going to dispense  
2 with the genius of the marketplace, which has  
3 certainly a contribution to make, but how we will  
4 make sure that its generally short-term results and  
5 conclusions are supplemented by one tool in  
6 particular that reverberates through the Gap  
7 Analysis and through California's recent history,  
8 which is long-term competitive resource  
9 procurement, which we have needed to ensure  
10 resource adequacy, meet environmental goals, ensure  
11 affordability. It surfaces repeatedly as a tool  
12 which we have conducted, for the most part, through  
13 our electricity sector and overwhelmingly through  
14 the largest investor-owned utilities in California.

15 We have -- we are moving now to what some call a  
16 fragmented, what others call a decentralized  
17 structure of procurement. And an overriding  
18 question, I submit, for all of you, Commissioner  
19 Peterman asked for some priorities, is to determine  
20 how -- under what framework that can continue to  
21 occur. Pages 46 to 51 of the Gap Analysis focus on  
22 this with particularity. And, essentially, there  
23 are two options put forward, one of which is that  
24 you could handle the decentralization,  
25 fragmentation, and concerns associated with its

1 ability to handle long-term procurement by  
2 establishing a centralized procurement entity,  
3 which would undertake those long-term commitments  
4 and spread the costs across the entire system.  
5 That is certainly an option. But there will be, I  
6 submit to you all of you, greater enthusiasm among  
7 almost everyone involved in the process for the  
8 second option, which is to see if we can find ways  
9 of encouraging partnership-based, voluntary, joint  
10 procurement among multiple entities, Community  
11 Choice Aggregators, Direct Access providers,  
12 Investor Owned Utilities.

13 Much of the architecture for the decentralized --  
14 for the de-carbonized California economy is going  
15 to acquire the ability to undertake that  
16 coordination not as an alternative to the small-  
17 scale, disbursed, decentralized decisions that  
18 Chairman Picker was calling out but as an important  
19 supplement.

20 It isn't small-scale distributed resources versus  
21 large-scale, integrated procurement. It's both.  
22 It's coordination. It's partnerships. It's moving  
23 out of the generally adversarial mode that has  
24 characterized the relationship of many of these  
25 institutions in the recent past. And I submit to

1 you all of you that a core challenge of today is to  
2 press all of the participants, including  
3 emphatically me, on what we can do to encourage  
4 more of that as quickly as possible. This is in  
5 part an institutional challenge because we don't  
6 really have a structure in place that encourages  
7 that kind of cooperation and partnership.

8 Now we have the analytical underpinnings, the  
9 combination of the Integrated Energy Policy Report  
10 of the California Energy Commission, the Integrated  
11 Resource Planning Process of the California PUC.  
12 We have the means to identify the most promising  
13 options for coordinated procurement to help us with  
14 decentralization, affordability, reliability; but  
15 we've got to do more to encourage people to take  
16 advantage of those analytical findings. We've got  
17 to figure out ways to have people working  
18 effectively together. Some parties have begun to  
19 address this. Marin Clean Energy has in its  
20 comments, for example, a vision of regular  
21 meetings, an annual En Banc, a way of bringing  
22 people together to talk about partnership  
23 opportunities, but I think we're going to have to  
24 do a lot more.

25 This feels to me like a creative moment like that

1 that, for instance, produced the Electric Power  
2 Research Institute, now almost 50 years ago, a  
3 coordinated voluntary effort within the electricity  
4 sector; or the Northwest Energy Efficiency Alliance  
5 of two decades ago, again disparate parties coming  
6 together to figure out how to do joint procurement,  
7 to work together, to invest together. This is a  
8 bigger challenge than either of those, but it is  
9 not beyond our capacity. Press the parties  
10 following Pat and me on what their thoughts are  
11 about how to do more of that more quickly, how you  
12 can encourage it, and how we can -- because without  
13 it, what I think the Gap Analysis shows very  
14 clearly, what I am here to underscore, is that we  
15 will be right back where we were 22 years ago in  
16 this room when there was a magical answer to avoid  
17 having to worry about this kind of thing that  
18 turned out not to work. Let's not do that again.

19 MR. WOOD: So as Chairman -- President Picker  
20 mentioned, I took office at FERC in kind of the  
21 throes of the California Energy Crisis and it was  
22 my job to kind of clean up the mess from the  
23 federal angle and work with the State. And it's  
24 ironic to be in the room named for John Burton  
25 because he was one of the first legislators I met,

1 and he was a breath of fresh -- well, a breath of  
2 air.

3 (Applause)

4 MR. WOOD: It was - he was a helluva legislator  
5 and really set the tone. Between him and  
6 Hertzberg, it was a two -- it was kind of an  
7 interesting pair of people to get to work with.  
8 But, you know, the market design here, while  
9 obviously very collaborative, kind of missed a  
10 fundamental point and it was what kind of - if you  
11 are going to trust a market, which that did and  
12 which we have done across the county now since --  
13 in many other contexts, if you're going to trust  
14 the market you've got to think like an investor  
15 would think that in that market.

16 As regulators we have done that for a hundred  
17 years, thinking like the investors in the stocks of  
18 PG&E and Edison and Sempra. What do they think,  
19 what did they need, and then balance that against  
20 the impact on customers. And so that balancing act  
21 just takes on a different wrinkle, but we're all  
22 good at that, so we just have to think what is it  
23 that an investor in generation or in energy  
24 efficiency or renewable energy, all of the above,  
25 need in the context of going forward, and that was

1 missing with the CalPX and the Cal ISO separate  
2 entity plans and all the details that FERC and  
3 others have written reports on, but that resulted  
4 in an under supply of generation which led to --  
5 you know, that market design really did create an  
6 opportunity for manipulation to happen, which we  
7 were -- it was sad to find so much of that out  
8 here, led to misallocation of natural gas coming  
9 into the state, just a panoply of things that I  
10 will be happy to move on from, but again the  
11 markets don't work if you don't trust them and if  
12 you don't actually set them up so that they're  
13 transparent and self-enforcing.

14 And so when you think about the issues that Ralph  
15 -- and I agree with Ralph on that, I think moving  
16 from a centralize procurement model which has  
17 worked good, that was the response, and Governor  
18 Davis in the waning hours of the Clinton  
19 Administration did line up supplies for -- under  
20 contracts with suppliers to get through the Energy  
21 Crisis. And then a new team came onboard, we kind  
22 of changed the market, put a price cap in and let  
23 kind of everybody settle down. It's been almost 20  
24 years. And that mindset of having the long-term  
25 contracts has now been codified in law. I wish it

1 hadn't been. I think the world needs more  
2 flexibility than to say 65 percent of the things  
3 need to be ten years or longer, but you've got that  
4 in your law and you've got to work around that.

5 I think that the new power system additions that  
6 will be needed, can be done, certainly consistent  
7 with your de-carbonization goals. I think the  
8 feedback I've gotten orally from people, advocates  
9 for more open market, have told me that the paper  
10 was a little dark on the thought that you could  
11 implement de-carbonization by means of a market.  
12 That could not be farther from the truth.

13 If you tell people what the rules are -- this has  
14 been true in every market I've been, both power,  
15 gas, telecom, railroad -- oh, transportation even  
16 back in that day -- when you tell people what the  
17 rules are and then you sit back and you enforce  
18 those rules equally on everybody, you will get the  
19 outcomes you desire. So if you say you want to get  
20 80 percent renewable energy by this date and you  
21 set a path to get there, let the market  
22 participants do that in the most cost-effective  
23 way. I'm not so sure that lining that up with  
24 large contracts for big amounts of renewable energy  
25 for 20 years at the very front end of that is cost-

1 effective. I think that's probably part of the  
2 reason the rates here are higher than they are  
3 elsewhere or higher than they used to be, is you  
4 bought the early contracts, you paid the -- you  
5 know, the Tesla Model S price when everybody was  
6 waiting for the Tesla Model 3.

7 So I mean that's kind of what has gone on, but  
8 that's -- moving on, level playing field, that's  
9 one of the trite words you hate to hear. I hated  
10 to hear it too, but when you're thinking about the  
11 interplay of provide a last resort, of CCAs, of  
12 Direct Access, of what role the IOUs play going  
13 forward, whatever you do, and I'm not even opposed  
14 to the IOUs, as we did in Texas, allowing them to  
15 continue to serve retail customers, with a  
16 competitive affiliate, but they have to take terms,  
17 rates -- terms and conditions from the wires  
18 company just the same as everybody else. So  
19 whether you have a kind of market like we've got  
20 now that's kind of semi-disaggregated or not, as  
21 long as all the players on the customer-facing side  
22 are subject to the same customer-protection rules,  
23 whether you're SCE that's been around forever or  
24 you're a new entity that's in here and you have  
25 passed the certificate requirements that the team

1 here at the Commission has approved are sufficient  
2 to meet, you know, customer service standards in  
3 the state, then let those laws apply evenly to  
4 everybody, big and small. I think that has been,  
5 in my experience, the most effective way to send  
6 out a great big welcome mat, to say that you're  
7 going to procure power the same way as they can  
8 procure power. We're going to put the same  
9 obligation of this many renewable energy credits,  
10 we're going to track them the same way, we're going  
11 to ensure compliance with the de-carbonization  
12 goals more broadly as does everybody else. So that  
13 one -- it's not a one-size-fits-all, but it is --  
14 it is a level playing field concept that I'm trying  
15 to put out here.

16 You do want to get large, financially sound  
17 players in the state, and they will come. They  
18 came to my states. They have come to the states in  
19 the east where the markets have been open. And,  
20 finally, if you move to a larger Direct Access  
21 model, I think since we last talked that the  
22 Hertzberg bill did pass and kind of opened it up a  
23 little bit and set the studies forth for you to do  
24 more, to look at more, if that's inevitable and I  
25 think honestly it is, then trying to graft some of

1     what Ralph said about how to meet the goals through  
2     a collaborative process, because those big, large,  
3     sophisticated people -- we'll hear from some of  
4     them today -- are good at understanding how to play  
5     and work with others. I've seen that elsewhere and  
6     it will work here as well.

7             And if you say we want to have this kind of  
8     portfolio going forward, those people will roll up  
9     their sleeves in the same room in the same way that  
10    they did not do last time this room was open. I  
11    don't know why that didn't happen the last time  
12    other than the fact that the incentives were not  
13    there, but if you make the incentives crystal  
14    clear, which is obvious from reading the original  
15    book and the gap analysis, that the incentives have  
16    been locked in by legislation and by all the  
17    regulatory action from both Commissions, it's very  
18    clear to anybody that wants to invest in the state  
19    what the rules are, but make it to where they can  
20    actually succeed, make it to where they can serve  
21    customers profitably and at good rates to the  
22    customer. And that can be done. There is a lot of  
23    -- fortunately, for all of us, with the lower cost  
24    of natural gas, the lower cost of wind and solar  
25    energy, the advances in storage, the advances in

1 Smart Metering that enable a lot more give-and-  
2 take, there is a lot of money on the table that can  
3 be shared between people that are investing and  
4 customers that are consuming. So I think it's a  
5 real ripe moment for us to think about that.

6 As a final thought, it hit me driving here today,  
7 and I stay with friend who lives here and he had an  
8 electric vehicle, how many electric vehicles there  
9 are here. And I looked at some carb data that  
10 looked at the emissions across the California  
11 economy and how much of those relate to  
12 transportation. And I had a brief comment with  
13 President Picker a moment ago and, you know, he  
14 said people live pretty far from where they work.  
15 You know those kind of changes, when you think  
16 about getting from 80 percent to a 100 percent on  
17 renewables, you don't want to make it so expensive  
18 to consume electricity that we can't use  
19 electricity to solve the bigger problem. So that  
20 third leg of the stool with environment,  
21 reliability, is cost, and so if you -- again, my  
22 experience has been with a good market structure,  
23 you can get significant reductions in cost, as  
24 we've seen in my home state when you trust a  
25 market. So no difference from him on outcomes, I

1 just think the methods of getting there might be a  
2 little bit more different.

3 CPUC PRESIDENT PICKER: So let me just start with  
4 a couple questions.

5 And so, Mr. Cavanagh, I'm a belt-and-suspenders  
6 guy.

7 MR. CAVANAGH: Yup.

8 CPUC PRESIDENT PICKER: What happens if we don't  
9 get the early successes we need from cooperative  
10 actions between the entities? What do we -- how do  
11 we ensure that the resources are there, that we  
12 need to actually make sure that the grid stays to  
13 60 cycles?

14 MR. CAVANAGH: Yup. So to underscore my entire  
15 agreement with that, what I hope you will do today  
16 is put a whole lot of constructive pressure on  
17 everybody who follows us: First, what are you  
18 going to do to deliver these results through  
19 cooperative procurement, because I think you're  
20 going to hear from people, 'We can do that, we want  
21 to do that,' but, yes, there better be a backstop.  
22 The backstop, I think, and this is -- this appears  
23 actually in the statement that I was allowed to  
24 insert at the beginning of the Green Book, none of  
25 you -- by the way, Melanie Kenderdine's statement

1 also needs careful attention, and she wrote that  
2 after a visit doing rural electrification work in  
3 parts of the world that don't have affordable and  
4 reliable electricity. And her equity emphasis I  
5 think also underscores your question.

6 So you're the backstop, you have authority to  
7 direct centralized procurement and to distribute  
8 the costs among all customers and to ensure that  
9 everyone using the grid pays their fair share. And  
10 you need to be credibly standing ready to use that  
11 authority. And then there will be pressure on all  
12 of us to show that you don't need to because we'll  
13 come up with something equally or more effective.  
14 But without that pressure, I worry that we will be  
15 back to 1996 where, remember, in this room all  
16 sorts of assurances were given about how people  
17 were going to rally together, the genius of the  
18 marketplace was going to create a better world, and  
19 that death march ended in tears.

20 CPUC PRESIDENT PICKER: Well, I think we already  
21 see some of the places where our joint authorities  
22 are a little bit weak. And I'll just point to the  
23 increasing number of parties who have sought  
24 waivers for their locally-constrained reliability  
25 area, resource adequacy requirements. And so it

1 does -- it concerns me that we're already at that  
2 point where we're not seeing people make the effort  
3 that they need to make. They're appealing to  
4 outside help and they're actually doing those  
5 things that are easy, pleasurable, and for which  
6 they get reward from their communities or their  
7 customers.

8 I think -- I'm worried that we're sort of already  
9 up against that, so I'm not so sure that I'm ready  
10 to abandon these protections as opposed to allowing  
11 people to maybe come up with some cooperative  
12 agreements and see whether or not they can actually  
13 make them work.

14 MR. CAVANAGH: And I don't want you to retreat  
15 one iota from that skepticism. By the way, -- and,  
16 Pat, you should weigh in too -- but I should just  
17 say to the Commissioners I had no difficulty  
18 clearing my schedule for today because  
19 unaccountably the Texas PUC has not yet taken me up  
20 on my invitation to provide the same useful  
21 consulting services there that Commissioner Wood is  
22 graciously offering us here today.

23 MR. WOOD: The way to get -- there are two things  
24 that are tough. It's tough here to solve problems  
25 with infrastructure in a timely manner. So the

1 time line is longer here than it is back home, for  
2 example. So if you had a load pocket that was  
3 under served because you're shutting down a gas  
4 plant because of once-through cooling or what-have-  
5 you, it will take a while if you haven't done  
6 something in advance.

7 This is not the answer you want to hear, but  
8 money talks. And if people pay the price for the  
9 local issue and the local people that need to solve  
10 that problem locally, whether that be through wires  
11 infrastructure, which is a regulated issue, which  
12 comes clearly before you, or through a generation  
13 or a storage or an energy-efficiency solution,  
14 which are more competitive, that price signal needs  
15 to be sent. And so letting that be sent now rather  
16 than giving the waivers, I mean I don't know any of  
17 the specifics here, so I'm probably shooting  
18 somebody I love in the foot, you know you've got to  
19 pay the price for the under investment and it's got  
20 to be felt directly.

21 CPUC PRESIDENT PICKER: Questions or comments  
22 from others.

23 CPUC COMMISSIONER RECHTSCHAFFEN: Pat, just if  
24 you could elaborate, you said something to the  
25 effect make it so that customers can succeed, or I

1 just wanted to know other than greater flexibility  
2 what specific recommendations you have to bring  
3 that into effect?

4 MR. WOOD: Customers succeed on the overall --

5 CPUC COMMISSIONER RECHTSCHAFFEN: Well, I don't  
6 know if you meant customers or investors, or that -  
7 - you had an overall --

8 MR. WOOD: The balance.

9 CPUC COMMISSIONER RECHTSCHAFFEN: -- guidance to  
10 us. Make it so -- make it so --

11 MR. WOOD: Well, customers succeed by getting --

12 CPUC COMMISSIONER RECHTSCHAFFEN: I don't know if  
13 it's customers. Maybe it was investors, but --

14 MR. WOOD: Well, I think let's take both real  
15 quickly, I won't belabor it, but certainly customer  
16 success is the price of service, quality of  
17 service, and I think diversity of service. Some  
18 people might want to have a fully green portfolio.  
19 I mean this is, again, in a Direct Access  
20 environment. You're going to have the grid power  
21 be largely renewable portfolio anyway, so that  
22 differentiator probably won't matter 20 years from  
23 now, but today it does. People in my state, I get  
24 a hundred percent green power. It actually is the  
25 same price as a hundred percent grid power, which

1 is about 17 percent renewable overall.

2 So you know those kinds of things -- customer  
3 success can be defined by the customer. That's why  
4 really I have enjoyed us as the anointed regulators  
5 getting out of the way and letting people create  
6 their own deals. Smaller commercial and medium-  
7 sized commercial customers obviously want a lot  
8 more creativity, the ability to do multi-site  
9 billing. We heard that from one of the, I think,  
10 Walmart witness at our hearing back in May, the  
11 ability to do, you know, onsite solar but to spill  
12 over the excess, not worry about net metering but  
13 spill it over and be able to consume it at a  
14 facility across the state, what-have-you. Those  
15 kind of billing issues generally are all  
16 fundamentally about cost and cost management.

17 And I just think that the cost issue is one that  
18 we haven't -- it isn't a dominant screamer out there in  
19 the -- in the Gap Analysis or in the Green Book,  
20 but it should be. I think that, again as I  
21 mentioned, because the electricity, if we're going  
22 to electrify our economy, let's keep it reasonably  
23 cost to do everything else. How does the investor  
24 succeed the other side of the deal?  
25 Predictability, knowing that these are what the

1 rules are going to be, and then assistance in  
2 getting the permits necessary to invest in this  
3 market. I mean, again, I'm not saying you're  
4 giving assistance, it's -- a lot of time at the CEC  
5 we got to know your -- I want to say ancestors --  
6 your predecessors very well. It seems like a  
7 lifetime ago. But they -- you know, the permitting  
8 issues there are formidable, but you guys are fully  
9 equipped to get that through. And under Governor  
10 Davis, to his credit, they really did expedite and  
11 get the needed permits here to get to the some of  
12 the new power plants. I'm thinking of the one that  
13 Calpine Metcalf plant, for example, got done in  
14 really kind of what I call Texas time. It was very  
15 fast, done very quickly there, and I think that was  
16 helpful for the state.

17 But, you know, that -- just being the mindset of  
18 what does it take for me to make California an  
19 attractive place to do business and to invest. And  
20 I know that sometimes hard for people in the  
21 government, it was hard for me to do that, but I  
22 have -- you've got to force yourself to think,  
23 because if you're going to depend on anything other  
24 than the State to solve the problem, you've got to  
25 think like they do. And so whatever that takes,

1 whether that's, you know, figuring out how the new  
2 methods of financing are going to be effective  
3 here, understanding what predictability of the  
4 contract means. It was tough for me to vote to  
5 maintain contracts when I was at FERC. I mean in  
6 my heart I was like, God, those are high-priced  
7 contracts that Governor Davis signed, but you know  
8 that for the long-term health of contracts in the  
9 United States, that they had to be affirmed. And  
10 so those type of things that we've got, sometimes  
11 tough love answers to make to support investor  
12 decisions are a mindset that has not really been  
13 strong here, and I think it should be stronger.

14 MR. CAVANAGH: But two quick points in response.  
15 Those high-priced contracts that Commissioner Wood  
16 was compelled to uphold were made necessary by a  
17 fundamental failure of resource portfolio  
18 management in the earlier years, which is what I  
19 was referring to as the principal failing of the  
20 infamous death march.

21 CPUC PRESIDENT PICKER: Right.

22 MR. CAVANAGH: And when I talk about the  
23 importance of resource portfolio management of  
24 long-term contracts, I'm not suggesting that all of  
25 the procurement should be that way. But if none of

1 it is, if we have no balance in the portfolio,  
2 then, well, the best illustration of what happens  
3 is those contracts he had to approve.

4 On the matter of customer success, many of the  
5 customers who need to succeed have trouble  
6 affording electricity. And one of the important  
7 elements of the Gap Analysis is the treatment of  
8 the public goods charter that we use to help those  
9 customers solve that problem. I do want to  
10 emphasize, I hope all the Commissioners take a  
11 close look at that because the importance of making  
12 sure we can continue to recover those costs, to  
13 make sure that all customers using the grid are  
14 making their equitable and fair contribution may  
15 require some rate structure changes, not toward  
16 higher-fixed charges but, as the report suggests,  
17 toward the concept of a minimum bill where everyone  
18 who is connected to the system is making a  
19 contribution used in part for those public benefits  
20 charges.

21 MR. WOOD: I did want to add one thought on the  
22 role of the ISO. I know there has been a long  
23 history that I lived right through the front  
24 chapter of. I think that their unique position in  
25 your market and in the west is one that's probably

1 under-utilized. I haven't talked to Steve  
2 Berberich or Yakout or anybody about this  
3 particular issue, but I do think that's a great  
4 ally to simplify, streamline, and create that kind  
5 of investor clarity I'm talking about, is figure  
6 out a way, and I know there's jurisdictional  
7 concerns, I don't have great fixes, but there  
8 probably are some out there, where the resource  
9 adequacy, the de-carbonization goals can all be met  
10 through a transparent method that, again, applies  
11 equally to everybody in the procurement. There,  
12 the Cal ISO has cousins all across the country who  
13 do that for a living. And so this is not  
14 reinventing -- the wheel was invented in this room,  
15 but there are other wheels that have been invented  
16 on this particular issue elsewhere in the country  
17 that I would say are good models. And if it  
18 involves, you know, putting carbon adders on there,  
19 I'm not sure exactly where New York is going. We  
20 talked about that last time as maybe being a  
21 leader, that that's a state, like you, is a single-  
22 state ISO, that they were contemplating putting a  
23 carbon adder in their procurement to streamline and  
24 make it more market-based. And so that --  
25 basically let the best low carbon resource win, not

1 the ones that were going to spec out by technology.  
2 So that's a good ally for you, and I recommend that  
3 you bring them in from the outhouse -- I mean I  
4 know they're actually constructive partners and  
5 have been, but I just have always felt like since  
6 the crisis they have been a little bit hard to  
7 embrace fully. And I do think -- you know, I do  
8 think that's an excellent structure that could be  
9 utilized for your more broad purposes here with the  
10 decarbonization and resource adequacy.

11 CPUC COMMISSIONER RANDOLPH: I have a question.  
12 Talking about kind of encouraging people to work  
13 cooperatively with kind of some sort of -- you used  
14 the word backstop, some sort of hammer, I guess one  
15 of the questions I have that I would love your  
16 input on this, kind of goes a little bit to what  
17 Pat was just saying, is if the different entities  
18 out there all have different sort of financial  
19 pressures and different frameworks, right, you  
20 know, your generators are going to have different  
21 perspectives as they're deciding how to bid into  
22 the market knowing that they have the ISO backstop  
23 procurement process; your IOUs are going to have  
24 different perspectives knowing that they have the  
25 ERRR process that they're going to have to deal

1 with, your CCAs are going to have a different  
2 perspective as they have to talk to their local  
3 officials about what they're doing and what they're  
4 procuring, how do you, you know, develop a  
5 structure that aligns those as you're thinking  
6 about kind of encouraging people to work  
7 cooperatively and what would the hammer be, given  
8 all those different perspectives?

9 MR. CAVANAGH: Well, Commissioner, the hammer is  
10 pretty clear. It would remain your ability as a  
11 backstop matter, if everything starts to follow  
12 apart, to direct some centralized procurement, and  
13 assign the costs to everybody. So you've got that  
14 power, there's no question about it.

15 Now you don't want to have to use it as a blunt  
16 instrument, so how do you motivate people? First,  
17 listen carefully. Put that question to people who  
18 will be following me to the podium, because I'm  
19 hoping they have had a chance to think about it  
20 now. And I'm hoping you will get some -- I'm  
21 hoping that they will be saying something along the  
22 lines of the following: Look, we have a shared  
23 interest in affordable de-carbonization, we're all  
24 committed to it, and we know that.

25 Some of the instruments for getting us there are

1 going to be lower cost to our customers if we can  
2 acquire them together. If we can do long-term PPAs  
3 together. Generators have a very strong interest  
4 in that model working. Now what they are looking  
5 for are long-term certainty about revenue streams.

6 This is the best way I can think of to deliver  
7 that without putting us in a situation where  
8 there's so much fragmentation that everybody's  
9 costs are going up, reliability is degrading.  
10 Everybody loses in that scenario.

11 So one of the reasons -- my purpose whenever I  
12 appear before you is in part just to cheer you up a  
13 little -- one of the reasons why this ought to work  
14 is that there is a shared interest in making it  
15 work and there is tremendous shared exposure to the  
16 risks of being back in the post 1996 world. But it  
17 will be critical for all of you to indicate  
18 strongly that you think this is the direction in  
19 which we need to go and that you are not prepared  
20 to sit back and wait for the genius of the  
21 marketplace, and I don't think Pat was telling you  
22 to do that.

23 MR. WOOD: Yeah. I think the best incentive is  
24 what, you know, my friend Allison Silverstein used  
25 to call it, you can do a carrot or a stick or a

1 stick painted orange. And so the stick painted  
2 orange looks like a pretty big fine. So if CCA  
3 number two doesn't procure consistent with what's  
4 necessary to meet the statewide goals, then their  
5 penalty is higher than the cost of compliance.  
6 That's always the case. The traffic fine is a  
7 whole lot more expensive than the cost of you being  
8 late to that appointment.

9 So that incentive clearly, I mean it's crass but  
10 it works, I mean you send signals to retailers that  
11 don't have enough renewable component in Texas,  
12 they've still got to comply with the REC, that were  
13 kind of beyond the RPS. They've still got it.  
14 They don't have it, they get a fine, and that fine  
15 is higher than the cost of buying the RECs would  
16 have been, so of course nobody does that. So the  
17 same thing here with renewables.

18 To take a cousin of what he was talking about, to  
19 kind of tell you how in a Direct Access environment  
20 we've seen renewable procurement because, again,  
21 we're way beyond what our state's targets were set  
22 back ten years ago. I mean we're closing in on 42  
23 percent of total capacity in the state now being  
24 wind or solar, which it was zero when I was on the  
25 PUC in 2001.

1       So it's moved quite a bit fast but it's because a  
2 windfarm, yes, it could do a contract with the City  
3 of Austin, which is still vertically integrated, or  
4 San Antonio. Those are our little islands of  
5 vertical integration in a deregulated sea. And  
6 those were good jumpstart contracts, akin to the  
7 ones that the state here has done with large solar  
8 farms and windfarms in Tehachapi, et cetera. So  
9 that's kind of there.

10       What's going on now as people get comfortable  
11 with the rules being stable and the investment  
12 climate being good is they're doing direct deals  
13 with end-use customers. So a windfarm that does  
14 150-megawatt investment will go out and sell slices  
15 of its system, and maybe this is not exactly the  
16 same cooperative thing, but it's akin to what he's  
17 -- it's that same mindset, is: I've got an  
18 investment. You, Walmart, want a slice of that  
19 system. You, Ft. Hood, want a slice of that  
20 system. You, Garland Independent School District,  
21 want a slice of that system. You, TXU Energy, --  
22 which is a large retailer to serve mass market load  
23 in the -- you want -- so those little slices give  
24 people their greenness. They get their RECs, they  
25 get their bragging rights for being clean and

1 green, and they get a long-term price stability in  
2 that market. So that's kind of what's going on.

3 The solar markets do it. The solar investors  
4 that are coming into West Texas now, it's not that  
5 the energy markets in Texas are compensatory,  
6 they're not. They're very low price. We do not  
7 have a capacity market. But people are signing  
8 these direct bilateral contracts. And I think that  
9 to me is a point I didn't emphasize, that we looked  
10 at the California market in 1996 -- or in 2000 and  
11 said that's what was wrong, was that there was not  
12 an incentive for a buyer and a seller to engage  
13 directly with each other and do the self-help. And  
14 then in the aggregate that would add up. If it  
15 doesn't, then the backstop that Ralph put in there,  
16 I think, is regrettable but necessary, that you  
17 have the heavy hammer sitting there or the carrot-  
18 painted sticks sitting there -- the carrot painted  
19 orange -- the stick painted orange -- sorry, I even  
20 messed up my own deal -- to have --

21 MR. CAVANAGH: Only in Texas do they have to  
22 paint their carrots so.

23 (Laughter)

24 MR. WOOD: Texas A&M invented the maroon carrot,  
25 and we're very proud of that.

1       So, anyway, I do think that there are a lot of  
2 models. And I know that the most important issue  
3 that underlies it, and you see that throughout  
4 reading the full Gap Analysis, we do save the best  
5 for last because it is talking about these two  
6 issues, the de-carbonization and the resource  
7 adequacy toward the end, because it should start,  
8 as it does, with the customer protections. Those  
9 are, I think, well drafted -- I think you're on  
10 good tract get to closure on those.

11       Interestingly, there is a lot you can learn from  
12 your experience in the telecom industry. I know  
13 you're not doing as much with telecom these days at  
14 the Commission, but in our day we learned so much  
15 from telecom that we really imported that  
16 experience to gas and to electric. And I think  
17 y'all can certainly leverage that as well.

18       CPUC PRESIDENT PICKER: Let me see if my  
19 colleagues from the CEC have a question.

20       CEC CHAIR WEISENMILLER: Yeah. Actually just  
21 following up, so I wanted to hear from both of you  
22 on your priorities on consumer protection.

23       MR. WOOD: The data issue is where the book  
24 starts. And I think -- you know, again, just first  
25 principles is the data belongs to the customer.

1 You want to enable retailers and suppliers and  
2 energy efficiency, everybody to be able to have  
3 access to that as simply as possible. So the one  
4 quick path, y'all I think you're on track,  
5 California has probably led the country on these  
6 customer protections.

7 And I'd be curious to hear from people later  
8 today if like those are too onerous against the  
9 ability of a new entrant, particularly, to come in  
10 and play, but again I want to balance that, because  
11 I like being in control of my data but also want  
12 people -- if I'm ready to be out there and be  
13 shopped or be a shopper, I want people to give me a  
14 lot of information, tell me what I can do, what I  
15 need to do.

16 The state-run website, obviously it's not what a  
17 conservative, small-government guy wanted to do,  
18 but it still is and 20 years later the real touch  
19 point for competitive information in Texas with the  
20 site we set up to kind of jumpstart the market,  
21 because it's viewed as that Good Housekeeping seal  
22 of approval, each retailer gets to put their best  
23 three offers on there. And that's  
24 PowerToChoose.org is where people go to get, you  
25 know, reasonable-priced electricity offerings

1 through that site.

2 Customer education, very important. We didn't  
3 talk a lot about that in the Gap Analysis because  
4 we're kind of not there yet. You don't have Direct  
5 Access here, you've got the CCA, and so you want to  
6 make sure that the food labeling, which I think is  
7 before your Commission, is clear and accurate.  
8 It's getting a little busy. I did click on a food  
9 label and while it's accurate and thorough,  
10 sometimes you don't need to know magnesium and  
11 sodium and all that, you just kind of need to know  
12 fat, carbs, and protein. So just that give-and-  
13 take is one that y'all are well equipped to  
14 balance, but the food labeling is important in the  
15 current market as well as any sort of more  
16 disaggregated market that you have.

17 The Provider of Last Resort, I mean in Texas it  
18 really -- it's only been used five times when  
19 retailers went out of business or went bankrupt or  
20 couldn't meet the collateral, whatever. So that's  
21 not probably the model I would think here. You  
22 could probably have a more robust Provider of Last  
23 Resort.

24 Having the IOUs do that role, well, I don't think  
25 honestly, and don't cheer for me being pro IOU, but

1 I don't think that's fair to them anymore. If  
2 they're slowly getting out of this business -- and  
3 that's the transition you're obviously trying to  
4 manage through the Gap Analysis -- is as they move,  
5 as customers move to CCAs, maybe they shouldn't  
6 fall back to the IOU. That's a great opportunity  
7 to bid out large kind of regions of the state to  
8 new providers, to be Providers of Last Resort.  
9 They could offer a rate and it might be at a  
10 premium to the market but not double, some premium  
11 to the market where people could stay comfortably  
12 for a time until they have time to negotiate a  
13 better rate, but that might be a way to jumpstart -  
14 - if it's legal. That's my only problem, is that I  
15 don't know that that looks like backdoor Direct  
16 Access in violation of the CAP, I think it probably  
17 is. But there is an opening that was given in the  
18 Hertzberg bill to allow y'all to look at that  
19 differently, you know, in the near future. But to  
20 maybe get the IOU out of being that person that  
21 they go back to when they don't want to be served  
22 by Marin County, they want to go back to another  
23 provider.

24 So the Provider of Last Resort could actually be  
25 an opportunity to bring large constellation types -

1 - I know Mary is on the calendar -- on the agenda  
2 for later -- bring people like that into the state  
3 and give them basically a book of customers to work  
4 from. That's a nice way to start the business, to  
5 get people in there and putting on an obligation on  
6 them therefore then to serve that customers  
7 consistent with all the customer protection  
8 requirements that are applicable to IOUs and  
9 everybody else.

10 So POLR, food label, customer data, I think those  
11 are my big ones out of -- any other ones out in the  
12 customer protection section, Ralph?

13 MR. CAVANAGH: For me at least, California's  
14 suite of low-income services belongs on that list  
15 also. And I hope that one of the things that  
16 emerges from this initiative is a strong  
17 affirmation of the continuing importance to find  
18 ways to provide those services both in terms of  
19 bill support and targeted efficiency services.  
20 That's been a major focus of the Legislature in  
21 recent years, a lot of you have worked on it. It  
22 remains important. And just conveying confidence  
23 that we can continue to pay for that and equitably  
24 assign the costs will be very important.

25 For me, the task of dealing with aggregated

1 customer data and harnessing it for demand response  
2 and energy efficiency remains -- Commissioner  
3 McAllister has devoted an entire lifetime to this  
4 effort, he's not done yet, as he would be the first  
5 to say, and I join him in underscoring that.

6 On the Provider of Last Resort, please look again  
7 at Melanie Kenderdine's separate statement in the  
8 Green Book. And I am hoping very much that Matt  
9 Freedman, who will be following me, will have a lot  
10 to say about that.

11 CEC CHAIR WEISENMILLER: So, Ralph, what's your  
12 vision of the future of the energy -- Utility  
13 Energy Efficiency Programs as we go through this  
14 transformation?

15 MR. CAVANAGH: I don't think that -- the reason  
16 that -- I'm glad that surfaced. It didn't surface  
17 before, I think, because it's not central to the  
18 issue of competitive procurement of integration and  
19 generation services.

20 We have chosen a different model in California on  
21 energy efficiency. We don't treat it as another  
22 biddable resource head to head with generation. We  
23 recognize that there are special market barriers  
24 and acquisition issues that need to be confronted  
25 head-on through initiatives that today at least

1 continue to be administered by the Investor Owned  
2 Utilities, in large measure, also of course in  
3 coordination with, and this is critical, the Energy  
4 Efficiency Standards administered by the Energy  
5 Commission and the integrated combination of  
6 efficiency incentives and standards is going to  
7 continue to have to be at the core of what  
8 California does.

9 My own view on the efficiency side, and  
10 Commissioner Peterman, it sounds like sadly, will  
11 not be in charge of that for a great deal longer,  
12 but what I think she has tried to do, and this I  
13 believe in very strongly, is to find ways -- I've  
14 talked about the importance of coordinated  
15 statewide procurement, she has applied that  
16 principle in the context of energy efficiency, in  
17 terms of how can we aggregate the collective market  
18 power of California's electricity customers to  
19 drive better solutions through programs that are  
20 coordinated and then also reach into the Efficiency  
21 Standards. So that remains very important in a  
22 world of increasing fragmentation and generation  
23 procurement. I think we've learned a lot of good  
24 lessons about how to do this. We've now got a  
25 California technology forum, a jury of experts to

1 help us streamline the measurement and verification  
2 process. I urge all of you Commissioners to do all  
3 you can to support that voluntary, coordinated  
4 effort, which is another illustration of the kind  
5 of thing I'm talking about, to help us do this  
6 better.

7 But Commissioner Weisenmiller is right to remind  
8 us that the fastest, cheapest, and cleanest de-  
9 carbonization solution is always going to be energy  
10 efficiency and it better be in the forefront of our  
11 thinking going forward.

12 CPUC COMMISSIONER PETERMAN: And just a bit of a  
13 follow-up on that, and, Ralph, thank you for  
14 highlighting the work we're doing in energy  
15 efficiency, because I think there are some lessons  
16 learned from that process, including the challenge  
17 of wanting to be more hands-off as a regulator and  
18 in the process of developing that structure,  
19 finding the need to be more hands-on than ever.  
20 And so I think that we are struggling with, even in  
21 that space, about to what extent to do we ever re-  
22 intervene if there is not sufficient agreement or  
23 consensus.

24 I had a follow-up for Pat but, Commissioner  
25 McAllister, if you had an Energy Efficiency follow-

1 up, let me defer to you first.

2 CEC COMMISSIONER MCALLISTER: So thank you for  
3 that, Commissioner Peterman.

4 So thanks, Ralph. I actually was going to ask a  
5 question. One of the prospects for procurement of  
6 aggregated demand side resources, and you just  
7 answered that. But I want to actually get Pat's  
8 view on this as well and do a follow-up for you  
9 both.

10 So in the context of Integrated Resource  
11 Planning, okay, in California today, where we are  
12 analytically very sophisticated and we have Smart  
13 Meters and we have a lot of innovation happening  
14 across the economy that's dealing with, you know,  
15 very granular data in real-time, is that causing  
16 you, Ralph, to rethink some of this in terms of  
17 having a bolted-on efficiency resource in terms of  
18 having something that ideally would be comparable  
19 analytically to traditional supply resources and,  
20 therefore, be implementable within an IRP context?

21 MR. CAVANAGH: So I would like to have both,  
22 Commissioner McAllister. I don't want to give up  
23 the strengths of what we've got, because I think  
24 we've learned a lot about how to do efficiency  
25 outside the context of traditional competitive

1 generation procurement, but absolutely, aggregated  
2 demand response can bid into and should be bidding  
3 into short-term markets, in particular. And there  
4 may well be ways we can harness other of the  
5 wholesale markets to create an additional revenue  
6 stream for energy efficiency.

7 What I don't want is a situation where what we  
8 basically say is, well, the short-term -- people in  
9 Texas have been heard to say -- although not this  
10 one -- all we need is an accurate short-term spot  
11 market electricity price and we will get all the  
12 energy efficiency that's cost-effective. The  
13 genius of the marketplace will provide -- exact --  
14 that was one of the core foundational principles of  
15 the 1996 restructuring law. And that, I think, we  
16 now know, based on abundant experience, just flat  
17 doesn't work. That doesn't mean, though, that you  
18 don't take advantage of opportunities to supplement  
19 the financial incentive for energy efficiency,  
20 cost-effective energy efficiency through all of  
21 those vehicles.

22 And, yes, there is going to have to be increasing  
23 interest and emphasis upon flexible demand-side  
24 resources as part of what it means to be a cost-  
25 effective demand-side resource, but that's not all

1 we're going to want to do. People sometimes talk  
2 as if all the low-cost energy-efficiency resources  
3 have been exhausted through decades of effort in  
4 California. And all I have to remind all of you is  
5 the recent evidence that the average California  
6 household has more than 45 devices that are drawing  
7 electricity when they are switched off, as  
8 something that we continue to have -- as one of  
9 many illustrations of what even Texas needs to be  
10 thinking about as it ponders its energy efficiency  
11 future.

12 MR. WOOD: Now we would not be where you'd look  
13 for energy efficiency leadership. That's clearly -  
14 -

15 (Laughter)

16 MR. WOOD: -- that's clearly your state. And,  
17 you know, again it's a tussle for me because you  
18 know I have been a regulator for ten years, and I  
19 finally look up, the baby sick was at night, and I  
20 was looking up at the ceiling of a house we had  
21 moved into four months before and realized that  
22 there were 36 can lights that were all 150-watt  
23 incandescent lightbulbs. This was like in '06. So  
24 they had other alternatives at the time. Even I  
25 didn't think. I went the next day, it was like,

1 you know, cold turkey, quit smoking, just stop. Go  
2 there, take them all out, replace them with CFLs,  
3 and now of course the LEDs are even better.  
4 Whatever it cost me it was paid for in, I think, it  
5 was 72 days. I figured at that kind of rate.

6 Those kind of things are just not intuitive, and  
7 so markets do fail. And so we've got to view that  
8 really EE, and that's really -- I think Ralph --

9 MR. CAVANAGH: That's going on his tombstone.

10 MR. WOOD: You know Ralph, he doesn't take a lot  
11 of credit for it, but Ralph and some of his  
12 colleagues from the smart guys that helped do the  
13 right things here helped us in our market in '96,  
14 '97 when we were asking the world what we should  
15 do, and this was identified as a market failure  
16 back then, and it always has been. Saving money  
17 from whatever my rate is, seven and a half cents  
18 bundled, so I don't have a hugely strong price  
19 incentive to turn the light off because it's only  
20 seven cents a kilowatt hour if I leave it on. So I  
21 mean when you move it up, as you do here, you kind  
22 of get that price incentive sent down, but it's not  
23 really costing me.

24 That's a problem, is when you have a product  
25 that's really inexpensive, people don't do "the

1 right thing," and that's a value-laden judgment.  
2 And you folks have been honest to say this is a  
3 value issue for us, it is not economic, we are  
4 going to pay for it, and therefore you get this  
5 virtuous cycle where it does become economic.

6 Let me just take one quick thing, and I know  
7 you're asking the question, but with the  
8 sophisticated type of demand response that's way  
9 far from even when you came to Texas to tell us  
10 what -- and Moskovitz and all them, about how to do  
11 this, there's so much more that's enabled now with  
12 the Smart Meters that you all have and we have as  
13 well, many other states, that's enabling an app-  
14 based issue, I can -- I turn -- you know, my wife  
15 said yesterday can you turn off the air  
16 conditioners, I don't have my phone. I'm like,  
17 well, why are you talking to me, well, that didn't  
18 even -- stupid.

19 We went to -- that kind of sophistication is  
20 going to really change how we think about peak-day  
21 adequacy. And when you have the ability not just  
22 of the big three IOUs and the Cal ISO to turn the  
23 knobs on or off, but when you have -- you know, how  
24 many million are out here -- 40 or 50, the ability  
25 of ten percent of those to just jiggle, it's

1       unbelievable when you think about the potential.

2       I think the days of us worrying about peak summer  
3       reliability are soon to be kind of vestiges of the  
4       past because of the great silver bullet that demand  
5       response provides. So all the things he's talking  
6       about, y'all have pioneered here for, again as I  
7       mentioned last meeting, thank you for paying for  
8       the country's R&D, because it will benefit  
9       everybody in this country, that we have the ability  
10      to do the type of things that are enabled by this  
11      mindset. So this is where California is better,  
12      which I'll admit it, it's on the record.

13      CEC COMMISSIONER MCALLISTER: So I agree with  
14      everything you just said, the we have the  
15      technology, we have the power of -- you know, we  
16      have the analytical skillset to do this, so. But  
17      demand response is not growing in leaps and bounds,  
18      and so my question really is how do we  
19      operationalize this such that it does scale? And I  
20      think there is -- you know, there is a market that  
21      needs to be enabled somehow on this.

22      MR. WOOD: How you get that market the incentive  
23      to do that, I don't know. I mean I think you've  
24      got to ask the people in that market, I mean if  
25      they want a long-term contract with the utility or

1 the State or the CEC, you know that's kind of one  
2 model, but how do you actually get a sustainable  
3 model that works in the disaggregated, or even not  
4 disaggregated, in either market structure going  
5 forward? Is you've got to show them that there is  
6 a profit opportunity there. And I've seen  
7 companies, unfortunately a lot of good public  
8 companies that I respect and like, come and go,  
9 that have tried to do energy efficiency. Converge  
10 comes to mind. I don't have a good answer for you  
11 and I wish I did because it is needed and it is the  
12 silver bullet that regulators are always looking  
13 for, is how do we get demand to be, you know,  
14 sitting at the table, as well as supply.

15 CPUC PRESIDENT PICKER: So we're running short on  
16 time, but I'm going the give one more to  
17 Commissioner Peterman and --

18 MS. FELLMAN: Oh, excuse me. I have -- we  
19 flipped the agenda.

20 CPUC PRESIDENT PICKER: I know.

21 MS. FELLMAN: Let me go to the microphone. We  
22 flipped the agenda, and I am available to talk to  
23 each of you any time. So I would be willing to  
24 have this continue.

25 CPUC PRESIDENT PICKER: I understand. Thanks.

1 CPUC COMMISSIONER PETERMAN: Thank you, President  
2 Picker. Thank you, Diane. Thank you both for your  
3 comments.

4 Pat, in particular, I wanted to follow up on your  
5 comment about making sure we appreciate and  
6 understand the investor and financial market  
7 perspective on the work that we're moving forward  
8 with. And I do think it's noteworthy that the  
9 action plan is very customer oriented, and  
10 appropriately so. And the references to engaging  
11 with the financial community are primarily embedded  
12 in the reliability and resource procurement  
13 section. And I think it would be worth thinking  
14 about how do we engage with the financing community  
15 on all of the initiatives and, in particular, how  
16 do they think about -- or value or not value or  
17 disvalue -- customer protection elements in the  
18 work.

19 And so give that, I wanted you to speak from the  
20 perspective of two stakeholders that are not on the  
21 panels today, and that would be the investors or  
22 the general financial community and the federal  
23 regulator. And from both of those perspectives  
24 what, if anything, or most in the Gap Analysis  
25 gives -- would give them pause? You know what in

1 all of this will they be kind of watching to see  
2 where we truly go? I just want to make sure that  
3 we're appropriately engage those two sectors in our  
4 conversation.

5 MR. WOOD: I think that on the consumer  
6 protection issue -- or with all three baskets, I  
7 think the investor issues -- you know my experience  
8 just over many years of regulation is you'd have to  
9 be pretty mean-spirited to not really get that a  
10 commission is going to tell you what the consumer  
11 protection rules are and you're going to be happy  
12 about it. So there might have been a few that just  
13 stormed out of the state after we did consumer  
14 protection rules. Disconnects, which is an issue,  
15 a chapter in our book here, is on disconnections.  
16 That was kind of a dicey issue for us, as it would  
17 be for you, but -- and it's one where do you come  
18 to loggerheads with retailers. But, ultimately,  
19 there are balanced solutions, and y'all's isn't  
20 that different than ours, and I'd have to look at  
21 the detail, but it's pretty close. I mean you've  
22 got some forgiveness in a real tough period, but  
23 you know there is a tough love thing where you  
24 can't basically walk out on a bill.

25 Investors -- I think on the consumer protection

1 issues, that has, in my experience, been the main  
2 one that's come up, is what if -- what are the  
3 incentives for customers, high income or low, to  
4 pay the bill and to pay it on time, and what -- you  
5 know, and what can we do about that.

6 Discrimination issues with regard to FICO scores,  
7 with regard to -- well, that's pretty much  
8 incorporates credit history, so I'm just going to  
9 say credit history more broadly -- those are ones  
10 we had to get involved with as well that we got  
11 some pushback. I can imagine you would be  
12 interested in it, even probably more than we were,  
13 and get some pushback. But hitting the balance  
14 there and understanding what people need, different  
15 -- not too different from the utility, we had done  
16 for a hundred years with deposits and etc.

17 On the other two issues, the investors would be  
18 much more interested, obviously. And I should say  
19 FERC probably is not going to get involved in any  
20 retail customer issues. That's not under their  
21 bailiwick.

22 So let's take both constituencies with regard to  
23 RA and de-carbonization both. You know I tend to  
24 think of those together. What kind of hardware and  
25 software are we going to have for California's

1 future. So what does -- an investor needs,  
2 basically, a pathway for getting his or her money  
3 back. I invest, I make a return, I have stability  
4 and availability to make that return. I'm not  
5 going to be second-guessed, the rules aren't going  
6 to change -- of course you can't promise that  
7 because the next governor could appoint a different  
8 set of commissioners who make different policies,  
9 the Legislature could pass laws, but everybody can  
10 live in that environment -- even this one. It's  
11 challenging, but it's one they could live in if  
12 they recognize that there is stability, but the  
13 stability of just rules of road. I mean that's  
14 nothing you haven't probably heard before,  
15 Commissioner.

16 But on the de-carbonization, tell them the rules.  
17 I think -- I've looked at -- and I'm not sure if  
18 it's Denmark or Germany, but there are quite high  
19 targets there, higher than they are today, some of  
20 which you're setting a target that's higher than  
21 where you are today. And you want to get there in  
22 a relatively aggressive timeframe, get out of the  
23 way. Just set it, tell people how the steps will  
24 work, and then get out of the way. We did that  
25 with our original RPS, and, wow, we way over shot

1 that. So I think that kind of -- the fact that  
2 people think they can trust that when these  
3 commissions make decisions on resources going  
4 forward, demand or supply, that they will honor  
5 those and get out of the way.

6 The other part that I've thought about a bit over  
7 the last week since we looked at the last draft is  
8 are there going to be different standards that --  
9 you've got a lot of legacy renewable contracts that  
10 have to either be apportioned to the CCAs or kept  
11 with the IOUs and bid out equally over everybody so  
12 that your grid charge becomes even bigger. And so  
13 if you're competing against that, it looks a lot  
14 like Dynegy was in -- which was a company I used to  
15 chair in Illinois, where we were in one competitive  
16 state in a regulated ocean of MISO. So you got all  
17 this kind of protected generation around you and  
18 you're scrapping for every penny in the energy  
19 market and then a very crummy capacity market that  
20 they had there, to try to keep a power plant open  
21 and keep people employed. So that was -- that  
22 disparity between old generation and new generation  
23 needs to somehow be harmonized, and I can talk at  
24 length about that.

25 FERC cares about that as well, when you're

1 looking at capacity markets. I think -- you know,  
2 I would hope that we could get to the trust point  
3 where a FERC-administered capacity market tariff  
4 could be a really useful tool for y'all in  
5 California to achieve your de-carbonization and  
6 adequacy goals. I know that's -- I've thought long  
7 and hard about whether I should say that today, but  
8 I think I should. I think it's important in this  
9 environment to figure out there are ways to solve  
10 this. They're not hell-bent to push it on you.  
11 It's not a mandate that anybody has capacity  
12 markets, but when a state brings that to the  
13 federal regulator, they have always accepted it and  
14 worked with people as to work with PJM now on  
15 exactly how that ought to be shaped so that it's  
16 fair.

17 So sorry about the long answer, but...

18 CPUC COMMISSIONER PETERMAN: I appreciate it.  
19 Thank you.

20 MR. CAVANAGH: I will give a very short answer  
21 which is simply to note that what 22 years of  
22 history since the last major work product out of  
23 this room, investors will not commit to major long-  
24 term infrastructure improvements, either generation  
25 or grid related, unless they have got a reliable

1 long-term revenue stream from creditworthy  
2 entities. They will not do it.

3 And the question that the Gap Analysis raises is  
4 how in an era of increasingly fragmented  
5 procurement do we get them that assurance in  
6 California and how do we avoid what happens when we  
7 don't have it, which we lived through in 2000 and  
8 2001.

9 So I come back again: Press those who follow us  
10 on how they are going to deliver those revenue  
11 streams, those long-term commitments, as we move to  
12 a more decentralized structure. I hope you will  
13 get some good compelling answers.

14 CPUC PRESIDENT PICKER: So in the interests of  
15 fairness, questions from Commissioner Hochschild or  
16 Douglas?

17 Okay, great. Thank you. That was very helpful,  
18 very informational. We're going to ask you to stay  
19 for ever and ever, and hopefully in 20 years we  
20 won't be having this same conversation.

21 MS. FELLMAN: Let's thank our Ad Hoc Committee.  
22 They're all -- this is all volunteer, by the way.

23 (Applause)

24 CPUC PRESIDENT PICKER: So this is actually  
25 fairly important since we all read these Gap

1 Analyses and proposals, but I think that it's  
2 helpful to actually hear and ask questions, to be  
3 sure that we're all talking about the same thing at  
4 the same time.

5 MS. FELLMAN: Good morning. As I said earlier,  
6 I'm Diane Fellman. I am from the Commission's  
7 Policy and Planning Division. I want to start out  
8 by saying my thanks to both Nidhi Thakar and  
9 Rohimah Moly -- I don't know if you want to stand  
10 up, please. She's raising her hand -- who as the  
11 team became me, myself, and I, they were able to  
12 step in and provide all of the necessary support  
13 and thinking and thought process and production,  
14 and just everybody, and I couldn't have done it  
15 without the two of you.

16 I want to thank President Picker and Director Ed  
17 Randolph, who isn't here today, as our Steering  
18 Committee, because that was very important and a  
19 new way of doing things at the Commission where we  
20 work directly with one of the policy -- one of the  
21 division directors and the Policy Division worked  
22 directly with one of the Commissioners to help form  
23 our thinking and produce something that was outside  
24 of a specific proceeding.

25 For the Commissioners, all the Commissioners, I

1 want to let you know that for the Gap Analysis,  
2 which was under an extremely compressed timeframe,  
3 the Energy, ALJ, Safety, Consumer Affairs, and  
4 Legal Divisions all contributed, they all looked at  
5 the document and made very valuable and insightful  
6 contributions and took the time to review it  
7 through their division management.

8 I also want to thank many of you stakeholders who  
9 have met with me directly who have also provided  
10 comments because, as I said at the outset of this  
11 whole project, this is a stakeholder-driven process  
12 where we want to get input from you. This is a  
13 Draft Gap Analysis and Choice Action Plan. We will  
14 be producing a final. Written comments are going  
15 to be due on November 13th. I have a couple other  
16 stakeholder meetings already set up, but we're  
17 happy to meet with you in person as well.

18 So thank you very much to all who have made this  
19 a platform for discussion.

20 Today what we're going to talk about, and each of  
21 the Commissioners has a copy of this presentation  
22 in front of them, as well as for those of you  
23 online, it's been posted as of this morning, we're  
24 going to talk about -- we've talked about the  
25 project, so I don't think I have to go over the

1 Mission Statement again. And then we'll jump into  
2 the Gap Analysis and how we performed it, so  
3 everyone knows what the thinking was.

4 Again, this has been covered today. Why are we  
5 doing the Choice Project. And I want to underscore  
6 for purposes of where this is going to go next,  
7 because many people have asked what is the  
8 Commission going to do with this. And we need to  
9 address the fact that there is choice happening  
10 now. We have acknowledged that, we have recognized  
11 that, and we've moved forward on it. So our goal  
12 here is to have flexible policies that will  
13 accommodate multiple incomes without a designated  
14 end state.

15 And what's important there is that we are not  
16 making recommendations about the structure of the  
17 market. We're not going to say it has to be  
18 completely open or it remains bundled IOU. We're  
19 saying the market -- the other proceedings, that  
20 the Commission will figure that out. We just want  
21 to make sure that regardless of the outcome, the  
22 fundamental questions are answered, the core  
23 principles of California are met, and we are  
24 respecting the categories that we identified here.

25 Albert Einstein said that to solve a problem you

1 cannot use the same thought process that created  
2 the problem, and this is something we've tried to  
3 do here.

4 Again, this is what we are trying to do. And  
5 here is our process. We first worked with the  
6 Steering Committee to identify, taking the  
7 fundamental questions in the original Choice paper,  
8 we identified consumer-driven categories. And, as  
9 Pat Wood mentioned earlier, this is our largest  
10 grouping of categories, because we wanted to make  
11 sure that no matter what the outcome of the market  
12 structure, that there was adequate protection for  
13 customers to: Number one, make their choices;  
14 number two, be protected when they made those  
15 choices; and, thirdly, that those who were not  
16 participating in the choices also had protection.

17 With respect to the duty to serve, which was  
18 another category, we wanted to make sure that the  
19 lights were always on and that no matter what  
20 happened in the market, customers would have  
21 electricity.

22 Finally, with respect to our resource and  
23 reliability category, we wanted to make sure as  
24 they just talked about, the contracting was in  
25 place, because we saw this as a major gap that

1 could occur as the market transformed. And we also  
2 wanted to give a nod to the extensive work that's  
3 been done at the Energy Commission with respect to  
4 the Building and Appliance Efficiency Standards,  
5 which have been so important, and customers can  
6 choose to buy those, as well as the electrification  
7 work that Commissioner Peterman has been leading in  
8 the transportation sector.

9 So we looked at each of these categories. We  
10 came up with issues that we thought needed to be  
11 addressed. And then we determined, we assessed  
12 whether or not there were existing Commission  
13 proceedings that were addressing them underway  
14 already. And we wanted to acknowledge that there  
15 were many, many proceedings at the Commission that  
16 were looking at these. We wanted to get above the  
17 silos and then determine did we need to make -- did  
18 we need to do additional analyses and, if so, could  
19 it be done in the existing proceedings or was it  
20 something new. And then, finally, were there  
21 actions that needed to be taken now because the  
22 gaps were so great.

23 This is how it came together. And the arrows  
24 indicate the dynamics of how we moved to the center  
25 to come up with our recommendations. And I want to

1 again acknowledge that stakeholder input was very  
2 important in this.

3 I'm going to pause there before I get into the  
4 actual issues to see if there are any questions on  
5 the process.

6 And thank you for your kind words this morning  
7 and the introduction, because it was a very -- a  
8 lot of time was spent on how to structure the  
9 analysis but also how to present a lot of  
10 information. As you can only imagine, those of you  
11 in the audience, we were trying to deal with every  
12 proceeding that the Commission is dealing with and  
13 every possible issue and to boil that down. It  
14 ended up being a bit longer than we thought, but to  
15 boil it down into a digestible form was probably  
16 our major challenge. The issues just came  
17 secondary. That was a joke.

18 Okay. Here are our issues. And I'll just -- you  
19 can see these. They're in the Gap Analysis. I  
20 don't think I have to read these, but I want to  
21 highlight some things that emerged as needing  
22 immediate action. And I'm going to lead with who  
23 is the Provider of Last Resort in the event that  
24 there is a failure of service.

25 I also want to point out we looked at the role of

1 the IOU in the future and as the IOUs transform in  
2 to providing distribution services, what does that  
3 mean for their customers, what does it mean for  
4 procurement. We talked about contracting.

5 Pat Wood so aptly described the need to have  
6 price transparency and content disclosure. I  
7 actually just got my power content label in my  
8 bill, my PG&E bill, so I have it with me if anyone  
9 wants to look at it.

10 And that we also think it's very important, even  
11 though there are price comparisons mandated between  
12 an individual CCA and an IOU, there's nothing in  
13 California that has statewide -- there is statewide  
14 access with statewide comparison that's easy to see  
15 how the prices break out, and so people can look at  
16 different offerings.

17 One thing that is very important however fell  
18 into existing proceedings is rate design. And the  
19 Commission has done an excellent job of addressing  
20 many issues in its rate-design proceedings. As we  
21 get more and more Load Serving Entities, what does  
22 that mean? Will the successes of the Commission's  
23 rate design in accomplishing California's policy  
24 goals continue when -- through the CCAs, through  
25 the ESPs, or even when you have a number of behind-

1 the-meter installations.

2 Next, how do we enforce all of this through  
3 fragmentation and disaggregation. What does that  
4 mean? It's clearly within the Commission's  
5 authority to enforce, anything related to the  
6 Investor Owned Utilities. The Energy Commission  
7 has jurisdiction over the publicly owned utilities.  
8 There are certain areas where the Commission has  
9 authority with respect to CCAs and ESPs, in  
10 particular, certification. We talk about that in  
11 the Gap Analysis and raise it as a question.

12 We already mentioned the credit vehicles.

13 And, finally, last but not least, for  
14 Commissioner Guzman Aceves' concerns, how do we  
15 shield low-income customers from undue cost burdens  
16 and also make sure that they have the benefits of  
17 all these choices.

18 With respect to the takeaways, I have just  
19 outlined most of those.

20 Another thing that emerged is that we feel that  
21 the Commission, the State has done a very good job  
22 on certain programs, for example, RPS, Energy  
23 Efficiency. I think, Ralph, you mentioned this.  
24 How do we make sure there is uniformity across all  
25 LSEs. At the same time, once LSEs form, how do

1 they have nondiscriminatory access to funds,  
2 programs, incentives, and the grid. We talked  
3 about enforcement.

4 And again I want to conclude by saying that the  
5 market end state at this point in time we feel does  
6 not have to be defined and we do not have to tackle  
7 what it means to have the fully -- or have a  
8 competitive market in California.

9 We do have the Hertzberg Bill report. That will  
10 be coming out and that will address some of these  
11 issues. However, looking at the statements of you,  
12 President Picker, at the letter opening, the Choice  
13 Paper, we feel that we are shifting our policies  
14 and we need a comprehensive and meaningful plan to  
15 address what happens when those policy shifts occur  
16 with respect to the collateral policies around  
17 market competition and structure.

18 Finally, in conclusion, the next steps. I  
19 mentioned them at the beginning. November 13th,  
20 written public comments due, as I said at the start  
21 of our En Banc. The Public Adviser is here in the  
22 back of the room. We welcome public comments  
23 starting at the end of the panels.

24 This is a draft. We will be working with the  
25 Commissioners' offices, going back through the

1 divisions in the Public Utilities Commission and  
2 looking at stakeholder input to formulate the final  
3 and including the roadmap that will lead to the  
4 Choice Action Plan. And that should -- that will  
5 come out before the end of the year and then next  
6 year we look forward to implementation, so thank  
7 you.

8 I'm open, I'm available for questions. And I  
9 want to point out that in this -- my deck is a set  
10 of -- a matrix at the end and I came up with the  
11 acronym Raul to honor one of my colleagues, JR  
12 DeLaRosa. But that's Regulatory Additional  
13 Analysis Underway or Legislative. So we can -- you  
14 can see visually and quickly where we ended up on  
15 our recommendations. So we can -- if you have  
16 questions on a specific issue, I will answer those  
17 and pop that up on the screen. However, since  
18 everyone has access to the document, we felt it  
19 wasn't critical today to walk through each of  
20 these. So I'm happy to answer any questions.

21 CPUC PRESIDENT PICKER: So I have questions in  
22 relationship to a number of the specific Gap  
23 Analyses, but I'm going to try to make it broader  
24 and invite comment and question from my colleagues  
25 up here as well. But we talked about that big

1 orange stick that Commissioner Wood was talking  
2 about. And we did never quite settle on the  
3 question of where we really believed we needed  
4 additional enforcement authority to be able to  
5 create an even market or enticement for people to  
6 meet the goals of the State.

7 So my question is that for the regulated electric  
8 utilities, we do have Public Utilities Code 451,  
9 which has some fairly broad requirements that we  
10 hold them to. We can, for example, set prices and  
11 enforce those prices. We can cover a whole range  
12 of behaviors through other rules. But here we are  
13 actually prevented from having that in some  
14 respects. So, for example, the certification  
15 processes for CCAs, for example, does not really  
16 lend itself to long-term procurement. The  
17 Legislature has moved to require that, but they  
18 haven't given us much authority to really be able  
19 to take action. We have specific ability to take  
20 action around system RA requirements but less so in  
21 load-constrained areas.

22 I'm curious as to whether we see places where we  
23 need additional authorities. I've just kind of  
24 ticked off a couple. But then does that take the  
25 form of a broad standard, similar to 451, or do we

1 actually have that within each different kind of  
2 entity for each different requirement? And so  
3 that's part of the challenge that I'm trying to  
4 understand, is how do we begin to actually create  
5 that even playing field that we were talking about  
6 earlier.

7 CPUC COMMISSIONER PETERMAN: Is that a question?

8 MS. FELLMAN: With respect --

9 CPUC PRESIDENT PICKER: It's a question both for  
10 Diane, because we did talk about it a little bit,  
11 but it's also a question for all of you.

12 MS. FELLMAN: But I was actually going to turn it  
13 over and say that the way we have been looking at  
14 this, and I am not an expert nor was our team in  
15 each of your individual proceedings, so you have  
16 that insight into the areas that we looked at. And  
17 I would be very interested in hearing your response  
18 to President Picker's question as well, from the  
19 perspective of how you have been looking at the  
20 Commission's authority.

21 CPUC COMMISSIONER PETERMAN: We'd like to hear  
22 from you.

23 (Laughter)

24 MS. FELLMAN: So with -- we are working with both  
25 the ALJ -- we will go back and work with the ALJ

1 Division and Legal Divisions to go through each of  
2 the proceedings. They did make sure, and I want to  
3 underscore, that our recommendations are intended  
4 not to prejudge the outcome of any proceeding. And  
5 the area where we went off the chart a bit was in  
6 describing the potential future for the Investor  
7 Owned Utility. And we compiled all the kind of  
8 speculative projections into that Gap Analysis.

9 With respect to enforcement authority, what  
10 emerged, and it was surprising I will say for me to  
11 see this, is that the Commission does have broad  
12 authority. Certainly Public Utilities Code Section  
13 451 and 453 do go to those specific concerns.  
14 However, the Commission in its interpretation, if  
15 you use, for example, what happened in the resource  
16 adequacy realm with Resolution E-4907, looking at  
17 how the CCAs and ESPs were going to file their  
18 resource adequacy requirements, the Commission did  
19 exert its authority there. It does have  
20 jurisdictional statutory direction, but it also  
21 interpreted it.

22 I feel it's important to emphasize, and, Ralph,  
23 you mentioned the Marin comments, and I will give a  
24 shout-out to MCE on this because they and PCE and  
25 some of the other CCAs and all the stakeholders in

1 this process have appreciated this collaborative  
2 process that will allow -- certainly it doesn't  
3 create enforcement authority, but my -- our  
4 recommendation and my observation is that in  
5 developing that authority for the Commission, it's  
6 very important to bring the stakeholders in the  
7 conversation, because I think, again my experience  
8 working with the stakeholders, is that they are  
9 eager to have this conversation because they need  
10 to figure it out too. You know, at the beginning  
11 there and certainly there are tensions that we  
12 won't discuss today, however there is also a  
13 willingness to say how do we make this work because  
14 no one in the sector wins if someone  
15 catastrophically fails.

16 CEC COMMISSIONER HOCHSCHILD: I just wanted to  
17 chime in for a minute to President Picker's  
18 question. I mean it strikes me it's analogous to  
19 what's happening in transportation. Look at just  
20 even the regulation of scooters, these electric  
21 scooters in San Francisco and all these companies,  
22 you know, put out a thousand scooters and then they  
23 had to dial that back. And we're trying to avoid  
24 the energy equivalent of that. But it is very,  
25 very important that we keep the momentum going on

1 clean tech innovation.

2 You know the next governor of California will be  
3 a global governor, for lack of a better word, just  
4 because there is an absence of leadership on  
5 climate coming out of Washington, D.C. Everyone is  
6 watching here. And obviously all of us were at the  
7 Global Action Climate Summit and the attendance,  
8 the energy, the focus was incredible.

9 And I just want to point out, you know, the  
10 context here is we're at the waning months of the  
11 Brown dynasty, for lack of a better word, and this  
12 year has been, I think, one of the most remarkable  
13 years we've had on energy, beginning with the  
14 Governor setting the new State goal for five  
15 million zero emission vehicles. And EV sales went  
16 from 6,000 a month in January to 21,000 a month  
17 last month. Obviously Commissioner McAllister led  
18 our effort to mandate zero net electricity for new  
19 construction in May and SB100 getting passed, it's  
20 been a banner year. And we need to keep this  
21 momentum going.

22 In January we're going to hit one million -- by  
23 the end of January, one million solar roofs in  
24 California. We are a giant incubator for the clean  
25 energy technologies of the future. And there is

1 one question I would like to ask just the panelists  
2 going forward is, you know, regulation is always  
3 chasing technology, right, and I look right now at  
4 what's happening, innovation in the CCA community,  
5 and I think there is really exciting  
6 experimentation being done. That's really one of  
7 the questions that's sort of foremost in my mind,  
8 since we have 18 CCAs up and running and maybe as  
9 many as 80 in some stage of formation, what's the  
10 optimal regulatory architecture to accommodate that  
11 reasonably. And that's really -- I guess we have a  
12 section later this afternoon, but that's one of the  
13 main questions on my mind. How are we set up to  
14 best facilitate success in that sector in a way  
15 that's -- where we continue to innovate but don't  
16 tip over the apple cart, right, so that's really  
17 the main question on my mind.

18 MS. FELLMAN: And I would -- thank you. In the  
19 Gap Analysis, one of the things that is critical is  
20 not getting in the way of innovation, recognizing  
21 that we're always going to be catching up to  
22 technology rather than necessarily being ahead of  
23 it.

24 And I don't like the word level playing field  
25 either, so I prefer to think of it as open

1 architecture. So that we had talked about -- and I  
2 think at the beginning, President Picker, when you  
3 were looking at the distributed resources, it  
4 wasn't about should we have more energy efficiency  
5 or should we have more rooftop solar but it was,  
6 rather, what can the grid -- how can the grid  
7 accommodate these resources and what can be done to  
8 ensure that the resources are connecting at the  
9 right places. So this is the kind of policy  
10 foundation that the Choice Project is trying to  
11 provide.

12 We have asked each of the panelists to  
13 specifically address their concerns. And looking  
14 at -- with the LSE panel, we will look at how do  
15 each of them perceive this question of what does  
16 the regulatory structure look like going forward,  
17 because we know that one thing that is certain is  
18 that there is change. And we know that the  
19 existing regulations cannot continue to accommodate  
20 the shifts that are occurring.

21 CPUC COMMISSIONER GUZMAN ACEVES: One thing, just  
22 a reflection -- oh, excuse me.

23 CEC CHAIR WEISENMILLER: No, go ahead. Go ahead.

24 CPUC COMMISSIONER GUZMAN ACEVES: -- a reflection  
25 of what Pat Wood was sharing of the situation in

1 Texas. And I think in general when we look at our  
2 procurement mandates and processes, we really put  
3 the process requirements on the utilities, on the  
4 LSEs, and we don't really look at what are the  
5 developers doing, what's the supply side doing. We  
6 certainly don't have them piecemeal out their  
7 portfolio of options. And it's a bit of an inverse  
8 way to look at it. And, by the way, I'm confident  
9 that Commissioner Randolph is going to handle all  
10 this in that case, but we haven't really looked at  
11 the supply side. We've looked at what we can  
12 require of the purchasers, of the LSEs. And I  
13 think it's an interesting question in terms of what  
14 kind of frameworks or, you know, what kind of  
15 conversations we want to foster, putting a little  
16 more burden on those folks. I know they're here  
17 today to speak for themselves with all their ideas,  
18 but we don't -- we really kind of hearing about how  
19 constrained they are, how they don't have good  
20 contracts, and maybe it's really stepping back and  
21 looking at what Texas has done to say maybe your  
22 product is actually no longer as relevant as what  
23 we need and your product could still be good, be it  
24 gas or otherwise potentially, but it needs to be  
25 broken up in some way.

1       We're kind of forcing our -- we're in this world  
2       where we really want the CCAs and the utilities to  
3       work together, but maybe what Pat is raising is not  
4       the only paradigm to be looking at this under. We  
5       also come at this with strong legislative oversight  
6       in pushing for competitive solicitations, for  
7       least-cost projects, for green projects, and we  
8       heard a lot from Pat about bilateral contracts that  
9       are cheaper, potentially. So that's also kind of a  
10      violation of a principle that is theoretically more  
11      transparent to have these types of solicitations.  
12      And not that we don't authorize bilaterals, don't  
13      get me wrong, but they're often in the face of an  
14      RMR.

15      So, anyway, I thought that was very interesting  
16      and I certainly haven't thought about what role we  
17      can have and what sort of authority we would have  
18      in that realm. Certainly that's something we leave  
19      to the ISO for the most part, but if we're going to  
20      get into a room or a space where we're trying to  
21      foster these creative packages to deal particularly  
22      with the local reliability issues, I think we're  
23      going to have to some greater participation and  
24      innovation from the supply side as well.

25      MS. FELLMAN: Thank you. And I want to point out

1 that this is one of the areas where we spent -- you  
2 know, we have more than two pages on in the Gap  
3 Analysis. And it is very important to look at --  
4 as many of you know, I spent a lot of years in the  
5 private sector looking at projects from the basis  
6 of how do you get them built, and over my 30 years  
7 of being in the private sector, when we first  
8 started, and, you know, like Jan Smutny-Jones is in  
9 the audience, Michael Alcantar, the idea of QF  
10 contracts was -- to the financing entities, to the  
11 banks, was just like: What? What are you going to  
12 do out there?

13 So we've had to educate the financial  
14 institutions and work with them to make sure that  
15 they feel comfortable, the collateral. And we talk  
16 about potential creative ways to do that, potential  
17 new credit financial instruments and credit  
18 vehicles to allow projects to go forward.

19 I would ask the panelists on the -- for the --  
20 from the LSEs to talk about -- I assume that  
21 everyone wants to get the lowest priced contract so  
22 they can provide the lowest prices to their  
23 customers. So this is absolutely spot on in where  
24 we go next. And it may not be -- it's not  
25 necessarily a regulatory or legislative matter, but

1 it is an initiative that the State can take on to  
2 work with the banks, to work with the cities and  
3 counties that are forming LSEs -- CCAs, rather, and  
4 to come up with new forms of financing.

5 And I wanted to share that ten years ago my  
6 company -- my former company had the largest  
7 contract, solar contract for a utility-scale  
8 project, which was 21 megawatts, outside of Blythe.  
9 And I had to spend the first two months or three  
10 months of my time at that company talking to banks,  
11 telling them, yes, solar panels will work in large  
12 scale. So it's happened that fast, Commissioner,  
13 and hopefully we can get ahead of it now so that  
14 there's capital investment, because without that  
15 nothing will go forward.

16 CEC CHAIR WEISENMILLER: I was going to ask a  
17 different question which was having looked at the  
18 gaps, which are the staff most concerned about?

19 MS. FELLMAN: I'll go back. I will just do the  
20 overview. This list -- let's see, there's two --  
21 is there 16? This list represents out of all the  
22 potential issues, the high priorities. And I can't  
23 say that one is of greater concern than the other  
24 with respect to its importance to the market going  
25 forward. However, we have made some

1 recommendations and some analytical observations  
2 that certain things are not being addressed now and  
3 need to be addressed.

4 So the -- I don't know if I'd call it the most  
5 imminent would be Provider of Last Resort; the  
6 topic we just mentioned, on financing; looking at  
7 the predatory sales tactics, because that's real  
8 and live now, and how does that extend across the  
9 market; and what is the role of the IOUs going  
10 forward to accommodate this shift from where they  
11 are today to where they will end up.

12 Nidhi, did you have anything you wanted to add to  
13 that?

14 CPUC COMMISSIONER PETERMAN: Thank you, Diane. I  
15 appreciate your response to that question because,  
16 as I relayed to before, I was trying to figure out  
17 some prioritization within the recommendations.  
18 And so related to that, do you anticipate providing  
19 more structural prioritization around future  
20 analysis?

21 I note that a lot of the recommendations identify  
22 the need for more analysis, it seems, could be  
23 conducted outside of the CPUC, and so I think it  
24 would be helpful, and maybe stakeholders can opine  
25 about this too, if there are already researchers or

1 organizations that are looking into some of these  
2 questions, how do we best in line with their work  
3 and make sure that we leverage it and bring it into  
4 our proceedings. And so just a thought about what  
5 needs to happen pre-proceeding versus what can  
6 happen within a proceeding. Some of these seem  
7 very germane to proceeding questions. I'm more  
8 concerned about what has to happen in advance.

9 And it also gets to the broader question around  
10 timing. Do you have any sense of how long --  
11 pursuing each of these recommendations should -- or  
12 can be allowed to take?

13 I know it's a lot, maybe something for next --

14 MS. FELLMAN: Let me parse that out. First of  
15 all, we had a lot of complaints in the Choice Paper  
16 that we asked questions and where were the answers.  
17 So when we did the Gap Analysis, we provided some  
18 answers and a structure for how to move forward.  
19 It is our intention, and, President Picker, you can  
20 weigh in on this because we've talked about it  
21 briefly, but I'd like to hear, you have the thought  
22 about it, that we will create a roadmap next in the  
23 final, which will be produced before the end of the  
24 year.

25 And the roadmap will do exactly what you

1 articulated, Commissioner Peterman. And, again, we  
2 cannot do that without broad internal input and  
3 external input.

4 I do want to mention that in addition to the Ad  
5 Hoc Advisory Committee that's been working with us,  
6 we also have a think tank connection, so we've been  
7 working with the Berkeley, Davis, E3 to weigh in  
8 and come to us, and this is a point where we'll go  
9 back to them and try to weave it together, but  
10 that's absolutely essential.

11 And I also will say that I was standing here  
12 about a year ago. This is my third En Banc on this  
13 project. We put out two major policy pieces.  
14 We've been working in a compressed schedule. And,  
15 again, I appreciate everybody participating, but I  
16 have confidence that we are going to finish by the  
17 end of the year.

18 CPUC COMMISSIONER RECHTSCHAFFEN: Can I ask you a  
19 little bit more about the emergency planning and  
20 response? That's one of the ones, the gaps, where  
21 you recommend more analysis, but is there anything  
22 more you can say about what you found and are there  
23 any thoughts about how authority or responsibility  
24 should be shared or needs to be shared? And we can  
25 ask -- the first panel after lunch is a good panel

1 to ask as well, but did the staff identify anything  
2 more you can share about what you identified in  
3 that gap?

4 MS. FELLMAN: Yes. First of all, there is a very  
5 comprehensive and excellent protocol in place for  
6 emergency response through the Commission and the  
7 Safety branch of the Commission. That applies to  
8 the IOUs.

9 So the gap with respect to the emergency response  
10 is not whether there needs to be more done on the  
11 protocols that are currently in place but, rather,  
12 as we disaggregate the market who is going to be  
13 responsible during an emergency, who do you call.

14 The IOUs are clearly responsible for continuing  
15 to be responsible for the grid, but how do you get  
16 access to them. Will the CCAs and ESPs have some  
17 responsibility to their customers to indicate who  
18 to call, how to call. Is there a coordination  
19 function needed.

20 Those are the gaps that we identified. So it's  
21 not on what's being done today with the IOUs, under  
22 the Commission's authority, it's what happens when  
23 there are more providers.

24 CPUC PRESIDENT PICKER: So I'm going to return to  
25 this question of enforceability. I think both of

1 our early panelists pointed to the need to have  
2 some common expectations to get folks together to  
3 cooperate or to comply. Mr. Cavanagh pointed out  
4 that that's the solution to people who don't come  
5 to the table to find cooperative solutions to long-  
6 term procurement. We not only need to have that  
7 central procurement but we need to actually have  
8 some ways to actually compel people to work towards  
9 that.

10 Mr. Wood pointed out, Commissioner Wood pointed  
11 out that you can do that by setting a cost, a  
12 compliance cost, but I'm not convinced that we have  
13 the same level of enforceability for all the  
14 parties who are participating in California's  
15 overall electricity industry. And somehow or  
16 another we're going to have to give everybody an  
17 equal reason to come to the table, an equal reason  
18 to have an observance of market rules. So I will  
19 ask that of a variety of the participants here.

20 I think that also falls into this larger question  
21 that we'll have to deal with, and we'll certainly  
22 have to turn to the Legislature for authority for,  
23 which is how do we create that Provider of Last  
24 Resort that folks refer to. These are both lessons  
25 that we learned from the last energy crisis. And

1 we have had a lot of assurances from various  
2 parties that they will take care of these problems,  
3 but I'm a belt-and-suspenders person, I like to  
4 hear their assurances, but I like to know what  
5 we're going to do in case people fail in that.

6 And so I think that, again, this question if  
7 somebody is assuming that they are going to assume  
8 some of those responsibilities of becoming the  
9 Provider of Last Resort, if in fact it's not  
10 effective to require the incumbent utilities to  
11 take on those responsibilities on behalf of all  
12 these other parties, or if we decide to do that  
13 what are they going to be compensated by these  
14 other parties in terms of potential for market  
15 failure, so we know that they happen. We know that  
16 they happen on an individual level, we know that  
17 they happen on a global level. So I think we're  
18 going to have to prepare for that. We're going to  
19 have to think about this.

20 Do we need to, as part of this enforceability  
21 then, have some kind of neat way of stress testing  
22 the ability of parties to actually create financing  
23 to meet those things that they say that they're  
24 going to do. I hear a lot of claims about cheap  
25 electricity, cleaner electricity, and lots and lots

1 and lots of local assets that people would  
2 certainly like to see. I'm curious as to whether  
3 it's all affordable on the basis that people  
4 believe that it is. How, in fact, if that's -- if  
5 it fails and they fail, how do we actually make  
6 sure that they make all the different parties  
7 whole, because overall a failure in one community  
8 in the state of California reflects poorly on all  
9 of California's markets. How do we create an  
10 incentive then for people to be very realistic  
11 about the problems that they're -- the programs  
12 that they're going to undertake in ways that they  
13 actually back up. That is, in many cases here, the  
14 shareholders are not necessarily going to be  
15 affected, it's going to be electricity customers.  
16 Any of the sponsors of some of these entities, like  
17 the CCAs themselves, are not going to be affected  
18 nearly as much as their customers and other  
19 customers from other surrounding communities who  
20 may have to pick up the slack.

21 So I'm going to continue to be interested in this  
22 underlying structure of how we get equal interest  
23 in compliance, equal interest in participation at a  
24 realistic level.

25 CPUC COMMISSIONER RANDOLPH: Yeah. I think that,

1 you know, the whole question about enforcement and  
2 our authority, I tend to agree that we do have  
3 broad authority, but the question is how are we  
4 holding different entities accountable, because  
5 obviously some LSEs are much more -- have much more  
6 specificity in terms of what information they need  
7 to provide, what analysis they need to go through  
8 to look at the procurement they're planning on  
9 going through and the procurement they have  
10 completed in the past. And without some sort of  
11 mechanism to think about how different LSEs are  
12 doing their procurement, there's always going to be  
13 a lack of ability to hold the different LSEs  
14 accountable. And so thinking about what kind of  
15 structure we need in that regard is, I think, one  
16 of the key questions we're going to have to look at  
17 going forward with our roadmap or, you know,  
18 however we're going to characterize our filling  
19 these gaps.

20 CPUC COMMISSIONER RECHTSCHAFFEN: Right. And to  
21 follow up on what President Picker said or maybe  
22 said implicitly and Commissioner Randolph, there's  
23 different levels of accountability. And what our  
24 role may be to -- we have to figure out the right  
25 level of enforcement for accountability about what

1 counts for the grid. It's a very different  
2 question to say whether or not we're enforcing a  
3 claim that the service is more affordable to  
4 customers, or something like that. That goes to  
5 the heart of customer choice and decentralization.  
6 It's a much different question to me than  
7 accountability for meeting resource adequacy needs  
8 or meeting long-term RPS contracting needs.

9 And so there are a lot of claims that will happen  
10 in the market, and I know Pat Wood where he might  
11 say, he might come out and, you know, we're in a  
12 different place by statute, but I think we have to  
13 keep our eyes on what kinds of accountability we're  
14 trying to enforce.

15 CPUC PRESIDENT PICKER: Okay. Well, in the  
16 interests of keeping us moving on time, we're five  
17 minutes early so we're going to break now and we'll  
18 be back at 1:00 p.m. for our first panel, so thank  
19 you.

20 (Luncheon recess taken from 11:54 a.m. to 1:01  
21 p.m.)

22 CPUC PRESIDENT PICKER: Good afternoon. I hope  
23 everybody had a nice lunch.

24 We're going to get started. So our moderator for  
25 the next panel is Diane Fellman. I'm going to let

1 her introduce the panelists.

2 Thank you.

3 MS. FELLMAN: Thank you, President Picker. And  
4 good afternoon, Commissioners. We'll kick off the  
5 next part of our En Banc with two panels, as I  
6 mentioned earlier. These panelists have been asked  
7 to provide their responses to the Gap Analysis from  
8 their particular perspective.

9 Each representative, I want to note, was chosen  
10 by the Stakeholder Group, so we didn't select. The  
11 IOUs, CCAs, and ESPs picked their representatives  
12 today. And I'm proud that three out of the four  
13 panelists are women, so just like our Commission,  
14 three out of five.

15 All right. So without further ado, each  
16 panelist, you have their bios. We'll go in the  
17 order from Caroline to Matt. He'll go last. They  
18 will give a five-minute opening and then there will  
19 be time for questions.

20 Caroline.

21 MS. CHOI: Right. Good afternoon. I appreciate  
22 the thought and leadership that the Commission has  
23 shown in putting forward this examination of  
24 customer choice in light of the State's ability to  
25 achieve de-carbonization, reliability, and

1 affordability. So my comments are going to touch  
2 real briefly on affordability, reliability, and  
3 then really quickly on the utility business model.

4 When we look back at the start of this  
5 investigation, how it advanced the State's core  
6 policy, principles of de-carbonization,  
7 reliability, and affordability. We think that we  
8 do need to think proactively about how to address  
9 those issues so that we can avoid Energy Crisis  
10 situations.

11 We believe, as we have stated in our comments  
12 earlier, that we have to prioritize these policy,  
13 principles. And, in our minds, de-carbonization  
14 should be the point of the spear, while ensuring  
15 that reliability and affordability are maintained  
16 or even enhanced. And a customer choice should be  
17 looked at as to how it can advance these principles  
18 of de-carbonization while maintaining or enhancing  
19 reliability and affordability but that it's not in  
20 itself a principle for the Commission or for the  
21 State.

22 The Gap Analysis of course alludes to  
23 affordability in several sections, but now it's  
24 done through the lens of consumer protection and no  
25 longer addresses affordability as a core principle,

1     which we believe should be maintained.

2         As was pointed out in the earlier comments and is  
3     pointed out in comments that had been written,  
4     affordability is core to the State achieving the  
5     2030 Climate Goals. We're relying on the electric  
6     system to fuel more assets to the state's economy,  
7     through transportation and through building  
8     electrification. And in order for that to happen  
9     over the next 12 years, and in going forward into  
10    2050, it's critical that prices be such that  
11    customers will choose these clean electric  
12    technologies as they make decisions in the next  
13    several years -- today and over the next several  
14    years in order for us to achieve that 2030 target.

15         You have seen studies, mostly recently the  
16    Borenstein Bushnell Paper that talked about how the  
17    prices in California are above the social marginal  
18    cost. That's something that we have to be  
19    cognizant of as the State looks at the policies to  
20    advance those Climate Goals, how much should be  
21    done through the electric bill, through the  
22    electric sector, how much should be socialized more  
23    broadly. I think that's a really critical question  
24    as we think about going forward towards 2030.

25         Certainly rate architecture is another area to

1 think about in terms of affordability and having  
2 transparency, equity, sustainability, and access,  
3 like reliability addressed in the rate  
4 architecture. We have to acknowledge of course  
5 that there are cost pressures as we move forward  
6 towards 2030, toward de-carbonizing more of the  
7 economy, and the idea of course is to try and do  
8 that at the lowest cost possible, recognizing that  
9 we want to ensure that electricity does not take up  
10 a burdensome part of our customers' wallets.

11 So as mentioned in the Gap Analysis emphasized  
12 consumer protection, certainly one of the most  
13 effective ways we think to protect customers is  
14 enabling informed choices, being access to  
15 sufficient, accurate, and relevant information. We  
16 share your concern about the slamming and cramming  
17 that had happened and certainly are concerned about  
18 predatory sales practices that may occur with some  
19 behind-the-meter service providers. And we believe  
20 that the Commission has broad jurisdiction to --  
21 and can exercise that in its existing authority to  
22 protect customers.

23 As rate design evolves, we also advocate that  
24 rate and incentive transparency occur so that  
25 customers understand what in their bill is being

1 driven by policies, what is the value of grid  
2 services, the cost of policy mandates that are  
3 funded through rates.

4 And then, finally, we do have a code of conduct,  
5 PFM, before the Commission that we believe will  
6 also help address some questions around CCAs from  
7 our communities and counties and cities.

8 So we believe also with respect to the  
9 reliability that margin progress with respect to  
10 resource adequacy is not sufficient to ensure the  
11 grid's reliability is maintained as more  
12 fragmentation occurs from departing load. We know  
13 it's a complicated issue to resolve. And while  
14 interim progress has been made, the RA proceeding,  
15 we believe, has not adequately addressed a long-  
16 term vision. And so, for example, we should, we  
17 believe, explicitly modify the scope of the RA  
18 proceeding to address any reliability concerns  
19 resulting from increased customer choice and  
20 department load.

21 As we noted in our comments in June, we recommend  
22 the development of a reliability transition plan to  
23 ensure the smooth transition away from gas-fired  
24 generation and to determine the products and  
25 contract terms that would replace that gas

1 generation and how it would be provided.

2 And then taking a step back, the question about  
3 the role of utility and potentially different  
4 business models in the future, as we, the  
5 Commission staff, various stakeholders have said  
6 previously, regardless of the choices customers  
7 make, utilities will be relied upon to be  
8 responsible for the system that delivers the  
9 electricity to those customers. And so while we  
10 have been historically, we believe, the State's  
11 best and most effective clean energy policy  
12 implementers, given our reach to all customers, we  
13 believe that that still remains the case, and look  
14 forward to working with stakeholders as the  
15 decisions are made to move forward on a clean  
16 energy economy. So as part of that, maintaining  
17 the health of utilities is critical, we believe,  
18 for the State to achieve its de-carbonization goals  
19 and its reliability and affordability goals as  
20 well.

21 Thank you.

22 MS. SWAROOP: Hi. I'm Shalini Swaroop. I work  
23 at Marin Clean Energy and today I'm representing  
24 Cal CCA.

25 So thank you to all of our Commissioners and

1 Project staff, especially Diane and Nidhi for being  
2 so collaborative in this process as we moved  
3 through the Consumer Choice Project.

4 CCA has shared the State's goals of de-  
5 carbonization, reliability, affordability, and  
6 social equity. And, despite operational setbacks,  
7 we are here to do the hard work with regulators as  
8 we all evolve into a new paradigm.

9 So I have two main points today and the first  
10 stems from the original Customer Choice White  
11 Paper, and I was very happy to see that it was  
12 addressed somewhat in the Gap Analysis.

13 Diversification in California's energy market does  
14 not mean deregulation. Customers want choice, so  
15 while options diversify, a command and control  
16 style of regulation is no longer appropriate. CCAs  
17 have a different governing structure, but they are  
18 still regulated by their local elected officials  
19 and by state regulators, such as yourselves, on a  
20 variety of issues.

21 Today's energy market is vastly different from  
22 the energy market of the late nineties. In this  
23 new paradigm, regulators should be working  
24 collaboratively to understand how rules  
25 holistically affect LSEs and provide regulatory

1     certainty. For example, we now have divergent GHG  
2     accounting methodologies in the RPS statute, the  
3     Clean Net Short methodology proposed in the IRP  
4     proceeding before the CPUC, the AB1110 proceeding  
5     ongoing at the CEC, and current standard industry  
6     practices. A CCA focused on maximum reduction of  
7     GHG emissions does not know where to aim when  
8     signing our long-term contracts.

9     We also have to consider which option keeps costs  
10    low while causing the least confusion for our  
11    customers and how much time will we be given to  
12    make the shift to new methodologies when long-term  
13    contracts have already been signed. Collaboration  
14    between regulators at your two agencies could ease  
15    LSE uncertainty and market uncertainty on this  
16    issue.

17    In a new diversified energy market there is  
18    certainly an endearing role for the IOUs. There  
19    is: Transmission and distribution; safety,  
20    collaborating with first responders and  
21    coordinating with local governments to lead  
22    emergency response efforts; and, most importantly  
23    for us right now, providing data.

24    My second main point is that something in the Gap  
25    Analysis was missing. What is the evolving role of

1 the regulators and how are we adapting our systems  
2 to the new market. The Consumer Choice Action Plan  
3 is an extremely heartening first step to this goal  
4 of collaboration, but how we continue these types  
5 of collaboration in a durable mechanism to foster  
6 ongoing communication. And, no, Ralph Cavanagh and  
7 I did not steal each other notes this morning.

8 Collaboration is crucial for information-sharing.  
9 Adversarial proceedings do not foster  
10 collaboration, and certainly they have their place,  
11 but collaboration will need to supplement and in  
12 some places replace the Commission's traditional  
13 approaches to a vertically-integrated utility  
14 market.

15 I'm going to give you an example. We all know  
16 that there is an RA issue. And the fact that there  
17 were 11 RA waivers filed earlier this year and they  
18 were filed by ESPs and an IOU show the breadth of  
19 the issue. It's not limited to one type of market  
20 -- actor. But there are a number of factors  
21 leading to the current RA issues we are  
22 experiencing: The transmission to intermittent  
23 renewable resources, once-through cooling  
24 requirements, other generators' retirement  
25 requests, growth of DERs, changing forecasts, lack

1 of market liquidity, hydro uncertainty, an increase  
2 in LSEs, and declining supply during a period of  
3 increasing demand.

4 I'm here to tell you that CCAs are here to solve  
5 this with you. No CCA wants to be short and cause  
6 issues on the grid. To enact a solution, we need  
7 robust collaboration with the CAISO, the CEC, the  
8 CPUC, generators -- as you indicated before,  
9 Commissioner, and all LSEs because we all have  
10 visibility into a different slice of the puzzle,  
11 and I think -- or a piece of the problem, and that  
12 really, with that diversified view is when we can  
13 really begin to understand how we got here and how  
14 to get out of here.

15 Returning to my main point, I ask for continued  
16 and robust collaboration not only between  
17 regulators and LSEs but also with each other and  
18 other market stakeholders to understand and solve  
19 market issues together. In MCE's comments we  
20 indicated that there could be a staff level working  
21 group at the CPUC that addresses pressing issues at  
22 a staff level and feeds into an annual En Banc  
23 structure to keep decision makers in the loop.

24 Now Ralph thought this didn't go far enough, and  
25 that's fine. This was a proposal that we thought

1 would be -- cause less friction for the regulators  
2 because it fed into a process that you already  
3 have. We're happy to be more creative as we move  
4 into the future.

5 At this point I'd like to renew a previous  
6 invitation to all of you to attend a CCA Board  
7 meeting. We have participated in En Bancs in many  
8 regulatory proceedings before all of you, and we  
9 ask that you come to us and, frankly, discuss areas  
10 of potential concern and collaboration. Thank you.

11 MS. LYNCH: My name is Mary Lynch. I'm with  
12 Constellation, an Exelon company, and here to  
13 present for you an ESP view of some of these  
14 matters.

15 We are very encouraged by the Gap Cap Report. It  
16 recognizes that its customers who are demanding  
17 choice -- and Diane and her team have done a great  
18 job of teeing up a lot of the important issues that  
19 need to be addressed as retail choice expands.  
20 With my five minutes, I want to focus primarily on  
21 observations about the role of POLR as it impacts  
22 investment and POLR service in the face of  
23 increased retail choice while we ensure attainment  
24 of de-carbonization, reliability, and consumer  
25 protection. These remarks are just intended to tee

1 up some amplifications to what Diane and her team  
2 have already included in the report.

3 But before I get to POLR, just a couple of  
4 comments on retail choice and de-carbonization.  
5 There is a part of the Gap Cap Analysis that says  
6 that customer choice may conflict with de-  
7 carbonization goals. I do not believe that that is  
8 the case. There has not been a conflict today. the  
9 ESPs have met their de-carbonization goals. Their  
10 RPS goals that have been required of them. Many DA  
11 customers choose to go beyond the requirements for  
12 renewables and are deploying behind the meter and  
13 making even off-system purchases of renewables in  
14 order to have a cleaner footprint. But some  
15 customers don't make that choice. They only are in  
16 a position to meet the minimum, and that's our job  
17 as their supplier, is to make sure that there is  
18 enough renewable energy put on the system for their  
19 load to be covered from the RPS requirements.  
20 That's our job as their supplier.

21 Retail choice in the context of Ralph's comments  
22 about supporting voluntary procurement efforts and  
23 voluntary partnerships, Direct Access is tailor  
24 made for that. We are always looking for ways to  
25 provide better and more service to our customers.

1 And having more customers able to avail themselves  
2 of choice, allows us to get even more creative  
3 working with our -- working with generators, who  
4 may form partnerships to make equity investments,  
5 along with the types of things that Pat Wood talked  
6 about, with us going into multiple offtake  
7 agreements with multiple suppliers to meet some of  
8 our coming long-term requirements. We're  
9 investigating all of those things now.

10 But for a moment back to POLR, the Gap Cap Report  
11 teed up many important POLR issues, particularly  
12 noting that POLR is very important with respect to  
13 having something in place in the event that one of  
14 the retail choice providers fails. But POLR is  
15 much more than that. POLR is where it is  
16 predominant and used widely is there to facilitate  
17 choice, not to be there in case choice fails. It's  
18 there to help promote choice. And so the structure  
19 of the POLR service needs to be looked at in that  
20 context.

21 In many cases the POLR actually acts as an  
22 additional form of choice that customers had. So  
23 in the POLR markets, getting into the weeds just a  
24 little bit, the POLR provider is securing all the  
25 energy products needed to meet the load, and then

1 they execute the contracts to do that. The  
2 wholesale market is what steps up to the plate to  
3 help make sure that of the resources are there to  
4 provide that. And it's at that wholesale level  
5 that investments are being made. And it's in that  
6 area where California really has a lot of work to  
7 do with respect to POLR, because the fact of the  
8 matter is for us to make independent investments  
9 with generators, we are very hampered in doing that  
10 when there are contracts being given out that have  
11 rate-regulated protection that are made with -- in  
12 a mode that is not subjecting those contracts to  
13 market risk.

14 In other words, we're being faced with regulatory  
15 risks that our investments could be devalued by a  
16 decision to let the utilities invest large sums of  
17 money in a facility that could just render ours  
18 without much value, and they're assured of getting  
19 their money back, so there is a real investment  
20 problem that we have while we have one foot in the  
21 regulated world that needs to be addressed.

22 Fortunately, a lot of these issues have already  
23 been teed up in Phase 2 of the PCIA proceeding;  
24 recently passed SB237, also calls for a study to  
25 look at just these sorts of issues. The RA

1 proceeding, while having additional things that  
2 need to be brought into play with respect to RA, is  
3 also teeing up looking at a more forward RA market.  
4 And we think that all of those proceedings,  
5 informed by the work that's being done here in  
6 Customer Choice, will help pave the way to a more  
7 vibrant retail choice market.

8 Thank you.

9 MR. FREEDMAN: Commissioners, I'm Matt Freedman  
10 with The Utility Reform Network. I appreciate the  
11 opportunity to talk here. I'll start discussing a  
12 little bit about first principles around choice and  
13 then I have five specific observations about the  
14 Gap Analysis that I'd like to bring to your  
15 attention.

16 We were asked to talk about the value proposition  
17 of choice. What is it? Well, we've got to ask  
18 ourselves what problem we're trying to solve.  
19 Competition and choice are not the goals. They're  
20 tools that can be used to achieve defined outcomes.  
21 Competition also creates a variety of challenges,  
22 many of which are identified in the Gap Analysis,  
23 transaction cost, customer confusion, loss of  
24 regulatory control, duplication of services,  
25 collective action problems.

1       And choice-based models, they're typically driven  
2       by vendors and marketers that are seeking to sell  
3       products, not by customers, who are seeking better  
4       outcomes. Customers care about lower rates, they  
5       care about cleaner energy. They care about  
6       reliable service. I think choice ranks far below  
7       those outcomes in where customers see the State  
8       having to place its priority.

9       And the environmental benefits of retail  
10       competition are typically overstated. They often  
11       result from resource shuffling and trading of  
12       excess resources. They fail to result in  
13       additionality. This word's going to keep coming  
14       back in my presentation. And most customers lack  
15       any real understanding of what choices produce  
16       meaningful and superior environmental benefits.

17       The bill savings we're seeing a choice-based  
18       market, well, sometimes they're just the result of  
19       cost-shifting and rate arbitrage. They're not a  
20       result of some actors being able to buy energy off  
21       the CAISO markets at a lower price than some other  
22       actor.

23       So the concern here is that retail choice and  
24       customer choice doesn't become a triumph of  
25       marketing over real world outcomes.

1       The five issues I'd like to talk about, first,  
2       confidentiality. The Gap Analysis identifies  
3       concerns over the confidentiality of customer-  
4       specific data, but it fails to note other types of  
5       confidentiality concerns. What's the problem? the  
6       increase in retail competition is creating more  
7       confidentiality claims by Load Serving Entities,  
8       particularly Electric Service Providers. We're  
9       seeing this trend at the PUC, we're seeing it at  
10      the Energy Commission. And in some cases we have  
11      Load Serving Entities objecting to providing any  
12      confidentiality data even to agencies that would  
13      inform the agency's review of certain policy  
14      matters.

15      So more competition can mean less information is  
16      available for public review and regulatory  
17      proceedings by legislators and by customers, but  
18      information is critical to good policymaking and to  
19      enabling meaningful customer choice. So it would  
20      be kind of ironic if this new era of customer  
21      choice leads to more confusion and less information  
22      available in the public domain. The Gap Analysis  
23      should take a look at this and point to the need  
24      for more transparency, reforms to confidentiality  
25      rules and practices, including for example

1 automatic releases of information that age out of  
2 confidentiality protections.

3 The second issue, disclosure of greenhouse gas  
4 and renewable content in portfolios. The Gap  
5 Analysis accepts the importance of full disclosure  
6 relating to resource portfolios, but it only  
7 recommends that the agency should monitor the  
8 Energy Commission proceeding, implementing the  
9 AB1110 revisions to the power content label. By  
10 the way, thank you to the Energy Commission for the  
11 great job that the staff has been doing in that  
12 proceeding, look forward to seeing that proposal go  
13 to rulemaking soon. But really it's not sufficient  
14 to simply monitor the implementation of that  
15 proceeding. That's a very incomplete understanding  
16 of the agenda.

17 These two Commissions, you both have to start  
18 looking at resource shuffling, secondary dispatch,  
19 how you account for emissions in the energy  
20 imbalance market, the inadequacy of the default on  
21 specified power emissions factors. There's a lot  
22 of issues around greenhouse gas accounting here  
23 that have not yet been resolved and additional  
24 modeling and research is absolutely necessary. So  
25 the agencies need to be must more actively engaged

1 in the development of metrics for measuring the  
2 impacts of procurement on regional, real world  
3 greenhouse gas emissions.

4 Procurement, the Gap Analysis identifies concerns  
5 over the ability of the fragmented retail market to  
6 produce financeable commitments for new generating  
7 resources. I agree this is a problem. We're going  
8 to need to look at alternatives. We're going to  
9 think outside the box. I've got some ideas. What  
10 do they include? Maybe a voluntary procurement  
11 entity which has been identified and talked about.  
12 It's already enshrined in the RPS Code sections for  
13 RPS compliance. It could be expanded to include  
14 procurement for other resources. Or maybe a  
15 separate statewide entity that does the procurement  
16 of resources that aren't selected by any LSEs but  
17 we all decide are collectively needed to ensure  
18 optimal portfolio results. That's something that  
19 should be considered. Or if Electric Service  
20 Providers, for example, are having problems locking  
21 into long-term contracts because they're taking  
22 this market risk, what about asking whether the  
23 ESPs themselves would seek rate recovery with PUC  
24 approval for long-term contracts? That would  
25 remove the risk and enable them to make long-term

1 commitments without the fear that these contracts  
2 get stranded.

3 I don't believe that the coordinated multi-party  
4 procurement between LSEs that's described in the  
5 Analysis is realistically achievable in a manner  
6 that is fair and implementable. The notion that a  
7 single large project would get developed under 30  
8 individual contracts doesn't seem like a good use  
9 of this process. It's very burdensome and  
10 duplicative, lots of transaction costs. It's not  
11 really going to work. And reliance on the  
12 Integrated Resource Plan is also itself unproven  
13 and untested. Will it produce new results? I  
14 don't know, but I'd like to throw out a radical  
15 proposition here that the focus on greenhouse gas  
16 metrics for measuring success in procurement may  
17 itself be fundamentally misplaced given the  
18 problems with accounting and maybe we should just  
19 be focusing to a shift on additionality metrics.

20 New resources and new investments, that's what  
21 we're trying to do here, right? So maybe we should  
22 be looking at whether customer choice is resulting  
23 in these new investments' incremental output.  
24 That's the goal, and this may require a rethinking  
25 of how these targets are set.

1       So my time is up, and I've gone through two of my  
2       five topics, but I'm happy to talk about others and  
3       questions.

4       CPUC PRESIDENT PICKER: Can you at least identify  
5       for us what the other three are so that we can  
6       focus our questions?

7       MR. FREEDMAN: Thank you for asking,  
8       Commissioner. The first is the Provider of Last  
9       Resort. And I'd also like to talk about the rate  
10      design recommendations.

11      CPUC PRESIDENT PICKER: So let me ask about POLR  
12      since that's particular obsession of mine. What do  
13      you think is the best structure, should we leave it  
14      with the regulated entity, should each LSE have  
15      that responsibility? Should there be a separate  
16      entity?

17      MR. FREEDMAN: Well, the Gap Analysis certainly  
18      talks about this and suggests that we need to go  
19      and address this issue sooner rather than later. I  
20      don't see what the problem is with the current  
21      structure. We have what you could call a Provider  
22      of Last Resort, it's the existing incumbent  
23      utilities. They do this job reasonably well. The  
24      idea of coming up with an entirely new structure to  
25      provide this same service raises the question of

1 why we would be doing it.

2 The only question in my mind is how do we deal  
3 with tariffs for customers returning to bundled  
4 service, so we might see a scenario where there is  
5 a wave of returning customers, not just a couple  
6 but there is a market dysfunction event and you  
7 have a significant percentage of customers coming  
8 back. Right now they have transitional bundled  
9 service tariffs, the utilities, but that's a six-  
10 month tariff and then customers return to bundled  
11 service. Maybe we need a different kind of a  
12 tariff in the event of a mass migration back to  
13 customer -- bundled service.

14 CPUC PRESIDENT PICKER: Well, let me then ask  
15 Caroline Choi whether she feels that the incumbent  
16 utilities should provide that purpose and, if so,  
17 what's the best model for them to be able to  
18 provide the hedge they need for potential returning  
19 customers.

20 MS. CHOI: So the IOUs don't believe that they  
21 have to be the POLR, and certainly that is the role  
22 that we're playing today. And I want to also  
23 differentiate between the energy supplier role of  
24 POLR versus the reliability function that we have  
25 as the distribution network operator. And so we

1 would separate those. From the energy supply  
2 perspective, we don't see the utility has to be  
3 POLR, and happy to work with stakeholders on other  
4 opportunities for others that could provide that  
5 role.

6 From -- if they are going to remain POLR, it  
7 would be clearly articulated they are going to be  
8 the Provider of Last Resort, then I think we have  
9 some changes that need to be made in order to  
10 ensure the right rules are in place, to ensure  
11 certainty, to have cost allocation, these kinds of  
12 things to ensure that those are in place, and maybe  
13 the tariff idea that Matt just raised. But I think  
14 we don't see that has to be the utility.

15 CPUC PRESIDENT PICKER: And, again, if you do  
16 remain, then what do you see are the financial  
17 risks to your customers?

18 MS. CHOI: Well, it's an issue that we have  
19 today, right, where we are seeing departing loads,  
20 so having to plan for load that we don't know will  
21 be there, and so ensuring that there is proper cost  
22 allocation for resources that we do procure on  
23 their behalf. It is why I think we're talking  
24 about a central buyer function here for those types  
25 of resources.

1 CPUC PRESIDENT PICKER: But what does a Provider  
2 of Last Resort need to do for all of a sudden a  
3 large number of customers who are returning? What  
4 kind of hedges, what kind of resource allocations  
5 do they need to make, how do they ensure that at  
6 that point they aren't having to all of a sudden  
7 buy into an especially expensive market, which was  
8 an issue for the Providers of Last Resort in 2000  
9 and 2001? For the same reason that some of the  
10 Load Serving Entities failed, because there was an  
11 abruptly sharp increase in prices that they  
12 couldn't meet for even a couple of weeks, then all  
13 of a sudden those customers showed back at the  
14 utilities who also then were finding themselves  
15 buying into that market not only for their  
16 customers but then for all of a sudden these  
17 customers they hadn't planned for; how do we begin  
18 to set that structure in place?

19 MS. CHOI: Well, I think part of it is certainly  
20 having the proper cost-recovery mechanism, so one  
21 of the challenges certainly during the crisis -- I  
22 wasn't here, but my understanding is that because  
23 of the price cap, despite having higher cost of  
24 power, we couldn't -- we couldn't, you know,  
25 recover those costs through our rates that we were

1 charging to customers.

2 So certainly one of the things is to be able to  
3 recover those costs of the higher-priced power that  
4 we may see if -- especially if we see a mass  
5 migration back to the utility for returning  
6 customers or CCAs, for instance. So I think that's  
7 one.

8 Two is how do we -- I mean I think part of it is  
9 do you have a capacity market that you plan around  
10 the capacity that needs that may occur if you have  
11 a bunch of returning customers back to the utility.  
12 I mean that's another mechanism, thinking about  
13 other markets that currently don't exist in  
14 California around those returning customers.

15 CPUC PRESIDENT PICKER: Do we need to provide  
16 some form of stress testing of Load Serving  
17 Entities on a regular basis so there is a picture  
18 of what the likelihood, the risk, so you can price  
19 the risk of this large number of returning  
20 customers if you remain the POLR? I'm just asking.

21 MS. CHOI: I think that makes sense,  
22 Commissioner.

23 MS. LYNCH: May I address your question as well?  
24 So POLR, I think all of those points are very well  
25 taken. And I think Load Serving Entities having to

1 be, you know, creditworthy and financially healthy  
2 is important, but the whole POLR discussion is much  
3 broader than what we've been talking about here.  
4 It gets to how -- where is the resource base.

5 And if a CCA were to fail or if an ESP were to  
6 leave the market right away, it doesn't mean the  
7 generation is leaving the state. It means that  
8 somehow else that generation is going to be  
9 delivered to those customers who supplier went  
10 away. So that the generation resource is still  
11 there. And what POLR service does in places like  
12 in Maryland, the one that I worked on early in my  
13 career, is the utilities who no longer owned any  
14 supply went out with auctions. And they said tell  
15 us how much we need to pay you to supply a  
16 percentage of our load. And the winners in those  
17 auctions were then obligated to provide that power  
18 at that price, and customers were free to come and  
19 go. So the wholesale market had to price that risk  
20 of attrition into the market.

21 In Maryland, I don't know if they still have it,  
22 but we had a provision that said if for some reason  
23 the returning customer base was so large that it  
24 overwhelmed the service, that there would be some  
25 pricing accommodations. It never happened, but

1 that was there to provide some hedge so that the  
2 price, the base price to these customers over the  
3 term of that procurement would be reasonable, to  
4 ensure that if there was some big market  
5 dislocation, customers weren't paying for that day  
6 in and day out. They had a reasonable price most  
7 of the time, but there was a protection mechanism  
8 there.

9 So all of these things can go into designing the  
10 POLR supply. You can have all of these rules  
11 associated with when customers come and go. How  
12 you layer in the pricing for POLR, it's not done  
13 all at one time. The POLR, the utilities that are  
14 supplying the POLR go out with regular auctions  
15 once a year, doing a third of their load that's on  
16 POLR service. So there are auctions all the time  
17 going in across the POLR states at the wholesale  
18 level.

19 And it's very supportive of things like the other  
20 wholesale market structures that are out there like  
21 the capacity markets, because developers and owners  
22 of the resources know that there are going to be  
23 these recurring and very regular opportunities to  
24 deploy their resources and get contracts that are  
25 not super long-term, but that are usually three

1 years, sometimes a little bit more in some of the  
2 jurisdictions, but they know it's coming up all the  
3 time. And that's what provides the certainty to  
4 the marketplace for investments, to meet things  
5 when supply and demand start getting tight.

6 So there is a lot more to the discussion about  
7 POLR than just what happens if they're there to  
8 step in to fail. But on that topic keep in mind  
9 that certainly, I think, there are bond postings  
10 out there that cover some of those costs if  
11 somebody fails and leaves the state. There is some  
12 protection there on the cost side already. There  
13 isn't an ESP world because the customers, when we  
14 had that proceeding, recognized that they could  
15 absorb that risk. They were working with their  
16 suppliers, they were doing contracts that met their  
17 needs, and if we failed they said we will take the  
18 risk of going onto real-time pricing, the TBS rate,  
19 and they accepted that risk.

20 So there are a lot of rules that need to be  
21 developed for POLR, but it's a matter of just  
22 coming -- looking at the various models that are  
23 out there, seeing what applies best here, and  
24 developing the rules around that.

25 MS. SWAROOP: And I will just add two quick

1 points because most things have been said. The  
2 first is that CCAs are -- some CCAs are very  
3 interested in becoming the POLR and some CCAs are  
4 still investigating what that means, what  
5 obligations would be. As Caroline was indicating,  
6 there are different responsibilities associated  
7 with the gen and TND sides of the functionality.

8 The other thing I'll add is that there was  
9 recently a conclusion in the CCA bond hearing at  
10 the Commission where the rules were redone for how  
11 much the bond should be that's posted at the  
12 Commission by a CCA upon its launch to cover a mass  
13 return of customers. So that might answer some of  
14 your questions about financial hedging.

15 CPUC COMMISSIONER RANDOLPH: I have a question on  
16 -- oh, did you want to say something, Matt?

17 MR. FREEDMAN: Just offer one more thought on  
18 this. States that have done a lot of development  
19 on POLRs, they typically have skinny utilities,  
20 they fool retail competition. I don't think  
21 they're models for California. They're not up to  
22 the same kinds of big goals that we have here. And  
23 these POLRs typically engage in really short-term  
24 procurement. They do zero resource planning. They  
25 just want to be able to supply the needs of their

1 customers.

2 If you want to move in this direction, which I  
3 don't advise you to do, then you need to have  
4 resource planning figured out first. Who is  
5 responsible for buying all the resources that we  
6 want and need to reach our aggressive clean energy  
7 and Climate Goals. Now some would argue, well, let  
8 the wholesale markets figure that out, let's just  
9 set up a bunch of centralized concept markets,  
10 we'll federalize the policy, and FERC can tell us  
11 whether it's okay for us to prefer certain types of  
12 resources. Obviously I don't like that, but this  
13 is a very big break from where California has  
14 historically gone.

15 I get the problem with making sure that there is  
16 some entity for customers to come back to if  
17 markets go wrong, but trying to recreate the  
18 utility structure in a third-party entity seems  
19 like an awful lot of work for not much gain.

20 CPUC COMMISSIONER RANDOLPH: I was going to shift  
21 away from POLR, so does anybody else want to ask  
22 any questions on that?

23 CPUC COMMISSIONER RECHTSCHAFFEN: I was just  
24 going to ask does it have to be all or nothing?  
25 Can you have a short POLR that exists for a three-

1 or six-month transition period so you're not  
2 recreating the entire utility procurement  
3 architecture and then force customers go back to  
4 other providers?

5 MR. FREEDMAN: Then you'd have a bundled-service  
6 option that the utilities continue to administer  
7 but then a separate option which would be just for  
8 customers that are coming off of alternative  
9 service providers?

10 CPUC COMMISSIONER RECHTSCHAFFEN: Right. That's  
11 sort of I thought I heard Pat Wood suggested  
12 something like this this morning where you could  
13 have a competitive procurement -- competitive  
14 services for a POLR that exist just to meet a  
15 short-term need if the utilities didn't do it or if  
16 the CCAs didn't do it. It wouldn't replace the  
17 function of long-term resource procurement; it  
18 would just exist as a backstop in the interim  
19 period of time.

20 MR. FREEDMAN: All things are possible,  
21 Commissioner, but think of the amount of resources  
22 that will be required just to even set up the basic  
23 rules for such a process. Is that the really next  
24 set of tasks that you all want to be working on?  
25 There's a lot to do.

1 MS. LYNCH: Well, and I think that Mr. Wood was  
2 talking about the Texas model where -- and that was  
3 not the POLR model that I was talking about. The  
4 Texas model is a model that is just there to take  
5 care of customers who lose their supplier. it's not  
6 -- it's not any kind of a bundled service for  
7 customers who choose to stay with the utility,  
8 okay. It is just there to backstop the choice  
9 market. And, in fact, if you end up on that POLR  
10 service in Texas, you've got to hurry up and get  
11 off it, okay. It's not -- it is not there to  
12 provide long-term supply to those customers.

13 Whereas in the other POLR models that I was  
14 speaking of, those -- in most cases and maybe in  
15 all cases it is the utility that has the POLR  
16 obligation and they are managing these regular  
17 procurements to have supply to meet that load.  
18 It's just that they're going out in the wholesale  
19 market for that load instead of being told what  
20 they shouldn't -- you know, what types of resources  
21 they should have in their mix. The resource mix is  
22 coming from the market. And it is the market that  
23 is deciding what that resource mix will be  
24 consistent with the reliability requirements,  
25 consistent with the RPS and de-carbonization

1 requirements.

2 So, you know, they are meeting whatever those  
3 requirements are. Energy efficiency usually  
4 remains as a utility-provided service except for  
5 demand response, which is very integrated into the  
6 eastern markets. So Matt is absolutely correct  
7 that choice is not consistent with command and  
8 control investment. It's not. In that tension  
9 that exists that the paper, you know, very much  
10 tees up has got to be -- has got to be addressed.  
11 There have to be new market structures if we're  
12 going to move to a POLR service.

13 And no disagreement that California is so not  
14 close to even the POLR models that I'm talking  
15 about, the ownership of assets and contracts by the  
16 utilities is a huge issue. We know that they own  
17 now in those contracts and facilities way more than  
18 they need, and that ship has to be righted. We  
19 have to right-size the utilities' portfolios and  
20 then we can talk about moving the remainder of the  
21 resource base back into the market and talk about  
22 these new models. So there does have to be  
23 transition if that is what we want to move to. And  
24 we do have to think through how we right-size the  
25 utility portfolios and manage their procurement to

1 accommodate choice going forward.

2 MS. FELLMAN: And I just want to offer that in  
3 the Gap Analysis we pulled out from the market  
4 assessments examples of POLR in each of those  
5 jurisdictions so you could -- we summarize those  
6 and you can check those out to see how other states  
7 have done it.

8 MS. CHOI: Yeah. I would just add that those  
9 states are, to Matt's point, not like California to  
10 the extent that we have clear goals around the  
11 climate, goals that we have towards 2030, and all  
12 the programs that are provided through the utility.  
13 So when you think about POLR and the Texas model,  
14 in particular, it's how do you provide insurance of  
15 energy but also still assuring affordability and  
16 equity and access. So those are the things that  
17 aren't done through the Texas model, and not that  
18 other POLR states have different models, I  
19 understand that, but California is in a unique  
20 position that I think that other states don't  
21 necessarily provide a great model for us to follow.

22 CPUC PRESIDENT PICKER: Mr. Weisenmiller.

23 CEC CHAIR WEISENMILLER: I just want to ask Matt,  
24 so if the next step then would be for the utility  
25 to figure out a POLR role, that means they have to

1 make some presumption on how often, you know, that  
2 that is going to happen, how much load to line up.  
3 Should we be moving in that direction?

4 MR. FREEDMAN: Is your question about trying to  
5 figure out the residual load that's likely to  
6 remain with the utilities after customer choice  
7 does its work?

8 CEC CHAIR WEISENMILLER: No. It's -- I'm  
9 assuming if we ask Caroline today how much are they  
10 procuring for that POLR function, --

11 MS. CHOI: Right.

12 CEC CHAIR WEISENMILLER: -- the answer is  
13 unlikely she's going to say anything, so if you  
14 want to be able to stay in the utility, then we  
15 have to provide some guidance to them to move  
16 forward.

17 MR. FREEDMAN: Well, I think this gets to the  
18 larger issue of what happens to the existing  
19 portfolio of utility resources. Utilities have  
20 assembled a large portfolio, as we all know, of  
21 utility-owned and contracted resources, which  
22 contains some stuff we like and some stuff we don't  
23 like. And now with the load migration, the big  
24 question at least on the PUC's plate in the PCIA  
25 case is what to do with that portfolio. Do we

1 simply take it away from the utilities' bundled  
2 load entirely and treat it as a totally separate  
3 asset that is sliced and diced and sold into the  
4 market? Is some piece of it reserved for bundled-  
5 service customers? That's are the questions that  
6 remain to be answered. And I think it informs the  
7 answer to the question you're asking because given  
8 that they have got a lot of resources already, do  
9 we have them go out and line up entirely new  
10 resources to serve residual load? I'm not sure  
11 that that makes sense right now. We kind of have  
12 to see how the first part of the equation plays  
13 out.

14 CPUC COMMISSIONER RANDOLPH: Can I talk about  
15 consumer protection for a while? And this is  
16 specifically a question for the CCAs. Because in  
17 our recent decision sort of implementing some new  
18 consumer protections, we kind of leaned heavily on  
19 the IOUs to implement those consumer protections.  
20 So I would love out hear your thoughts about where  
21 -- what you see as the role of CCAs in terms of  
22 things like solar providers and protecting  
23 consumers from fraud or high-pressure sales, things  
24 like that.

25 MS. SWAROOP: Absolutely. Thank you. Because we

1 do tend to have close connections with our  
2 communities not only through our local elected  
3 officials but also through our program staff who  
4 are providing energy efficiency and other types of  
5 programs, also through our grassroots advocates and  
6 outreach with different community organizations and  
7 also, you know, everybody -- and also our customer  
8 engagement, we do tend to -- we do want to make  
9 sure that obviously our customers are protected.  
10 And so we have had a few issues with some of those  
11 core gas -- gas core transportation folks and so we  
12 have reached out to our customers on particular  
13 issues like that. We're happy to continue moving  
14 forward on those consumer protection issues.

15 We have seen MCE and other CCAs become a trusted  
16 source for consumer information from our customers  
17 who have been working with us on our NEM rates or  
18 other programs, so we're happy to integrate into  
19 the Commission's processes in terms of consumer  
20 protection and figuring out how we can bolster them  
21 with our own unique community viewpoint.

22 CPUC COMMISSIONER RANDOLPH: I'll just add that I  
23 think this is an area where the CCAs and the  
24 utilities can collaborate. We share a customer.  
25 You're right, much of our communication has been

1 directed by the Commission and I think the utility  
2 is and continues to be a trusted energy advisor to  
3 those customers. As they move to CCA service, I do  
4 think it's important that those messages echo one  
5 another and support one another so they are hearing  
6 a consistent message around what they should be,  
7 thinking about what they should be asking, the  
8 types of questions they should be asking of service  
9 providers when they come to them and do especially  
10 the hard sales tactics around energy savings and  
11 bill savings and those types of things, to make  
12 sure that they are aware of and are educated  
13 consumers of those products, whether it's solar  
14 storage and other services that may be coming to  
15 their phones or doors.

16 MS. SWAROOP: And if I could just add, you know,  
17 you're used to seeing the IOUs and the CCAs in very  
18 adversarial roles in front of the regulators, but  
19 actually on our customer service side we often talk  
20 about each other as partners and in partnership.  
21 And we do a lot of customer outreach and programs  
22 and service together. So I think that really is a  
23 ripe role, for us to collaborate.

24 CPUC COMMISSIONER RECHTSCHAFFEN: I have a  
25 question for Shalini and Mary about time-of-use

1 rates. I know some of the CCAs have been following  
2 the Commission's rules on time-of-use rates. I'm  
3 wondering if you could tell me how many that you  
4 know, how many plan to, and I mean I think it's the  
5 same question, if you know for Constellation over  
6 the other ESPs and if it works with the business  
7 model that the ESPs have. So I'm interested in the  
8 adoption of time-of-use rates.

9 MS. SWAROOP: Absolutely. So I can't give you a  
10 number off the top of my head because it depends on  
11 the IOU service territory and where CCAs are in  
12 their launch. However, I will say that many CCAs  
13 are interested did in doing TOU rates and some CCAs  
14 are interested in doing their own TOU time rate  
15 periods because when TOU rates are set -- or time  
16 periods are set for the whole state, that may or  
17 may not match the local load needs for each CCA.  
18 So depending upon -- for example, some CCAs don't  
19 peak in the summer, so CCAs are interested in going  
20 to TOU rates, it seems to be. I can double-check  
21 with other CCAs, but it does -- it depends on each  
22 CCA and where they are in their launch period.

23 CPUC COMMISSIONER RECHTSCHAFFEN: We have  
24 different CCAs for each of the three Investor Owned  
25 Utilities, as I'm sure you know, so we don't have a

1 single statewide TOU rate.

2 MS. SWAROOP: Right.

3 MS. LYNCH: And from the ESP perspective, we  
4 offer our customers whatever type of pricing they  
5 want. And a good -- I can't give you numbers  
6 either, but a significant part of our load does  
7 prefer to be paying indexed, daily indexed pricing.

8 Now what we do with those customers is provide  
9 them with information on what we're seeing happen  
10 in the marketplace where we're seeing pricing  
11 trends, and then we can help them layer in hedges  
12 to take away some of that volatility at times that  
13 seem advantageous to them, but it's their decision.  
14 Some of them -- like I said, some of them prefer  
15 time of use, some of them prefer to lock in fixed  
16 pricing primarily to manage their energy budgets.  
17 That's why we see fixed price preferences from a  
18 lot of our customers for specific time periods, in  
19 order to be able to tell their managements here is  
20 what our energy budget is, here is what we're going  
21 to be spending, and then they're locked in that  
22 way.

23 So we respond to what they want with respect to  
24 the pricing of their energy. And it's really --  
25 I'm trying to think of what kind of numbers I've

1 seen recently, but there's a significant amount of  
2 our load in each camp, fixed pricing versus indexed  
3 pricing.

4 CPUC PRESIDENT PICKER: So I think that as we  
5 move into a much more dynamic era with really high  
6 peaks, this is going to be an important question,  
7 so we may return to this at some point in other  
8 discussions.

9 I wanted to ask a little bit about some of the RA  
10 issues, the resource adequacy issues. Now Resource  
11 Adequacy can be both system-wide but frequently the  
12 stumbling block is for specific load pockets where  
13 transmission is constrained and there have to be  
14 some indigenous resources to provide part of the  
15 generation for peak in order to meet needs.

16 So this is a question about the scale of some of  
17 the providers. If you just have a few commercial  
18 industrial customers in a particular load serving  
19 area, how -- if you have portions of a load-  
20 constrained area in your service territory which is  
21 geographic and not related to the constraints of  
22 the grid, are we ever going to get to the -- to the  
23 bottom of this?

24 We saw in the past two Load Serving Entities  
25 being issued waivers for being out of compliance

1 with the resource adequacy requirements. Last year  
2 we saw 11 as well as one that failed to meet  
3 system-wide requirements. Is this going to  
4 continue? Do you have conversations amongst the  
5 Electricity Service Providers and the CCAs, do you  
6 really see a solution? I'm not sure that either of  
7 you anticipated this when you got into the  
8 California market, and so I'm just wondering  
9 whether the solutions that we are going to impose  
10 really are going to be that, or is there actually  
11 an effort at the local level to solve it rather  
12 than punting it to the CPUC?

13 MS. LYNCH: Well, I would leave it to Shalini to  
14 talk about whether she's seen local solutions.  
15 From our perspective as an ESP, we're looking at  
16 the supply and demand dynamics all the time to  
17 figure out what we need to get to serve our load.  
18 It's very hard to do in this state with respect to  
19 RA because the load forecasting changes, the RA  
20 requirements are not clearly set forth, there is  
21 aggregation that's going on that then needs to be  
22 backstopped because we don't go out and procure the  
23 right resources, there are problems with getting  
24 the supply we need from the entities that have it  
25 under contract who don't need it, there have been

1 issues with that. So there are a lot of disparate  
2 issues going on in RA, all of which are hopefully  
3 going to be addressed in the RA proceeding and a  
4 lot of what we believe would be addressed by moving  
5 to the multi-year forward requirements that people  
6 need to meet. But we also believe that it's really  
7 important for that to work well, to have a  
8 centralized clearing market that allows all of that  
9 supply to come in, all of that demand to come in,  
10 and clears out through that market so that in one  
11 place at one time the requirement that's been  
12 established for RA is met by the demand. And that  
13 mechanism, where it's used in other markets, really  
14 tends to reveal when you're getting close to  
15 problems, okay. It's really telling you when the  
16 market's getting short and what's happening,  
17 especially if you're doing this several years  
18 forward.

19 The problem from the ESP perspective of doing  
20 this multi-year forward isn't that we object to  
21 having a multi-year forward obligation, but our  
22 load is contestable, it can leave us at different  
23 times. So we need to have ways to move in and out  
24 of these RA positions. We're not looking for  
25 recovery of stranded cost, we're just looking for

1 ways to manage these commitments that we make to RA  
2 three years out when we may get a year down the  
3 road and not be serving that much load. And that's  
4 what we see as one of the primary benefits of a  
5 centralized clearing market, is that it gives us  
6 that opportunity through the regular auctions that  
7 are held under those mechanisms to put in supply  
8 that has been excess or to go in and buy someone  
9 else's excess because the load has migrated to us.  
10 So we very much, my company very much likes the  
11 forward-capacity markets, but we need to have tools  
12 to manage those obligations.

13 CPUC PRESIDENT PICKER: I wondered when somebody  
14 was going to say those words.

15 MS. LYNCH: Pardon me?

16 CPUC PRESIDENT PICKER: I wondered when somebody  
17 was going to say those words.

18 MS. LYNCH: Oh, well, okay, my job.

19 MR. FREEDMAN: Commissioner, if I may. The word  
20 centralized capacity markets gets me going, so  
21 there is another way here. Rather than creating a  
22 new set of markets to replace the current set of  
23 markets that aren't working, maybe -- here is a  
24 radical idea -- maybe we should take away local RA  
25 compliance obligations entirely from Load Serving

1 Entities. What if we gave it to a third party, a  
2 procurement entity that went and did local RA  
3 compliance on behalf of all the retailer sellers  
4 serving customers in a given area?

5 I mean Mary's right, the ESP community has this  
6 big challenge if customers keep leaving. Customers  
7 commit for one year, two years, maybe three years.  
8 So many Load Serving Entities can't tell you what  
9 they're going to need for RA compliance in a local  
10 area five years down the line, so why are we asking  
11 them to buy stuff for that market. Why don't we  
12 instead come up with a third-party procurement  
13 entity that's PUC jurisdictional, has to come in  
14 for approval and review of all deals, can enter  
15 into long-term commitments, can allocate the costs  
16 nonbypassably, and it isn't affected by the market  
17 turn that's happening at the retail space. So the  
18 regulators can be involved in helping to ensure  
19 that local resource needs are resolved optimally at  
20 least cost rather than through a disconnected set  
21 of choices by various market actors.

22 MS. LYNCH: And that type of idea certainly in  
23 the near-term as we transition to more choice  
24 doesn't need to be off the table, that for some  
25 elements of the requirements -- it's the same as

1 saying we need to have backstop procurement, right?  
2 It's backstop procurement of a different flavor.  
3 So that idea doesn't need to be off the table,  
4 especially in the near-term, that there would be  
5 some centralized procurement of local RA. But what  
6 has to be kept in mind is when I talk to my folks  
7 about it, when we lose degrees of freedom for  
8 serving our customers, we're not helping them as  
9 much as we could be helping them.

10 Now there has to be a balance there between what  
11 Matt's talking about, needing to, you know, get to  
12 a point where we have the confidence that all the  
13 resources there versus this idea of we want to help  
14 our customers get the resources they want. I  
15 recognize that there needs to be a balance there.  
16 So that needs to be kept in mind.

17 And we also have to very much keep in mind that  
18 if we're going to do that, we have to take into  
19 account commitments that entities may have already  
20 made, so we don't want to let a centralized  
21 procurement buyer come in and devalue something  
22 that a CCA might have done or that an ESP might  
23 have done.

24 MS. FELLMAN: And let's have -- we're reaching  
25 the end of our hour, but I think the CCAs and IOUs

1 would like to respond.

2 MS. SWAROOP: Yes, I'll be very brief. We are  
3 interested in doing different solutions for local  
4 RA. For example, East Bay Clean Energy and PG&E  
5 have gotten together in Oakland to do the Oakland  
6 Clean Energy Initiative and it's a storage project  
7 specifically to address things like local RA. So I  
8 unsurprisingly disagree with Matt on this issue for  
9 the need of a central procurement process with non-  
10 bypassable charges.

11 The point is: Give us the rules, we'll follow  
12 the rules, we'll innovate. We might not get to the  
13 rules the way that you want us to get to them, but  
14 we will get to them in a way that satisfies them  
15 and is innovative and serves our local communities.  
16 Thank you.

17 MS. CHOI: Well, we're very interested in a  
18 central buyer.

19 (Laughter)

20 MS. CHOI: And we think that it can protect  
21 customers, in particular, if you think about  
22 resources, particularly what you just said,  
23 President Picker, in terms of a resource need that  
24 would have to be split amongst multiple entities in  
25 a local area, that to simplify the contracting a

1 central buyer makes a lot of sense. Because you  
2 don't know where load's going because it's  
3 shifting, I mean IOUs have the same issue that the  
4 ESPs are saying that they have in terms of where is  
5 load going to be in the next few years, a central  
6 buyer again serves that purpose in terms of  
7 shifting between, and you don't have to worry about  
8 that as the buyer. So we are very interested in a  
9 central buyer. We think it makes a lot of sense,  
10 and so something that we would be very interested  
11 in talking about.

12 CPUC COMMISSIONER RANDOLPH: So can I ask kind of  
13 question sort of, kind of up on the higher level in  
14 the sense that some of this discussion has kind of  
15 -- gets to the heart of what Pat and Ralph were  
16 talking about which is, you know, sort of command  
17 and control versus the markets, right. Because  
18 some of these issues, like resource adequacy, there  
19 is a clear kind of regulatory framework and we look  
20 at, okay, here are the different levers we can pull  
21 and we have this whole conversation and we come up  
22 with a solution.

23 But then there are things like we have the whole  
24 conversation about time of use and are CCAs going  
25 to have their own time-of-use rates and then are

1 people next door to each other going to be on  
2 different time-of-uses. Somebody stays with  
3 bundled service instead maybe goes to a CCA, and  
4 then end up having different rates intent that  
5 defeats the whole purpose of time-of-use rates  
6 because the whole purpose is to affect people's  
7 behavior, to affect the grid, and help the whole  
8 system work better, so there is that tension there.

9 So I guess my question is for those of you who  
10 are sort of more supportive of the concept of  
11 choice, how do you grapple with these big policy  
12 shifts like, you know, trying to put together a  
13 demand response program that's really working,  
14 trying to solve these different problems in a  
15 situation where your regulatory levers are  
16 different? Because just going to kind of an  
17 enforcement framework doesn't seem to be the thing  
18 that would get us there. So how do we make some of  
19 these big high level policy questions and policy  
20 determinations in a world where we have so many  
21 different providers? A softball question.

22 CPUC PRESIDENT PICKER: I think you could answer  
23 that yes or no.

24 CPUC COMMISSIONER RECHTSCHAFFEN: The panel is  
25 over now. It's two o'clock.

1 MS. LYNCH: Yeah. Maybe, maybe. I think that  
2 choice is messy sometimes. Different customers see  
3 different things that they want. If we have price  
4 signals that's out there that tell them energy is  
5 getting more expensive, certainly businesses will  
6 respond and increasingly with Smart Meters homes  
7 will respond. I worry about my husband sitting in  
8 front of our meter watching it go and, you know, he  
9 worries about it all the time. What can we shut  
10 off, what can we not run anymore? And that's what  
11 you get with choice. You get people getting really  
12 engaged in their energy usage and how they manage  
13 it, and you have to let some of that just happen,  
14 okay.

15 So if one CCA sees a different time-of-use period  
16 that they want to use as part of their rate design,  
17 I don't think that that compromises getting good  
18 demand response programs in there, as long as  
19 people are responding to some kind of price signal  
20 that they're actually seeing, that's actually  
21 impacting their energy usage. So I'm not sure that  
22 having different time-of-use rates, I don't really  
23 see how they could be all that different from one  
24 jurisdiction to another, but if they were I don't  
25 think that that compromises, you know, vibrant

1 demand response programs, but I think you have to  
2 let some of that innovation bloom as we move to  
3 retail choice. And, you know, if we're not getting  
4 demand response, then we've got to try something  
5 different, but customers do respond to price. If  
6 prices go high, they're responding. And I think  
7 they can -- they respond very quickly most of the  
8 time. So I'm not sure that it matters if we have  
9 different time-of-use rates across different  
10 jurisdictions, although I'm not exactly seeing how  
11 that could come about.

12 MS. FELLMAN: Yeah, we have time. Let's --

13 MS. CHOI: I would just add that -- I mean I  
14 think it goes back to what's the problem we're  
15 trying to solve and from our perspective it's  
16 trying to get to the 2030 goals as reliably and  
17 affordably as possible while accommodating choices  
18 for customers, whether that's demand -- distributed  
19 energy resource type choices or larger community  
20 choice aggregation efforts. And so it may be, and  
21 I think it showed up in the Gap Analysis that there  
22 may be a potential need for more broader PUC  
23 oversight authority. And I think it depends on --  
24 depending on the issue, I think that may be  
25 necessary or some entity oversight. Because as we

1 move towards 2030 and the transformation that's  
2 happening to our industry and the choices that  
3 customers are making, we need to make sure that we  
4 are able to achieve those goals, again, reliably  
5 and affordably; and the authorities that the  
6 current agencies have, they need to change in order  
7 to assure that happens and it's done in a way that  
8 doesn't increase customer confusion and have  
9 programs work as, you know, coordinated as  
10 possible.

11 So it may be that a demand response, time-of-use  
12 period from a CCA being different from the utility  
13 in which it resides is not a problem, but it could  
14 be, and we want to make sure that it's also just  
15 not creating additional customer confusion when  
16 they're seeing some information from their CCA and  
17 then their neighbor who happened to stay with  
18 bundled service gets different information. So we  
19 really want to make sure that the system is  
20 operating as effectively as possible, you're  
21 optimizing all the resources on the grid, and to  
22 the benefit of all customers. And it may be that  
23 additional oversight authority is necessary from  
24 the regulatory agencies.

25 MS. SWAROOP: I'm just going to make one last

1 full push for a collaborative process, because I  
2 think if a CCA is doing a different TOU rate it's  
3 probably to achieve the same de-carbonization goals  
4 that you are trying to achieve also. So I don't  
5 think that they're necessarily at odds with each  
6 other. I think they're complementary in that CCAs  
7 can be used as laboratories for innovation for  
8 different things. So part of that is local  
9 programs, but part of that is also rates, and so I  
10 don't believe that there needs to be further  
11 enforcement authority but, rather, better  
12 collaboration and collaborative processes so that  
13 we can all get comfortable with where we're all  
14 going together and achieving those statewide goals.

15 MR. FREEDMAN: Commissioner, I'll offer just two  
16 thoughts. If customers are choosing between  
17 various rate options and the Commission has  
18 invested a lot of political capital in to making  
19 multiple rate options available to customers, we  
20 need good rate comparison tools. And there's got  
21 to be a central place that a customer can go to see  
22 all the rates that are available to them and to  
23 compare how they would fare under different  
24 options. Without that type of comparison  
25 analytics, choice is meaningless. No one

1 understands how different rate options affect their  
2 personal bill until they run it through the  
3 calculator. Seriously, if any you have done it,  
4 you will see, it might produce results that are not  
5 what you expected. So maybe making sure that the  
6 utilities have all of the competitive provider  
7 rates that they can also model for customers as  
8 part of that tool. I know the utilities will  
9 resist this idea, but it's kind of necessary in  
10 order to make choice meaningful.

11 And the final thing I'll offer is you talked  
12 about an enforcement framework. I think you were  
13 asking do we just wait to see if the entities non-  
14 comply and then we hit them with penalties, is that  
15 the role of the Commission or are we trying to get  
16 out in front of this, well, my view is you have to  
17 get out front. By the time non-compliance happens,  
18 it's too late and your choices are pretty ugly,  
19 especially if there is widespread non-compliance.  
20 The Commission might be in a position of having to  
21 enforce company-killing penalties, and in that case  
22 you have a whole other set of political  
23 considerations that get overlaid on that. And  
24 meanwhile you're fighting about what happened in  
25 the past rather than making sure you develop

1 policies to prevent it from happening in the  
2 future.

3 CPUC COMMISSIONER GUZMAN ACEVES: Anything else?

4 I add one point to this which is a point I think  
5 Commissioner Randolph was making, in addition to  
6 just having less customer confusion, which is  
7 certainly an issue, although we kind of have that  
8 already with some of the munis and their different  
9 times as well, it's an issue of really this equity  
10 issue around system benefit, where we are forcing  
11 the bundled customer to make this adjustment even  
12 if it's not a benefit to their bill. And then you  
13 have the luxury of an ESP customer or a CCA  
14 customer not even using time of use because of  
15 protection for their bill. So we're kind of making  
16 the bundled customer suck it up for the benefit of  
17 the system benefit to go on time of use, and that's  
18 an equity issue. We don't have the direct  
19 authority to tell all ESP customers and all CCA  
20 customers that they must go on time of use for the  
21 system benefit in reduction, which is probably -- I  
22 don't want to get into that anymore, but a better  
23 policy that we have headed in that direction, but  
24 that's really the equity issue, is that it's not  
25 just about customer confusion, it's about not

1 having to have the same bill impact and  
2 contribution to system load reduction.

3 CPUC COMMISSIONER RANDOLPH: And to be clear, to  
4 me, that time-of-use question is an example of kind  
5 of, you know, we keep running into these kind of  
6 high level policy questions and they just become  
7 more challenging, a little more fragmented, the  
8 market is. And I don't know that there is -- I  
9 mean the fragmentation is there, it's going to  
10 increase, but I think the hardest part of figuring  
11 this all out is not the issues we have right now in  
12 front of us but the issues that we're going to see.

13 CPUC PRESIDENT PICKER: I turn to our colleagues  
14 from the CEC.

15 CEC COMMISSIONER MCALLISTER: So this is really  
16 just scratching, in my view, the surface of one of  
17 the key issues that we have to resolve. You know  
18 if we are going to get demand response to scale  
19 such that it -- such that it actually does help us  
20 avoid some serious investments in the system and  
21 create the headroom for all this electrification  
22 that's coming in and we have to transmit, as  
23 Commissioner Guzman was just saying -- well, both  
24 Commissioners, we have to be able to transmit the  
25 grid conditions and some sort of rate signal that

1 reflects those in basically real time and at some  
2 scale in some uniform way.

3 And so what we're highlighting here in the POLR  
4 discussion and in this discussion is the lack of  
5 uniformity or the potential lack of uniformity. So  
6 that doesn't help markets. I mean if you really  
7 want to -- if we want third parties to develop  
8 products and go out there and sell them to end-use  
9 customers, whether they're -- you know, whatever  
10 the model is, whatever the customer provider,  
11 whatever the provider is, those have to be  
12 consistent in some fundamental way or California  
13 doesn't have a policy.

14 And so I think, you know, it's all nice that  
15 you're all very in tune with your customers. But,  
16 you know, if you think about the telecom example or  
17 something where you have whiplash, everybody's  
18 moving back and forth, it's not that extreme,  
19 obviously, because we don't have as many choices in  
20 the market, but there is going to be some jumping  
21 around of customers from one to the other, and  
22 there is going to be some competition for customers  
23 presumably. Like, hey, I can do you one better, I  
24 can do you one better, and then from year to year  
25 that will swing.

1       So I kind of am looking for -- there are  
2       jurisdictional and authority issues here, but, you  
3       know, how -- and I'm hearing from a CCA, 'We can  
4       work it out if we just go Kumbaya.' So I guess I'm  
5       not really seeing an adequate -- at least -- you  
6       know, Matt, I think you came closest -- but an  
7       adequate structure by which we get some coherence  
8       in the signals that customers see and we get some  
9       response that functionally acts as a supply  
10      resource, which is what we need to avoid -- to sort  
11      of optimize the system going forward. So comments  
12      on that.

13      MR. FREEDMAN: Well, Commissioner, I will offer  
14      one thought on this which is maybe you need to stop  
15      thinking about retail rates as the only way to  
16      accomplish these goals. Perhaps if you're trying  
17      to incent demand response based on real time grid  
18      conditions, the answer isn't going to charge every  
19      customer a real time retail rate because 99 percent  
20      of customers have no idea how to deal with that.  
21      But you can compensate demand response resources  
22      using a real time rate, so it's really looking at  
23      different structures providing -- for providing  
24      compensation for the behavioral changes and the  
25      automated responses that are embedded into the

1 system that might provide the uniformity that we're  
2 looking for so that it doesn't get all commingled  
3 with all the different retail rate structures out  
4 there.

5 CPUC PRESIDENT PICKER: So I'm going to cut the  
6 conversation off now because we were supposed to  
7 move onto another panel -- unless there is one more  
8 question? Thanks. So.

9 MS. FELLMAN: Right. Thank you to our LSE and --  
10 (Applause)

11 CPUC PRESIDENT PICKER: One quick comment from  
12 Commissioner Peterman who is going to have to leave  
13 early.

14 CPUC COMMISSIONER PETERMAN: I have to leave  
15 early, that's my only comment, I'm leaving at 3:00.  
16 It's just more of a request. So as we were having  
17 this conversation I was thinking about how have we  
18 coordinated so far with the fact that we have  
19 several municipal utilities. And one of those  
20 coordinating structures is legislation, and we  
21 still see sometimes inequity. But I would say for  
22 stakeholders who are providing comments in response  
23 to the Gap Analysis, if there are good examples you  
24 have out there from how we have coordinated with  
25 the munis and Investor Owned Utilities to get to

1 certain State goals, please provide that, because I  
2 think we do have some examples out there to look  
3 towards as well as some cautionary lessons.  
4 Thanks.

5 CPUC PRESIDENT PICKER: Thank you.

6 MS. THAKAR: Okay. Well, we're going to go ahead  
7 and move into our last panel of the day before  
8 public comment begins. This panel is the  
9 Stakeholder Response Panel. And we'll be starting  
10 Emily Watt, Senior Energy Project Manager with  
11 Microsoft, providing the customer perspective;  
12 followed by Matt Vespa, Staff Attorney with  
13 Earthjustice, providing the environmental  
14 perspective. Marc Joseph will be next. He's an  
15 attorney with Adams, Broadwell, Joseph & Cardozo.  
16 He will be providing the labor perspective. And  
17 then finally we will have Elise Hunter with Grid  
18 Alternatives, who is Policy and Regulatory Affairs  
19 Director, providing a consumer protection  
20 perspective on rooftop solar. And then Jith  
21 Meganathan, who is an attorney with his own law  
22 firm, will provide a little bit more of a robust  
23 discussion on customer protections from the rooftop  
24 solar and PACE space. So with that I will have  
25 Emily go ahead and kick it off.

1 MS. WATT: Hi. Thank you all for having --  
2 having me here. I am a new -- excuse me. I am new  
3 obviously to this, and lost my voice. (Coughing.)  
4 So I wanted to start off with two -- this is really  
5 weird.

6 MR. VESPA: Yeah, I'm happy to start off. Matt  
7 Vespa for Earthjustice and I'm here to provide an  
8 environmental perspective, to share observations  
9 based on my experience advocating for de-  
10 carbonization of California's energy system as  
11 quickly, as cost-effectively, and as equitably as  
12 possible. And from where I'm sitting, as far as  
13 choice goes, I'm fairly indifferent to who does it  
14 as long as it gets done.

15 For my opening remarks, I'd like to highlight  
16 three gaps that warrant further action. The first  
17 is one that Matt Freedman raised. I do see the  
18 need to address continued shortcomings in  
19 accurately communicating and marketing greenhouse  
20 gas and renewable content that go beyond the power  
21 content label.

22 The second, I think Matt also raised this -- we  
23 did not coordinate talking points, by the way -- is  
24 the need for more centralized and coordinated  
25 procurement to achieve air quality to disadvantaged

1 communities and greenhouse gas objectives and to  
2 enable the early retirement of existing gas-fired  
3 generation, particularly in local areas.

4 And the third is something I feel like the gas --  
5 the Gap Analysis largely overlooked which is to  
6 break down the silos between gas and electric  
7 service and much be more expansive about what we  
8 mean when we say choice. And for me what is  
9 interesting here and the choice we need to talk a  
10 lot more about is the choice to get off gas and go  
11 all electric. That is a choice that matters to the  
12 environment. That is a choice that is not before  
13 Californians right now and that that is a choice I  
14 would like to see us focus on a lot more.

15 So first with regard to disclosure, I very much  
16 support what the CEC is doing with the power  
17 content label. I think it's a great step forward  
18 in accuracy and disclosure. For example, not  
19 counting unbundled RECs as your covered resources.  
20 This really helps provide clarity to decision  
21 makers, but -- or, excuse me -- to customers, but I  
22 don't see it ending there.

23 We have heard this concern raised before, but I  
24 think it's important that marketing standards, to  
25 better marketing standards to ensure that when an

1 LSE is offering a 50-percent or 100-percent  
2 renewable project that the resources that are  
3 coming from it are incremental. And it continues  
4 to be very difficult to figure out, when you sign  
5 up for one of these things, where they're sourced  
6 and whether participation is actually making a  
7 change from business as usual.

8 And as an environmental advocate I am very, very  
9 frustrated by this, climate change is real and we  
10 need real solutions, not one-click wonders for, you  
11 know, dimes that seem to do something. And so if  
12 you are as frustrated as is by me and looked for a  
13 cause of action under Fraudulent Green Marketing  
14 Practices in the Business and Professions Code, you  
15 would find that there is none because under the  
16 Code -- there is a Code section under Environmental  
17 Green Marketing, but it relies on 2012 standards  
18 from the Federal Trade Commission as a defense.  
19 And under those standards you can rely on bundled  
20 RECs for 100-percent green energy claims. But what  
21 was okay in 2012 isn't okay now, and I think, you  
22 know, we talk about achieving de-carbonization, we  
23 always set our expectations higher and higher and  
24 higher.

25 And so, for example, the business community,

1 Apple, Microsoft, I mean they're all doing  
2 additional projects to meet their 100-percent  
3 renewable claims. We should be raising the minimum  
4 bar here. So I think what needs to be done is to  
5 create some kind of new criteria that is short  
6 incrementality for anyone marketing a 100-percent  
7 renewable claim, and then you have to modify the  
8 Business and Professions Code to have compliance  
9 with that. And that will really get at some of the  
10 -- you know, I don't want to say less scrupulous,  
11 but -- some of these representations that really  
12 aren't helping the environment.

13 And then of course I think additionality is  
14 really a base, we have to go beyond that. One  
15 hundred percent renewable representations, even if  
16 incremental, are knitted out, so gas or other  
17 fossil resources continue to be relied on. It's  
18 just do you fully offset the excess renewable  
19 generation. And so I have a concern that we have  
20 these expectations in place that encourage loading  
21 up on solar as a least course resource to be 100-  
22 percent renewable claims, but the same thought  
23 isn't given to how their integrated, right. And so  
24 you run this risk of ending up with worse air  
25 quality, increased cycling of gas plants, with a

1 disproportionate impact on disadvantaged  
2 communities, and putting resources on the grid that  
3 have a diminished greenhouse gas benefit.

4 And the reason I'm waving all this in the context  
5 of marketing and disclosure is because, you know, I  
6 think it's important to ensure that the projects  
7 that are marketed and the goals that communities  
8 set for themselves really keep at pace with where  
9 we need to go. And when they start to fall behind,  
10 we have a little dissidence, and I'm starting to  
11 see that.

12 And then moving onto the second point around  
13 procurement. I just don't see independent and  
14 uncoordinated actions by LSEs as being able to  
15 effectively get us to where we need to go for air  
16 quality, greenhouse gas, and equity objectives,  
17 especially when it comes to putting the right  
18 resources in the right places to transition past  
19 reliance on gas-fired generation. So, Commissioner  
20 Picker, you had asked a question earlier about RA,  
21 I do think we need a central buyer, at least for  
22 the existing gas-fired generation in local areas to  
23 make sure we're keeping the right resources, but  
24 also a central buyer will allow for the factoring  
25 in of disadvantaged communities issues and other

1 considerations, and really be more holistic about  
2 how we transition the fleet past gas-fired  
3 generation.

4 And so one example of directed procurement the  
5 Commission really recently embarked on that  
6 environmental justice and environmental groups were  
7 very supportive of was the 565 or so megawatts of  
8 storage procurement following the Metcalf RMR.  
9 This is a draft resolution still, but it went to a  
10 local sub area. That sub area is on capacity  
11 constraint, it's very reliant on gas-fired  
12 generation. A lot of that gas will go off  
13 contracts in the next several years. And so you're  
14 mitigating market power in the right place. You  
15 get a bang for your buck. You're integrating the  
16 system with renewables on a system-wide basis, but  
17 also helping to facilitate moving past gas.

18 But this was ultimately very reactive. There was  
19 an RMR, you reacted to it. I think the outcome was  
20 very positive, but planning isn't by definition  
21 supposed to be reactive. And I don't see -- I  
22 think Caroline from SCE referenced this, there's a  
23 place to think about the orderly retirement of gas.  
24 RA right now is very much what do we need to do to  
25 change and so block down the existing gas-fired

1 resources, and we need it for reliability either  
2 piece ten years ahead, totally uncoordinated. As  
3 far as I can tell, none of the LSEs are really  
4 thinking about -- my time is up -- thinking about  
5 how you move past gas in the system, so I think the  
6 Commission needs to step in.

7 And my third and final point was really let's  
8 just talk about building electrification a lot more  
9 as a choice. Thank you.

10 MS. WATT: All right. I'm going to try this  
11 again. It's hard to be the voice of the customer  
12 when you lose your voice. And then the only other  
13 thing I'll say is you have to tell my husband that  
14 happened because he will not believe you. So, yes,  
15 I'm Emily Watt. I'm with Microsoft.

16 I'm sure you're wondering, yes, that is my real  
17 last name. It's been very helpful in this  
18 profession. And also why is Microsoft here, why do  
19 we care about customer choice.

20 So we actually happen to be one of the biggest  
21 corporate purchasers of energy out there. We have  
22 offices, stores, manufacturing, but most of our  
23 footprint comes in the form of our data centers,  
24 which are global. We're in many different regions  
25 in the U.S. We're also around the world. We're in

1 deregulated markets, we're in regulated markets.  
2 We're all over the place in the state of  
3 California. We have data center load here. We  
4 have office buildings here, we have a large campus  
5 here, plenty of stores. So energy in California  
6 and energy procurement in general is very important  
7 to us.

8 A little bit more about Microsoft. We have a  
9 hundred percent carbon neutral voluntarily since  
10 2012 and we have ambitious direct renewable energy  
11 goals. We already have 1.2 gigawatts of solar and  
12 wind in the ground or under construction right now.  
13 And we have signed on to the RA 100 Movement where  
14 we pledge a hundred percent renewable energy. So  
15 we have some milestones and we recently just passed  
16 50 percent of our global energy consumption is from  
17 an actual renewable energy project we can point to.  
18 We're rapidly growing that, even as our data center  
19 demand grows exponentially.

20 So speaking for customers, I think it's really,  
21 really important to note that all customers are  
22 different. I'm speaking on behalf of a large C&I  
23 customer. I can't even begin to represent smaller  
24 customers, residential customers. We all have  
25 different needs. And I think that's one of the

1 biggest points here, is that we're talking about  
2 choice. We're not talking about one perspective,  
3 we're talking about a choice that will meet each  
4 different customer's perspectives.

5 As I mentioned, we have different needs, we have  
6 different risk profiles, we have different  
7 consumption habits. For Microsoft, we have -- we  
8 differ from other large customers in that we can  
9 bring back-up generation assets, not just in terms  
10 of typical generation but also in terms of  
11 batteries that we already put into our data centers  
12 anyway, so we can use some of that, look at it, how  
13 can we provide RA services, how can we provide  
14 capacity that we have to build anyway.

15 We also have a commitment to pay for all of our  
16 infrastructure upgrades. We don't want to unfairly  
17 burden other customers, but I'll get more in to  
18 that later.

19 I just want to reiterate once again we're all  
20 different and we're looking for choice, mainly  
21 because we're all different.

22 So as panelists we were asked to speak about the  
23 value proposition of customer choice. And, quite  
24 simply, we see energy as your economic growth  
25 engine for California. Choice and specifically

1 what we look for, which is access to market-based  
2 rates would encourage us to grow our presence here.  
3 It offers us certainty not so much in the price  
4 that we'll pay but in our ability to control our  
5 exposure and take on the risk that aligns to our  
6 business practices, again, one of the things that  
7 makes us unique from other customers.

8 Choice allows us also to achieve our renewable  
9 energy goals. I have heard carbon as the main  
10 point of today's proceeding, we believe that as  
11 well. And for us, having market exposure in the  
12 same markets that our renewable projects  
13 financially settle in is crucial to meeting our  
14 carbon requirements.

15 When I look at -- briefly, when I look at the  
16 choices available in the California market I am  
17 encouraged by the process that -- the progress  
18 that's been made, but I recognize that there is a  
19 long way to go. CCAs offer a choice. It's a tool  
20 for some customers. However, they only offer a few  
21 rate options, and we don't see it as true customer  
22 choice. Direct Access is much more representative  
23 of true customer choice, but even with the raising  
24 of the cap it only covers 15 percent of  
25 nonresidential load, so there are 85 percent of us

1 out there with still no access to true customer  
2 choice.

3 And then, lastly, I will just say that I do agree  
4 with the Gap Analysis that it is time to reexamine  
5 how rates are made. We believe that customers such  
6 as ourselves should completely pay for the costs  
7 that are required to serve us, but we want to make  
8 sure that no one rate class is cross-subsidizing  
9 another. And when I say that I mean traditional  
10 rates. We're of course not talking about low-  
11 income assistance programs or anything else where  
12 we of course will pay, you know, above and beyond  
13 what's required of us.

14 So because we believe in this rate-setting, I  
15 would ask that you pay specific attention to new,  
16 unanticipated load coming to your state. We don't  
17 think this should be part of legacy -- we don't  
18 believe that new load should be part -- or should  
19 be subject to legacy costs and we believe that  
20 rates at such -- that marginal load should have  
21 complete cost recovery but not take on an unfair  
22 additional burden. So I see that my time is up.

23 MR. JOSEPH: Good afternoon, Commissioners. This  
24 morning Ralph Cavanagh told you that we were in the  
25 room 22 years ago. By my count at the time, there

1 are four of us who are now in the room today who  
2 were there 22 years ago. I want to say for the  
3 record that none of us have aged.

4 (Laughter)

5 MR. JOSEPH: I'm going to talk about three gaps,  
6 and, Commissioner Weisenmiller, respond to yours,  
7 you know, which are the three that I think are most  
8 pressing to look forward for the Commissions to  
9 deal with. First is the interaction between  
10 electrification and gas rates. Second is the  
11 interaction between grid hardening to prevent  
12 wildfires and NEM. And the third is the effect of  
13 fragmented procurement on our de-carbonization  
14 goals.

15 So first the gas rates. So with transportation  
16 electrification, the more we electrification  
17 transportation we put downward pressure on electric  
18 rates because we're spreading the fixed costs over  
19 more kilowatt hours. And as a side benefit we put  
20 downward pressure on gasoline prices because we  
21 lower demand. In contrast with building  
22 electrification, we do put downward pressure on  
23 electric rates by using more kilowatt hours, but we  
24 put upward pressure on gas rates because the fixed  
25 cost of operating the gas-distribution system and

1 the gas-transmission system don't change based on  
2 the volume of gas that's flowing through it. So as  
3 we electrify buildings and we reduce the amount of  
4 gas-fired generation, we are going to put upward  
5 pressure on gas rates.

6 We can see this problem coming. If we cut our  
7 gas usage by 50 percent, you know, there's not much  
8 we can do for the fixed costs, the rates are going  
9 to go up substantially. This is a problem we can  
10 see coming. The Commission should have a program  
11 in place to think about this and to figure out how  
12 we can avoid a gas-rate crisis in two, three, five,  
13 seven years from now. I think that's perhaps the  
14 highest priority you have right now. Let's avoid a  
15 crisis we can easily see on the horizon.

16 Second, the grid hardening. SB901 was passed, it  
17 was signed. Last week you issued the OIR to start  
18 submission of the fire-mitigation plans. Thank you  
19 for your very quick action. As part of that,  
20 utilities are required to describe their plans for  
21 hardening the system, to prevent wildfires.

22 Edison has already filed an application with  
23 substantial investments to do exactly that. We all  
24 know that it is far, far cheaper to prevent fires  
25 than to pay for the damages, to say nothing of the

1 loss of lives, but it will cost money. And at the  
2 same time we are still allowing NEM customers to  
3 avoid paying their fair share of the distribution  
4 system costs.

5 Besides all the other inequities of NEM, it's not  
6 fair for people to choose to avoid paying for  
7 safety improvements that benefit everyone. If a  
8 neighborhood burns down it will burn down those  
9 with rooftop solar and those without it. The  
10 safety benefits are the same, the cost  
11 responsibility to prevent it should be the same as  
12 well.

13 And, last, the most popular topic of the day, the  
14 fragmented procurement. The Gap Analysis  
15 identified this, we have been talking about it all  
16 day. The situation is bad right now. Since CCA  
17 expansion became clear, IOU procurement has  
18 stopped. The CCAs have procured very little. In a  
19 recent ex parte handout, they identified 1900  
20 megawatts of contracted new projects. That's a  
21 drop in the bucket. Beginning in 2021, they're  
22 going to have to have 65 percent of their RPS  
23 compliance come from long-term contracts. This was  
24 identified in the Gap Report. They claim they're  
25 going to have almost 7,000 megawatts in the ground

1 by 2022, but most CCAs have zero long-term  
2 contracts right now, they have no credit rating,  
3 and 2022 is not very far away.

4 Even worse, almost all of their planned  
5 procurement is solar and wind. And we know you  
6 can't run a system on just solar and wind. You  
7 have to do some other things that cost more money.  
8 We need things like large-scale solar. We're  
9 probably going to need some geothermal. And so  
10 while voluntary coordination and cooperation, you  
11 know, sounds nice, it's sort of our Kumbaya moment,  
12 it's not enough, it will not do the trick. You're  
13 going to need a stick. You can color it orange if  
14 you want.

15 The good news is you have a stick. You have in  
16 Sections 454.51 and 52 the ability to mandate that  
17 the IOUs procure the things that are needed to meet  
18 our RPS goals and to spread the costs among all of  
19 the LSEs. You can do this now under current  
20 authority. I think what you need to do to be sure  
21 that you could just have to hold up the stick and  
22 not have to use it, is to make it absolutely clear  
23 that you are willing to use it. Take all the work  
24 you're doing in the IRP and say this is what we are  
25 going to do. Give the CCAs and the other LSEs the

1 opportunity to voluntarily procure and avoid  
2 incurring those costs for themselves, but make it  
3 absolutely clear if they don't and if they don't  
4 procure the things that you have decided are needed  
5 for the system, then they will bear the cost. That  
6 way we have the right mix between being sure that  
7 we get what we need for our de-carbonization goals  
8 and yet allow as much autonomy as people are  
9 willing to step up to the plate and exercise.

10 MS. HUNTER: Good afternoon. Thank you,  
11 Commissioners, for hosting this panel. My name is  
12 Elise Hunter. I am here from Grid Alternatives.

13 Grid Alternatives a nonprofit direct service  
14 provider and our mission is to expand access to  
15 clean energy amongst low-income customers and  
16 disadvantaged communities, and so I'm planning to  
17 comment today from that lens.

18 Just a bit about Grid Alternatives. We are a  
19 program administer of low-income solar programs.  
20 For ten years we have been administering the  
21 Single-family Affordable Solar Homes, or SASH  
22 program, and recently we just took on the Solar on  
23 Multi-family Affordable Homes as a team. As an  
24 administer, we also install solar directly for  
25 customers here in California and other states. So

1 my comments today take a low-income focus and I am  
2 looking specifically at the rooftop solar and  
3 predatory practices gap as well as the  
4 disconnection gap.

5 First of all, just sort of a broad lens of the  
6 Gap Analysis. I was really happy to see low-income  
7 programs discussed amongst the affordability  
8 principle in the Gap Analysis. I think there could  
9 be even more intention and attention paid to equity  
10 in the Gap Analysis overall. As we're moving  
11 towards a de-carbonized future, there is a risk  
12 that if we don't pay attention to low-income  
13 customers and disadvantaged communities and their  
14 unique needs, that these populations could be left  
15 out, last to be served, or not served at all with  
16 de-carbonized solutions.

17 First of all, on the rooftop solar predatory  
18 practices, my organization was present at a meeting  
19 in the town of Huron hosted by the California  
20 Utilities Commission where residents in the  
21 surrounding area came forward and talked about how  
22 they had been harmed by predatory solar contracts.  
23 It was quite shocking. A number of the  
24 stakeholders here in the audience were also there  
25 today, which made me think that it's really a two-

1 prong solution that's necessary. It's reducing the  
2 harm that is being felt by customers today and it's  
3 making more robust consumer protection measures for  
4 solar going forward.

5 As far as reducing the harm that customers are  
6 feeling today, I think one of the challenges is  
7 actually reaching the customers and making sure  
8 that they feel comfortable sharing their  
9 experiences with whoever is collecting that data.  
10 And for that I think it's very important that  
11 community-based organizations get involved in that  
12 outreach. I am also happy to see that the solar  
13 industry is also taking a very proactive approach  
14 to consumer protection and I think there is a real  
15 opportunity for the solar industry, community-based  
16 advocates, and the Commissioners present here today  
17 to work together to come up with a solution to  
18 reduce harm for those customers.

19 It also comes to my mind that for lack of a  
20 better word, I think it's important that we triage  
21 the grievances in terms of a grievance that could  
22 potentially be resolved by working directly with  
23 the solar provider versus a grievance that is more  
24 severe that is would trigger a legal recourse such  
25 as a class action lawsuit or another enforcement

1 mechanism.

2 And then going forward and making more robust  
3 consumer protection measures, and speaking from a  
4 low-income customer lens, I think low-income  
5 customers need to be considered differently than  
6 the general market. They tend to have higher  
7 energy burdens in the first place, and so if they  
8 are harmed by predatory practices, their situation,  
9 they could be even more impacted than a general  
10 market.

11 I am pleased to see that a lot of the low-income  
12 customer programs that are focused on clean energy  
13 already have very robust consumer protection  
14 measures baked in. And I'd like to see that  
15 continue going forward, regardless of the Load  
16 Serving Entity. Without going down the rabbit  
17 hole, I'll just throw a few out there.

18 The SASH program requires that 50 percent of the  
19 solar credits generated go directly to the  
20 customer. There is also -- it's not allowed that  
21 any lien be placed on the home as a result of the  
22 solar installation. Under the SOMAH program, it's  
23 required that the customer -- or the tenant  
24 customer receives at least a hundred percent of the  
25 benefit of the solar portion that is dedicated to

1 their account. So those are just a few examples of  
2 thoughtful program design that could be expanded as  
3 we're thinking about more clean energy programs for  
4 low-income customers.

5 We also very much support the idea of an  
6 ambassador for low-income customers, to help walk  
7 them through the process, in addition to all the  
8 great resources that are being created for consumer  
9 protection today. Thank you.

10 MR. MEGANATHAN: Good afternoon. My name Jith  
11 Meganathan. I am an attorney who represents the  
12 California Low-Income Consumer Coalition in  
13 proceedings at the Public Utility Commission. My  
14 coalition is made up of 12 nonprofits from  
15 throughout the state that provide free legal  
16 services to low-income Californians, typically at  
17 200 percent of the federal poverty line or before.

18 I want to preface my remarks by saying that we  
19 fully support California's Climate Goals. We  
20 believe in the reality of climate change. We just  
21 don't believe that a lot of people need to be  
22 foreclosed on in order to meet these climate  
23 targets.

24 So each of the nonprofits in my coalition  
25 functions a bit like an emergency room. People are

1 helped when they're facing a life-altering crisis  
2 that requires the help of a lawyer. And just as  
3 it's possible to see that a flu epidemic may be  
4 breaking out because a lot of people are visiting  
5 emergency rooms all across the state with the flu,  
6 we're seeing something very similar. People are  
7 coming in statewide because they are the victims of  
8 solar energy scams and are at risk of foreclosure  
9 as a result.

10 So when I say solar fraud what do I mean?  
11 Homeowners are enticed in to signing up for solar  
12 with promises that they will have free electricity  
13 or that the cost of their panels will be covered by  
14 a, quote, "free government program". Their  
15 signatures are induced and sometimes forged on  
16 electronic tablets. These homeowners are surprised  
17 to find that they have entered into 15-, 20-, or  
18 25-year financing, or lease contracts in many cases  
19 secured by liens on their homes. Their electric  
20 bills don't go down enough to cover the costs of  
21 repaying these contracts. And in some of the most  
22 egregious cases, homeowners are left with major  
23 damage to their roofs and/or with solar systems  
24 that aren't even hooked up to the grid.

25 Often the victims are from vulnerable

1 communities. They're elderly. They have limited  
2 English proficiency and/or they suffer from  
3 disabilities. So just to give a few examples, a  
4 92-year-old woman in Siskiyou County who recently  
5 entered into a 25-year PACE contract, okay. I  
6 think that just speaks for itself that there would  
7 be fraud in the situation. A 99-year-old woman in  
8 Los Angeles County, who was induced by a contractor  
9 while she was in the hospital, to enter into a  
10 PACE-financed project. And last week I was  
11 contacted about a gentleman in his seventies who is  
12 visually impaired who was surprised to find that  
13 his property tax bill had tripled and that his  
14 electricity bills had not gone down as a result of  
15 entering into PACE financing. Egregious, egregious  
16 cases.

17 This is happening in every part of the state. I  
18 have personally heard reports from San Diego  
19 County, Orange County, Los Angeles County,  
20 Riverside County, Fresno County, Monterey County,  
21 Alameda County, and Siskiyou County. The same  
22 tactics are used in each of these regions. And so  
23 many complaints are coming in that members of my  
24 coalition can no longer take these cases, there are  
25 just too many to handle.

1       The other problem is that there is no clear  
2 avenue of redress. People make complaints to the  
3 Public Utilities Commission, to the Attorney  
4 General's Office, the Department of Business  
5 Oversight, to the Contractor's State Licensing  
6 Board, to their local DAs. If they're lucky they  
7 can initiate a lawsuit. They try this shotgun of  
8 approaches in the hopes that something will provide  
9 redress, but in many cases it does not.

10       The key takeaway from my comments, I hope, is  
11 that there are structural problems in the market  
12 for residential solar that make it profitable to  
13 defraud customers and to leave these customers  
14 bearing the costs. I want to make clear here that  
15 I'm speaking anybody the unscrupulous contractors.  
16 Honest contractors want satisfied customers to  
17 build reputable businesses. Unscrupulous  
18 contractors want to extract as much money from  
19 third-party financing as possible and then exit the  
20 market before they're found liable.

21       So the first major problem is that in many cases  
22 contractors both sell their project -- product --  
23 projects -- I apologize -- and arrange the  
24 financing for those projects. So this provides an  
25 incentive for them to overprice their projects and

1 to mislead customers about the terms of the  
2 financing.

3 The second major problem is that contractors are  
4 under insured. The Business and Professions Code  
5 requires most contractors to post only a \$15,000  
6 bond as a condition of licensing. If a contractor  
7 is found liable for fraud and goes out of business,  
8 \$15,000 is hardly enough to cover the cost of even  
9 a single, small-sized residential solar system.

10 The third major problem is that it's unclear  
11 whether financing companies are liable for  
12 contractor's fraudulent acts that they are  
13 profiting from. In other areas of law, it's very  
14 clear that this is the case. So, for example, in  
15 another market where there is a lot of fraud and a  
16 lot of fly-by-night sellers is the market for used  
17 cars. So under the Federal Trade Commission's  
18 Holder Rule, it's clear that a bank or a credit  
19 union that finances the purchase of a used car is  
20 liable for the fraud of the auto dealer if the  
21 dealer goes out of business. This has two effects.  
22 It provides an incentive for the financial  
23 institution to police dealers to prevent fraud and  
24 it ensures that there is an entity that can make  
25 the customer whole in cases where fraud occurs.

1 There isn't the same clarity in the law for solar  
2 fraud. We don't know if PACE companies, unsecured  
3 creditors, and leasing companies can be held liable  
4 for the fraudulent acts of solar contractors. And  
5 the main problem is that these financing companies  
6 profit either way. Either the defrauded consumer  
7 pays back the loan or, in many cases, it's possible  
8 to foreclose on the home in order to recover the  
9 loan, so the financing company is safeguarded  
10 regardless of whether fraud was used to procure the  
11 transaction. They're perverse incentives.

12 My coalition has a number of proposed solutions  
13 to these issues. We deeply appreciate the efforts  
14 of the Public Utilities Commission, the Department  
15 of Business Oversight, and the Contractor's State  
16 Licensing Board to address fraud in this space,  
17 particularly in the past year, but more needs to  
18 happen.

19 At the Public Utilities Commission level, first  
20 of all, disclosure is not enough. As I said,  
21 vulnerable communities, it's -- you can't expect  
22 them to be able to evaluate the trade-offs and  
23 risks of proposals in the same way that consumers  
24 who don't have these vulnerabilities may be able  
25 to.

1       One proposal that we made after the -- at the  
2       Huron forum and in our comments afterwards is  
3       targeted moratoria on utility grid hookups for bad  
4       actors that are identified in this space until  
5       problems are cleaned up retroactively.

6       There are also solutions that we propose that  
7       would require legislative action, most likely. The  
8       first, it should be made clear that despite the  
9       rather unusual structure of PACE assessments, which  
10      is through a repayment through property tax bills,  
11      or the fact that somebody may have a lease  
12      agreement, that these are for all intents and  
13      purposes loans and should be subject to the same  
14      disclosure requirements and consumer protection  
15      that loans are.

16      Another area that's of key importance, and I  
17      believe Ms. Hunter pointed to this as well,  
18      prospective solutions are needed, we also need  
19      retroactive relief for customers who have been  
20      harmed and who are at risk of losing their homes.

21      There should -- there are a number of known  
22      abuses that can also be stopped, such as selling  
23      homeowners multiple PACE loans close in time.  
24      There is -- there is what's known as the emergency  
25      exception so that people can be given PACE loans

1 even though they haven't yet demonstrated an  
2 ability to pay. If they're in an emergency, so for  
3 example if their air conditioning breaks down in  
4 the middle of the summer, it should be made clear  
5 that this can only apply to HVAC systems and not to  
6 things like solar panels or other sorts of energy  
7 efficiency improvements.

8 Finally, we'd like to see lien subordination that  
9 PACE assessments, in particular, should not take  
10 priority over all other financing liens that are  
11 present because of financing on the home, so people  
12 can refinance their mortgages and also sell their  
13 homes freely. So with that, thank you very much.

14 CEC COMMISSIONER HOCHSCHILD: Thank you. I have  
15 two questions. First for you Mr. Meganathan --  
16 Megan- --

17 MR. MEGANATHAN: Meganathan.

18 CEC COMMISSIONER HOCHSCHILD: Meganathan. Yeah.  
19 How many of these abuses you're describing -- by  
20 the way, which are unacceptable and have to be  
21 corrected -- but how many of them occurred this  
22 year? Because obviously there was a bunch of  
23 reforms that happened with PACE and the PACE market  
24 in California has been cut in half the last year as  
25 a result of those reforms. Are these cases that

1 have happened subsequent to the legislation or were  
2 they, some of the abuses you're describing, prior  
3 to the reforms?

4 MR. MEGANATHAN: Many of them are from prior  
5 years, but we are continuing to see abuses. For  
6 example, through the use of the emergency  
7 exception. The ability to repay requirement, while  
8 it has had some salutary effects, it's still  
9 letting in some people who should not be getting  
10 these assessments, so it remains a problem.

11 CEC COMMISSIONER HOCHSCHILD: Okay. Well, thank  
12 you for raising. Obviously this is everybody's  
13 problem. It's a challenge for the folks being  
14 abused, but it's also a setback to the legitimate  
15 market that we want to see develop. And there's  
16 obviously a lot of need in the housing stock for  
17 these upgrades and that's not going to succeed as  
18 long as abuses are taking place and people don't  
19 trust the market. So thank you for bringing that  
20 to our attention.

21 I want to ask Mr. Vespa a question.

22 You were talking about building electrification.  
23 Your point is very well taken. And, by the way,  
24 you know, part of our ability now to even turn to  
25 this is because we've had such success with

1 renewables. And just in Governor Brown's term  
2 since he took office in 2011, we have basically  
3 tripled renewable production in California. Now,  
4 you know, we have really resolved the destination  
5 point, we're going to a hundred percent clean  
6 energy, so the challenge really does turn to  
7 migrating services that today are powered by  
8 diesel, natural gas, and gasoline onto the electric  
9 grid. And there are different technologies that  
10 are going to migrate to the grid at different  
11 paces. But in terms of how that expresses itself  
12 through choice, can you put a little more meat on  
13 the bones, are you suggesting for example that we  
14 need choices in rate design for all-electric homes?  
15 Because I'm just -- the context is -- I mean some  
16 people are doing it voluntarily. People like  
17 Commissioner McAllister are building an all-  
18 electric home. I am not at his level of seeing it,  
19 but I did convert my water heater to heat pump.  
20 And, you know, there are incentives, like obviously  
21 if you do that in SMUD territory you get an  
22 incentive.

23 Can you say a little bit more like what kind of  
24 choices in the market would you like to see that  
25 don't yet exist?

1 MR. VESPA: Well, I think there's any number of  
2 steps to facilitate this. The three-prong test is  
3 obviously one thing, but that's just like one  
4 little bit. The rate structure is probably to be  
5 thought about for all electric, you know, a higher  
6 base line credit. That's helping facilitate  
7 things. But beyond that, I mean just communicating  
8 the need to people, that you can do this, this has  
9 an environmental benefit, would be very helpful.

10 So I think it's interesting, people talk about  
11 EVs and solar just outside of this world, you know,  
12 everybody knows that. Nobody has any idea about  
13 why we should be electrifying homes yet, so there's  
14 just so much work to do there.

15 You know I also wonder just in terms of energy  
16 efficiency programs, like why are we now still  
17 incentivizing, you know, flipping out a gas heater  
18 with a more efficient gas heater when you're  
19 locking in that combustion source for another 15  
20 years where there is an electric option. So I kind  
21 of feel like there needs to be an understanding of  
22 the gas versus electric systems and how you kind of  
23 unpack all that. So you can facilitate the  
24 migration over. There's any number of little  
25 things you do to make that choice possible

1 economically through rate structure but also just  
2 communicating it to people.

3 You know, I mean to me like when you had this --  
4 I think in the Gap Analysis there was some kind of  
5 screen about the choices. Well, I want to see a  
6 click on there, go all electric. You know, what  
7 happens there. I mean just informing people more  
8 that that's even something.

9 CEC COMMISSIONER HOCHSCHILD: Thank you.

10 CEC COMMISSIONER MCALLISTER: This question is  
11 sort of another aspect of the gas transition. I  
12 was intrigued with, Mr. Joseph, your observation  
13 about the infrastructure problem, the sort of  
14 social compact issues really that we're going to  
15 but up against in this, you know, large investment  
16 that we've all made and how we -- you know, what  
17 your view about -- a lot of questions I could ask,  
18 I'm going to ask one.

19 What do you see as the right kind of level for  
20 that discussion? Is that purely sort of within the  
21 CPUC or is there a broader kind of social compact  
22 discussion that you feel might need to happen? You  
23 know, multi-agency led by Governor's Office, I  
24 don't know, what's your sense of the most  
25 appropriate kind of forum for that?

1 MR. JOSEPH: I think it probably has to start in  
2 the agencies because you have the expertise, but I  
3 think you're absolutely right, there is a social  
4 equity component to this, there is a compact,  
5 social compact component to it because we know that  
6 the last people to be switching will be those with  
7 least means. And we'll be putting higher and  
8 higher rates onto those people and, you know,  
9 that's an outcome which should not be as a matter  
10 of social equity acceptable to us.

11 I wish I could tell you I knew exactly what the  
12 solution to this problem was. I don't. And that's  
13 why I think we need the collective expose and brain  
14 power at least starting here to address the  
15 problem, and see if we can figure out what the  
16 solution is, because it's not apparent to me how we  
17 manage this transition.

18 CPUC PRESIDENT PICKER: That's what you told us  
19 last time you were here.

20 MR. JOSEPH: Can I just add, I'm a little busy in  
21 the last year. I mean I think -- fires.

22 MR. VESPA: I think we can start by not making  
23 the problem worse. That's not making new gas  
24 connections. Let's shut down Aliso, let's, you  
25 know, think about every gas investment that we make

1 knowing that we'll be stranded and create more  
2 problems for people that remain. So clearly there  
3 is a lot of work to do thinking about this, but  
4 there are things we can do now to start.

5 CPUC PRESIDENT PICKER: This is a challenge that  
6 stands way outside just our scope. And just to  
7 point to your example of Aliso Canyon, that's  
8 exactly what we suggested, yet the County of Los  
9 Angeles issued construction permits for 23,000  
10 units of housing that all had gas connections  
11 including gas pizza ovens, directly adjacent to  
12 Aliso Canyon and the surrounding neighborhood. So  
13 I think that -- I hear your message, you've been  
14 saying this for years, but I think you're going to  
15 have to do your proselytization elsewhere.

16 So, Mr. Joseph, I'm going to return to your  
17 equity issue in relationship to bearing the cost of  
18 various distribution system improvements to reduce  
19 fire hazard. What do you see is the best way to do  
20 this? Is this a specific change in the NEM process  
21 or is it something that we do by changing the rate  
22 structure overall, given that we have a very  
23 limited fixed charge direct charge?

24 MR. JOSEPH: I think the path of least resistance  
25 also happens to be the one which is compelled by

1 state law, which is to make nonparticipating  
2 customers, customers who don't participate in the  
3 NEM program economically indifferent, when other  
4 people choose to put rooftop solar on their house.  
5 You know, NEM 3.0 is on the doorstep now and I  
6 think this is one of the things you should be  
7 considering: Let's remove the subsidiary and/or  
8 have a nonbypassable charge for incremental  
9 improves to harden the grid to prevent wildfire.

10 CPUC PRESIDENT PICKER: Thanks.

11 CPUC COMMISSIONER PETERMAN: I have a different  
12 question, but if folks want to follow up on that  
13 one. I wanted to follow up with Ms. Watt.  
14 Regarding -- you know, large corporate leadership  
15 on renewables, and I think this point was raised by  
16 someone else about how does that leadership extend  
17 or how does choice extend when we think about  
18 integration of renewables and grid reliability, and  
19 you mentioned having back-up batteries. It wasn't  
20 clear to me if you were talking about making those  
21 available in terms of demand response products, but  
22 could you speak to what you see as the next  
23 evolution in customer choice as it relates to  
24 reliability and integration?

25 MS. WATT: Sure, yeah. One example comes to

1 mind, what we've done in Cheyenne, Wyoming, where  
2 we were able to partner with the utility there and  
3 allow them use of our back-up generation. They are  
4 natural gas combustion turbines, but allowing them  
5 to put those at the top of their capacity stock,  
6 and so, you know, just for a few hours a year if  
7 they needed to call on our back-up generation, they  
8 could. And that allowed it so they didn't have to  
9 build a whole new natural gas power plant. So  
10 those are the kind of things that we've done  
11 already.

12 We are always looking at ways to use batteries  
13 that we have to put in as uninterruptable power  
14 supply, allowing the utilities access to that. Now  
15 that's more in their R&D phase, but it's something  
16 that we want to start working with utilities to see  
17 how we can develop some of the things that we have  
18 to install anyway.

19 CPUC COMMISSIONER PETERMAN: And that would be  
20 through -- but with some compensation or some  
21 market participation or some contractor  
22 relationship with the utility?

23 MS. WATT: Yeah, yeah. We have looked at in the  
24 past a generation credit on the utility bill.

25 CPUC COMMISSIONER PETERMAN: Thank you.

1 CPUC COMMISSIONER RECHTSCHAFFEN: I have a  
2 question for Elise and maybe Matt can comment on  
3 it.

4 We heard a little bit earlier this morning about  
5 one of the things the Gap Analysis focus on is  
6 making sure there is adequate funding for public  
7 purpose programs. And put that question aside  
8 about adequate funding, do you have a view about in  
9 a decentralized environment who should -- who is  
10 best to administer these customer side programs  
11 like energy efficiency or providing infrastructure  
12 for EV charging, programs like that which are now  
13 mostly run by the utilities, put the funding aside,  
14 they have multiple players, do you have a sense of  
15 what would make the most sense?

16 MS. HUNTER: I hate to answer a question with it  
17 depends, but I think if we're -- you referenced EV  
18 infrastructure. I'm having a hard picturing how  
19 any entity other than a centralized entity would  
20 manage lots of infrastructure that connects  
21 directly to the grid. I don't see how you'd on  
22 that in a fragmented way. But if we're talking  
23 about a customer program that enables access to a  
24 more distributed technology like energy storage,  
25 energy efficiency, solar programs, I think there is

1 an interesting movement of a proliferation of more  
2 third-party administrators that can often access  
3 funding directly from utility sources, such as  
4 public purpose programs, and in some cases from  
5 greenhouse gas proceeds, and to have those third  
6 parties who bring experience often in the field,  
7 often dealing with specific customer types such as  
8 low-income customers or disadvantaged communities,  
9 to come in and administer those programs and to act  
10 under contract often with a utility so that there  
11 is plenty of oversight there.

12 Bringing in third parties as program  
13 administrators I think lends an interesting  
14 competition to the space and can result in having a  
15 cost-effective and experienced party to serve the  
16 customer base in question with a new technology.

17 MR. VESPA: It might depend on also how the  
18 interests of the LSE align with the particular  
19 program, so I was thinking building electrification  
20 more specifically where the CCAs are electric only,  
21 they're going to be motivated. PG&E obviously is  
22 split. SDG&E, especially when your parent company  
23 is Sempra and your utility is SoCal Gas, you are  
24 very fossil fuel centric, I would not want them to  
25 implement that program. So, you know, I think it

1 may depend on it's going to be more successful if  
2 the entity implementing it has a motivation to do  
3 so.

4 CPUC PRESIDENT PICKER: Okay. Do we have other  
5 questions? We're reaching the end of this panel  
6 and time, but I don't want to cut people off.

7 Good-bye.

8 CPUC COMMISSIONER PETERMAN: Good-bye.

9 CPUC PRESIDENT PICKER: All right. Well, thank  
10 you very much.

11 (Applause)

12 MS. FELLMAN: Thank you. We'll now turn to  
13 public comments. So if you've signed up for a  
14 public comment, we'll take them from the side  
15 microphone. Here comes the Public Adviser with the  
16 sign-up sheet.

17 So the public comment was Jith Meganathan. He  
18 signed up to speak, so he didn't realize he was  
19 going to be on the panel. So we heard from him.

20 Jith, unless you want to say something else? No,  
21 thank you, okay.

22 Are there any members of the audience who would  
23 like to make a public comment who did not sign up?

24 Well, is there one? There we go.

25 MS. BRANDT: Hello. Melissa Brandt with the East

1 Bay Community Energy. And thank you for being here  
2 today and convening this panel. And we appreciate  
3 the opportunity to hear from the panelists as well  
4 as to speak.

5 I did want to mention, address a few things that  
6 East Bay Community Energy is doing that I think  
7 relate to some of the themes that were talked about  
8 today. For starters, I think it was mentioned that  
9 we are partnering with PG&E as part of this Oakland  
10 Clean Energy Initiative. One of the things that's  
11 really interesting about that is that it's only  
12 taking about 40 megawatts of preferred resources to  
13 offset the need for 165-megawatt plant today. And  
14 that goes to the theme of making sure that whatever  
15 we're doing with preferred resources we're doing  
16 holistically and strategically to get the most bang  
17 for our buck.

18 When we talk about affordability for customers,  
19 when we talk about grid stability, it's really  
20 trying to understand where is it that we can have  
21 the most impact and investing our resources there.  
22 So that's what we're doing through this  
23 partnership. It's really a first step, but we'd  
24 like to see these kinds of efforts expand  
25 throughout the state and we want to be part of that

1 and part of the solution.

2 I also wanted to mention that East Bay Community  
3 Energy launched a peak day pricing pilot a week  
4 after our launch for our large customers. So we do  
5 have a lot of potential to do things with rates  
6 that are innovate as well and to contribute to  
7 solutions in that vein.

8 We do need to have a more -- we need to have more  
9 regulatory certainty to continue these kinds of  
10 investments. So of course the RA proceeding is one  
11 place where we're starting to develop that  
12 certainty, but right now, as we have this  
13 transition from primarily Investor Owned Utilities  
14 to the CCAs, you have this time period where we  
15 don't know what's happening with RA, we don't know  
16 what our obligations are going to be. It's really  
17 hard sitting here today to make an investment 10 to  
18 20 years into the future when you don't know if  
19 you're going to get credit for whatever you're  
20 investing in.

21 So I think that when you want us to bring  
22 projects and you want to see solutions for the  
23 state, we are getting there. It's not just talk,  
24 it's something that we are actively looking at, how  
25 do we invest, how do we take responsibility for our

1 share and make sure that we are meeting whatever  
2 compliance requirements that we are faced with, but  
3 we do need some certainty from the regulators as to  
4 what that goalpost is so that we can get there  
5 together.

6 So we look forward to continuing to partner with  
7 you and to work together. We'd love to continue  
8 the conversation about POLR and all of those  
9 implications and what it means to take on those  
10 responsibilities and we look forward to continuing  
11 to work with you in all of that. Thank you.

12 MS. FELLMAN: Are there any other members of the  
13 public or the audience who would like to speak?

14 Any further remarks from the dias?

15 CPUC PRESIDENT PICKER: I'm going to just point  
16 out that we will probably continue to take another  
17 effort to refine the Gap Analysis, but principally  
18 it's really just also starting to move them toward  
19 specific forums. So some of the forums will be  
20 within the agencies, Clean Net Short, Content  
21 Labeling will continue to be refined and  
22 implemented at the CEC. We'll continue to look at  
23 reliability issues within the CPUC, for example.  
24 But others I think are going to clearly require  
25 some additional legislation, so I think this

1 challenge of predatory behavior in terms of  
2 marketing I think is going to require some  
3 legislative action. This question of having that  
4 big orange stick that several people pointed us  
5 towards probably will require some additional  
6 legislative action. And certainly this challenging  
7 of trying to define who will have that  
8 responsibility of being the Provider of Last Resort  
9 and providing the certainty that allows for  
10 additional customer choice probably goes to the  
11 Legislature.

12 So I look forward to working with all of you. If  
13 the Legislature and our proceedings are not  
14 collaborative, then we'll certainly have lots of  
15 opportunities to talk outside of them, although the  
16 law does tend to circumscribe at least our  
17 framework, and I don't know how much when it comes  
18 to making decisions that we can avoid using the  
19 PUC's and CEC's procedural programs. But certainly  
20 everything that is done in the Legislature is  
21 collaborative, friendly, and the outcome of  
22 consensus. So we look forward to seeing you there.

23 MS. FELLMAN: And that concludes our En Banc.  
24 Thank you very much.

25 (Applause)

1 (The En Banc was concluded at 3:06 p.m.)

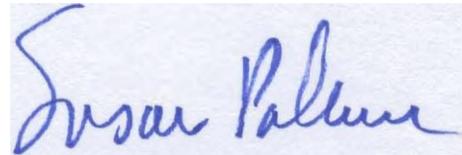
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**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 6th day of December, 2018.



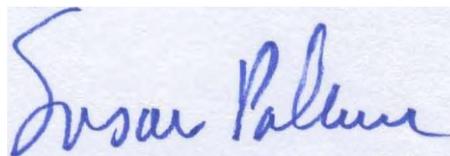
Susan Palmer  
Certified Reporter  
CERT 00124

**TRANSCRIBER'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 transcribed by me, a certified transcriber.

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 6th day of December, 2018.



Susan Palmer  
Certified Reporter  
CERT 00124