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JOINT AGENCY WORKSHOP  
BEFORE THE  
CALIFORNIA ENERGY COMMISSION

In the Matter of: )  
 ) 23-OIIP-01  
 *Maximum Gross Gasoline* )  
 *Refining Margin and Penalty* )  
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CALIFORNIA ENERGY COMMISSION  
THE WARREN-ALQUIST STATE ENERGY BUILDING  
ART ROSENFELD HEARING ROOM - FIRST FLOOR  
1516 NINTH STREET  
SACRAMENTO, CALIFORNIA 95814

THURSDAY, APRIL 11, 2024

9:00 A.M.

HYBRID IN-PERSON AND ONLINE VIA ZOOM

Reported by  
Elise Hicks

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**CEC**

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On the Dais:

Jeremy Smith, Deputy Director Energy Assessments Div.

Tai Milder, Director Div. of Petroleum Oversight

Nick Maduros, Director California Department of Tax  
and Fee Admin.

Drew Bohan, Executive Director, CEC

Presenters

Dr. Gigi Moreno, Chief Economist Div. Petroleum Oversight

Dave Hackett, Chairman, Stillwater Assoc.

Tom O'Connor, Senior Director Energy Markets, ICF

Matt Zaragoza-Watkins, Economist

Public Comment

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APRIL 11, 2024

9:01 a.m.

DEPUTY DIRECTOR SMITH: Good morning, everyone.

My name is Jeremy Smith. I'm a Deputy Director in the Energy Assessments Division. I'd like to welcome and thank you all for joining this California Energy Commission SB X1-2 Workshop

We've held several workshops on the various elements of this legislation, but today's workshop is our second on exploring the maximum gross gasoline refining margin and penalty.

Before we begin the presentation, I'd like to share some housekeeping items with everyone. First and foremost, please be aware this meeting is being recorded. Attendees will have an opportunity to participate in today's workshop by providing oral comments during the allotted public comment period. You can also submit written comments, which are due by 5:00 p.m. on Friday, May 3rd. We will have a slide at the end of the presentation with details on how to submit comments to the docket.

For in-person attendees, restrooms are in the atrium out the door and to the left. If there is an emergency and we need to evacuate the building, please follow the staff to Roosevelt Park which is across the street diagonal to the building.

1           Would you go to the next slide, please.

2           On the screen is the agenda for today's workshop.  
3 I'll start by providing some background which will be  
4 followed by opening comments from the dais. Afterwards  
5 we'll have staff presentations by myself and Gigi Moreno,  
6 Chief Economist from the Division of Petroleum Oversight.

7           Following the staff presentations we'll have  
8 comments from the dais. In the second half of the workshop  
9 this morning we'll have additional presentation by industry  
10 experts Dave Hackett, Chairman of Stillwater Associates,  
11 and Tom O'Connor, Senior Director of Energy Markets at ICF.

12           After these presentations, we'll have comments  
13 from the dais again, and then we will provide time for  
14 public comment followed by closing remarks.

15           Next slide.

16           So, before I hand it over to the dais for opening  
17 comments, I'd just like to set the stage for today's  
18 workshop.

19           SB X1-2 was signed by Governor Newsom in March of  
20 2023, and went into effect in June. The law prescribes  
21 numerous activities that the CEC is responsible for. I  
22 won't touch on all these, but I will mention those that  
23 we've been most active on since the bill was signed.

24           First, the law expanded CEC's data collection  
25 authority to support the various implementation activities.

1 Since June of last year, CEC has been collecting additional  
2 information on refinery costs and profits, refinery  
3 maintenance and turnarounds, and spot market transactions,  
4 to name a few.

5 The law also established the Division of  
6 Petroleum Market Oversight to investigate potential market  
7 manipulations.

8 CEC is also tasked with conducting a  
9 transportation fuels assessment every three years that  
10 looks at how the state might implement tools to ensure a  
11 reliable supply of transportation fuels given the supply  
12 and demand conditions in the state.

13 And that leads me to the topic of today's  
14 workshop, the legislation authorizes the Energy Commission  
15 to set a maximum gross gasoline refining margin and  
16 penalty.

17 Next slide.

18 This slide shows the timeline for investigating  
19 and making a recommendation on refiner margin and penalty.  
20 As I noted earlier, the bill was signed in March of 2023,  
21 and the CEC began collecting data in June.

22 The order instituting informational proceeding  
23 was approved at the CEC business meeting in October 2023,  
24 kicking off the investigation into the maximum gross  
25 refining margin.

1           CEC hosted the first workshop on this topic in  
2 late November last year, which included a presentation by  
3 Economist, Matt Zagoza-Watkins, on the economic principles  
4 surrounding this concept including how a maximum gross  
5 gasoline refining margin might operate in a market lacking  
6 competition such as what we see in California.

7           We also hosted a moderated roundtable discussion  
8 with stakeholders from industry, labor, and other groups to  
9 discuss the impacts and benefits of implementing a max  
10 margin and penalty.

11           Since that workshop, staff have been analyzing  
12 refining margin data, supply, and demand conditions and  
13 investigating how refiners can ultimately retail prices  
14 would respond if a refining margin and penalty were  
15 established.

16           Today's workshop will highlight some of that work  
17 and a Request for Information that was recently released to  
18 solicit input on the design and other considerations for  
19 margin and penalty framework.

20           We are endeavoring to make a staff recommendation  
21 to the Energy Commission later this year on whether to  
22 impose a penalty.

23           I'd like to introduce the members on the dais  
24 this morning. We have Vice Chair Gunda of the California  
25 Energy Commission, Tai Milder, Director of the Division of



1 Petroleum Market Oversight, Nick Maduros, Director of the  
2 California Department of Tax and Fee Administration, and  
3 Drew Bohan, Executive Director of the California Energy  
4 Commission.

5 I'll now hand it over to Vice Chair Gunda for  
6 opening comments from the dais.

7 VICE-CHAIR GUNDA: Good morning, everyone. Thank  
8 you, Jeremy, for opening the workshop and setting the  
9 context for the workshop.

10 I just want to welcome everybody that's present  
11 in the room here and joining us virtually.

12 This is an extremely important topic for the  
13 State of California and for the Energy Commission.

14 I want to first begin by saying thank you to the  
15 staff at the Energy Commission, the staff within the DPMO.  
16 Director Milder oversees Director Maduros and his staff at  
17 CDTFA, and the support we get from CARB and many other  
18 agencies who have been weighing to help support the  
19 implementation of this extremely important statute.

20 It's a lot of work and, you know, we are moving  
21 as expeditiously as we can in making sure we fulfill the  
22 primary purpose of the SB X1-2, which is to make sure the  
23 consumers of California are protected at the pump.

24 In doing so, we have spent a lot of time last  
25 year to ensure the data transparency is uplifted and that

1 its light shine on the data to make sure we can explain --  
2 begin to explain, you know, how the market is structured  
3 and what are the barriers and some of the issues that we  
4 see that are causing the price spikes at the pump.

5           So, today's workshop, as Jeremy set the stage on,  
6 is a continuation of a previous workshop and really kind of  
7 beginning to put our foot on the gas pedal here to like  
8 really move forward on making sure the penalty lands this  
9 year and lands in a way that it's well-informed and  
10 structured and has good public participation. It's really  
11 important that we keep our focus on protecting the  
12 consumers of California, and it is the primary purpose of  
13 the Energy Commission and all the sister agencies.

14           So, in opening this workshop today, I welcome all  
15 the stakeholders who have taken time to provide us feedback  
16 and request them to continue to provide us information and  
17 feedback to do this as well as we can to really center  
18 ourselves around protecting the consumers of California.

19           We have conditions in California with the supply  
20 tightness that really opens opportunities for market  
21 manipulation and a number of issues, and it's our job to  
22 protect against those issues.

23           So, with that, I welcome Director Milder to  
24 provide his comments.

25           DIRECTOR MILDER: Thank you, Vice Chair Gunda. I

1 want to start by thanking the Vice Chair and the whole of  
2 the Energy Commission for inviting us and supporting us in  
3 our joint mission here.

4 DPMO is an independent entity within CEC, so we  
5 don't speak for the Energy Commission broadly, but we're  
6 here to share our input on this important issue.

7 To that end, we will be hearing today from Dr.  
8 Georgina Moreno, who is the Chief Economist at DPMO, who  
9 will be one of the presenters.

10 We're also looking forward to hearing from the  
11 other participants today.

12 DPMO's focus is on protecting consumers and  
13 making sure that the market is competitive. Unfortunately,  
14 we've seen price spikes in 2022 and 2023, and prices have  
15 already been going up this spring, especially in the Bay  
16 Area. So, this is a critical juncture.

17 With that in mind, I will be listening to the  
18 presentations today thinking about consumers and protecting  
19 the market.

20 Three framing questions that I think are  
21 important are - Will a penalty discourage price gouging?  
22 Will a penalty blunt the price spikes that we have seen in  
23 recent years or recoup excess profits on behalf of  
24 consumers? And third, do we need to realign incentives to  
25 encourage refineries to provide adequate supplies in

1 California? I think it's critical to address these  
2 questions head-on in a public forum, and with those  
3 questions in mind I'm looking forward to the presentations  
4 today.

5 VICE-CHAIR GUNDA: Thank you, Director Milder.  
6 Mr. Maduros.

7 DIRECTOR MADUROS: Good morning and thank you for  
8 including CDTFA in today's workshop, and I'd just like to  
9 echo the remarks of both Vice Chair Gunda and Director  
10 Milder.

11 You know, over the past now, year and a half,  
12 that this has been an active subject of discussion. It is  
13 clear that this is a very complicated issue, and that's why  
14 I think it's really important to have this workshop and  
15 others like, and I would just encourage industry and others  
16 from throughout the State to please participate and provide  
17 us the information in a timely and transparent fashion  
18 because I think it's very important the State gets this  
19 right. And that's why I welcome.

20 I think the CEC has made great strides over the  
21 past year in terms of standardizing the data. You know,  
22 this is really going to be data dependent, and that's why  
23 I'm looking forward to hearing from industry and others  
24 today to make sure we get this right as a State and protect  
25 California consumers.

1                   VICE-CHAIR GUNDA: Thank you so much. Director  
2 Bohan.

3                   DIRECTOR BOHAN: I just want to say this has been  
4 a massive responsibility we have gotten under SB X1-2, and  
5 I just want to thank Aleecia and Jeremy and the whole team,  
6 but particularly them for their leadership, and I see Dave  
7 in the back there as well and just for all the hard work.

8                   VICE-CHAIR GUNDA: Thank you, everyone. With  
9 that, I think we are ready to get moving, and I just want  
10 to uplift some of the core questions that Dr. Milder  
11 framed, and I think at the end of the day it's really to  
12 make sure that we understand every pathway we have to both  
13 blunt the price spikes as Director Milder framed, and,  
14 also, overall reduce the prices at the pump in California.

15                   Back Jeremy to you.

16                   DEPUTY DIRECTOR SMITH: Thank you, Vice Chair.  
17 Once, again, I'm Jeremy Smith, Deputy Director of the  
18 Energy Assessments Division, and I'll be providing a  
19 presentation here.

20                   We go to the next slide, please.

21                   So, SB X1-2 was born from Californians seeing  
22 gasoline price spikes in 2022. This graph shows the  
23 average daily price Californians were paying for gasoline  
24 from January 2021 through today.

25                   While price increases were felt elsewhere in the

1 country, as was the case in March of 2022 at the start of  
2 the war in Ukraine, other price increases are isolated to  
3 California.

4 At the end of September 2022, after gas prices  
5 spiked to nearly \$6.50 a gallon, Governor Newsom called for  
6 an early switch to winter blend, which due to the  
7 specifications of that, gasoline increases supply and puts  
8 downward pressure on prices.

9 Californians saw a similar pattern in late summer  
10 2023, and the early switch to winter blend was again used  
11 as a tool to help bring the prices down.

12 We are now in spring of 2024, watching gas prices  
13 increasing rapidly and are investigating how establishing a  
14 maximum gross margin and penalty might help alleviate this  
15 repeating problem and protect Californians from having to  
16 make difficult financial decisions to fuel their vehicles.

17 Next slide.

18 So, why explore a penalty? The legislature  
19 describes the conditions observed in California in 2022,  
20 including increasing refinery costs and profits that led to  
21 substantially higher prices than the rest of the country.  
22 While capacity limitations and inventory shortages played a  
23 role in increasing prices during a 90-day period in 2022,  
24 refiners earned a record 63 billion dollars in profits  
25 suggesting the high prices were the result of opportunistic

1 price gouging by oil companies.

2           Establishing a maximum gross gasoline refining  
3 margin and penalty may be the fundamental change necessary  
4 to protect Californians from price spikes, stop market  
5 manipulation when the market is reasonably balanced, and  
6 protect low income families struggling to pay for the high  
7 price of gasoline.

8           Next slide, please.

9           As I mentioned earlier, SB X1-2 authorizes the  
10 CEC to set a maximum gross gasoline refining margin and  
11 penalty under the condition the benefits to consumers  
12 outweigh the costs. This point is critical to the  
13 investigation, recommendation, and decision on whether to  
14 establish such a framework.

15           The CEC is charged to look at two things at  
16 minimum to make such a recommendation. The first is to  
17 consider whether it is likely that the maximum margin and  
18 penalty will lead to a greater imbalance between supply and  
19 demand in the California transportation fuels market than  
20 would exist without it.

21           The second is whether the maximum margin and  
22 penalty will likely lead to higher average prices at the  
23 pump on an annual basis than without it.

24           There is also a directive to explore other  
25 factors, some of which will be presented and discussed

1 during the workshop today, and it's also something we are  
2 continuing to seek input on through the Request for  
3 Information we released a couple of weeks ago, which I will  
4 provide more details on in just a little bit.

5 Next slide.

6 The gross gasoline refining margin is defined in  
7 the statute as the average rack price of wholesale gasoline  
8 sold by a refiner in the state minus the average  
9 acquisition cost of crude oil and imported gasoline, minus  
10 the costs associated with the low carbon  
11 fuel standard and cap and trade environmental programs.  
12 This graph shows a weekly breakdown of the components that  
13 make up the price of gasoline at the pump between early  
14 2022 and late 2023, including crude oil costs, taxes and  
15 fees, environmental programs, and the refinery and retail  
16 margins. The gray shaded area with the arrow pointing to it  
17 is the refining margin, and particular, that time period is  
18 the September 2022 price spike.

19 As you can see across the graph, while varying  
20 crude oil prices contribute to price fluctuations at the  
21 pump, the refining margin notably increases significantly  
22 during this period.

23 Next slide.

24 This is a look at the same data, but this time  
25 rather than just 2022 through 2023, this is the average



1 annual price breakdown over the last 10 years. There are  
2 some key observations I'd like to point to in these data.

3 First, again, crude oil prices have changed  
4 dramatically from year to year, a factor that impacts gas  
5 prices throughout the country, not just California.

6 Next, the refinery costs and profits, which are  
7 specific to California and shown in orange with a red  
8 outline, have been increasing rapidly in the last two years  
9 specifically. In fact, the average refinery margin between  
10 2014 and 2021 was 44 cents per gallon. These margins have  
11 nearly doubled that, exceeding 85 cents per gallon for the  
12 last two years.

13 Next slide.

14 Another way to look at these same data similar to  
15 something like adjusting for inflation is just to observe  
16 the ratio of these components. This graph shows the  
17 fraction of the price paid by consumers at the pump going  
18 to each of these various components. Again, the same  
19 observations can be made. Crude oil prices fluctuate  
20 significantly and refiner margins make up an increasingly  
21 larger proportions of gas prices in recent years.

22 Next slide.

23 In addition to analyzing other available data on  
24 gasoline prices and refinery margins, CEC has been  
25 collecting detailed information on refinery costs and

1 profits collected under SB 1322. These data are provided  
2 by the refiners to the Energy Commission on a monthly  
3 basis.

4 Based on these self-reported data, refining  
5 margins in 2022 and 2023 are the highest in the last 10  
6 years, exceeding the levels observed in CEC's analysis of  
7 other available data.

8 Next slide.

9 I just wanted to highlight some of the key  
10 takeaways that we observe in these data. The analysis  
11 collected from OPIS and the Alaska Department of Revenue  
12 data over the last 25 years -- we lost the monitor in here.  
13 Okay, got them back. So, I was saying the analysis of the  
14 data collected from OPIS and the Alaska Department of  
15 Revenue over the last 25 years shows that the highest  
16 weekly refining margins occurred on October 3, 2022 at  
17 \$2.34 per gallon.

18 I've been having technical challenges here in the  
19 room. Okay, great.

20 In those 25 years, the weekly margins have  
21 exceeded \$1.00 per gallon 44 times, of which 19 of those  
22 occurrences were in 2022 alone.

23 Averaging these data by year, the highest margin  
24 observed was 2022 at 87 cents per gallon.

25 Reviewing the M1322 data which goes back to 2013,

1 the highest annual gross --

2 VICE-CHAIR GUNDA: Jeremy, would you just hold  
3 for one second.

4 DEPUTY DIRECTOR SMITH: Sure.

5 VICE-CHAIR GUNDA: Can we make sure it doesn't  
6 fluctuate. It means that we constantly move it. Let's  
7 keep the mouse being moved for a second so we can keep  
8 going. Keep going, Jeremy. Thank you.

9 DEPUTY DIRECTOR SMITH: Okay. As I was saying,  
10 reviewing the M1322 data, which goes back to 2013, the  
11 highest annual gross margin was, again in 2022, with this  
12 self-reported metric was now over \$1.00 per gallon compared  
13 to the average over the last 10 years at 68 cents per  
14 gallon.

15 Go to the next slide.

16 So, this brings me to the next section of my  
17 presentation, which is to discuss the Request for  
18 Information which the CEC released on March 27th. By May  
19 3rd we are seeking input to inform our decision on whether  
20 to implement a maximum gross refining margin and penalty  
21 and, if so, how should that be structured to accomplish the  
22 goals outlined in SB X1-2.

23 Apologies while we work out the technical  
24 challenges in here. I'll try to pause as it breaks.

25 VICE-CHAIR GUNDA: Jeremy, just a quick question.

1 Are we observing that online as well?

2 DEPUTY DIRECTOR SMITH: No.

3 VICE-CHAIR GUNDA: Okay. Can you see here --  
4 apologies to everybody in the room, but we can probably  
5 keep going if people can log on to their computers here.

6 DEPUTY DIRECTOR SMITH: Okay. I can continue.

7 So, we're seeking answers to several questions in  
8 this Request for Information. First, should a maximum  
9 margin and penalty be established, and what are the pros  
10 and cons to consumers if one would be enacted?

11 Second, how would the maximum margin be designed  
12 to encourage appropriate market behavior? What should the  
13 margin be set at? Should the margin be changed  
14 periodically? And how would the maximum margin promote a  
15 better balance between supply and demand in California?  
16 How would it protect consumers from higher prices? Are  
17 there additional factors to consider when assessing the  
18 impacts on disadvantaged and low income communities? And,  
19 finally, under what conditions should the CEC consider  
20 granting refineries an exception?

21 Third, how should the penalty structure be  
22 designed? Again, how would this structure encourage the  
23 appropriate market behavior? And should the penalty, again,  
24 be periodically adjusted?

25 Finally, the fourth category that we're seeking

1 input on in this RFI is to inform the actual decision-  
2 making process. How should these various concepts that we  
3 review and evaluate be scored against each other to ensure  
4 the best maximum margin and penalty framework is ultimately  
5 recommended? How should these different ideas be evaluated  
6 to ensure the greatest benefit to consumers to encourage,  
7 again, the appropriate market behavior? And should some  
8 aspects of the framework or suggestions be waited or  
9 prioritized over others?

10 Next slide.

11 All right. So, there are just a few factors that  
12 we would like to highlight here that we should be  
13 considering when designing the appropriate margin and  
14 penalty framework.

15 First, to ensure benefits to Californians the  
16 penalty should not simply be passed on to consumers. If  
17 this ends up behaving similarly to say a tax, then it will  
18 likely show up in the retail price.

19 As an example, on the screen you can see the 2017  
20 state excise tax increase and the effect it had on prices  
21 at the pump just increasing immediately with it.

22 Next slide.

23 Another consideration is that not all refineries  
24 are the same. Refineries are often part of a larger  
25 company with different business models and different

1 involvement in the supply chain. This can range from  
2 companies that are involved in everything from crude oil  
3 extraction to retailing. With that business model, it is  
4 possible the penalty is simply offset in other areas. In  
5 contrast, some refineries do not operate retail outlets and  
6 simply refine crude oil into gasoline and sell that into  
7 the wholesale market.

8           Considering these differences, how can a max  
9 margin and penalty encourage appropriate market behavior  
10 without falling harder on some companies than others?

11           Next slide.

12           And finally, how would a max margin and penalty  
13 impact the retail margin and prices at the pump? In many  
14 of the recent price spikes the CEC has observed the concept  
15 of up like a rocket, down like a feather, meaning that  
16 prices come down much more slowly than they go up when  
17 refiner margins increase. Thus, would capping refiner  
18 margins fix the issues we're concerned about? Or would it  
19 simply transfer to the retail margin and pass on to  
20 consumers?

21           Next slide.

22           So, hopefully, this discussion has helped  
23 identify some of the key factors we're considering when  
24 investigating and recommending a maximum refining margin  
25 and penalty.

1           Again, to those listening in, if you'd like to  
2 respond to our Request for Information and weigh into this  
3 process, we would greatly appreciate that and encourage it.  
4 The RFI was posted to the docket 23-OIIP-01. We are  
5 requesting responses to that same docket by 5:00 p.m. on  
6 May 3rd. If you are responding, please include this text  
7 here, the Maximum Gross Refining Margin and Penalty in the  
8 subject line of your email submission just to ensure it's  
9 collected.

10           I'd also like to note that respondents should not  
11 include any proprietary or confidential information in  
12 their submission.

13           Next slide.

14           So, that concludes my presentation. I'd now like  
15 to introduce Dr. Gigi Moreno, Chief Economist in the  
16 Division of Petroleum Market Oversight, is joining us  
17 online for her presentation. Thank you.

18           VICE-CHAIR GUNDA: Thanks, Jeremy. Before Gigi  
19 jumps on I just want to apologize to the people in the room  
20 for the visuals here. I think there's a couple of steps  
21 trying to be made. One, a screen is being put out, and  
22 then the second, they're trying to print the slides for  
23 everybody in the room. But if you have access to a laptop,  
24 please join the link. Thank you so much and apologies for  
25 the inconvenience.

1 DR. MORENO: Looks like my Zoom shut down. Okay.

2 VICE-CHAIR GUNDA: Gigi, we can hear you.

3 DR. MORENO: Okay. Can you see my screen?

4 VICE-CHAIR GUNDA: We have a deck cued up here.

5 You can just say next and then people will move here.

6 DR. MORENO: Yeah. Good morning. My name is  
7 Gigi Moreno and I am the Chief Economist in the Division of  
8 Petroleum Market Oversight.

9 Today I will share an economic perspective on the  
10 -- on a potential maximum gross refining margin and provide  
11 theoretical foundation for this type of policy.

12 I will also share some thoughts about why such a  
13 policy may be appropriate in California's refining sector.

14 In the November 28th workshop that Jeremy  
15 mentioned on the maximum gross gasoline refining margin and  
16 penalty, Professor Matthew Zagoza-Watson provided a  
17 theoretical foundation and explained that the petroleum  
18 refining sector is an imperfectly competitive industry.  
19 Today, I will expand on some of the concepts he presented.

20 It should be on slide two, so can you guys see  
21 slide two? Is that what's showing? I can't see that.

22 DEPUTY DIRECTOR SMITH: Yes.

23 DR. MORENO: Okay, very good. So, let's review  
24 what we mean when we say that the gasoline refining  
25 industry is an imperfectly competitive market, and what



1 makes it imperfectly competitive.

2           In this sector there are barriers to entry  
3 largely due to high fixed costs and regulatory constraints  
4 that favors large firms. As a result, a few large firms  
5 dominate the market and production among firms is  
6 interdependent.

7           In addition, demand for gasoline is shrinking,  
8 leaving less room for many firms to operate efficiently in  
9 this industry.

10           Moreover, gasoline demand is highly inelastic.  
11 This means that when prices increase consumers cannot  
12 easily reduce the amount of gasoline they consume. This  
13 market attribute makes it easier for firms to exercise  
14 market power.

15           In imperfectly competitive markets with high  
16 barriers to entry, profit incentives often deviate from  
17 consumer and societal wellbeing.

18           Here are some examples of industries with  
19 barriers to entry due to high fixed costs and regulatory  
20 barriers. These are all imperfectly competitive industries  
21 that are regulated to keep excess profits in check.

22           Next, I would like to show why these types of  
23 industries may require oversight. Consider a stylized  
24 representation of a market where demand is linear and  
25 marginal costs are constant.

1           In a perfectly competitive market -- excuse me --  
2 price and output will be determined demand and marginal  
3 cost intersect. This is what has been noted as  $P^*$  and  $Q^*$   
4 on this graph. This is what we would call the socially  
5 optimal price and quantity, and this is where society's  
6 overall wellbeing is being maximized after accounting for  
7 all costs.

8           Now, recall from your Econ 101 class that in a  
9 perfectly competitive market the invisible hand of price  
10 signals assures that the social optimum is achieved with no  
11 government intervention.

12           I think that this is where most students of  
13 economics zone out because they seem to forget the next  
14 important detail. The invisible hand requires that markets  
15 have free entry and exit, complete information, no  
16 uncertainty, no externalities. When these assumptions  
17 fail, we have imperfectly competitive markets.

18           In an imperfectly competitive market price will  
19 be somewhere above the perfectly competitive price. Where  
20 exactly it is above the perfectly competitive price depends  
21 on the extent of market power and the extent to which it is  
22 exercised or abused in a market.

23           In this market each firm has market power to set  
24 prices and influence market outcomes. And the social  
25 optimum is not achieved if the market is left to its own

1 devices.

2           Imperfectly competitive markets may require  
3 oversight to promote competition and innovation and to  
4 protect consumers from price gouging.

5           So, instead of -- when we're looking at a market  
6 that's an imperfectly competitive market, instead of  
7 assuming or instead of relying on the perfectly competitive  
8 social optimum as a benchmark, we want to assess  
9 imperfectly competitive markets based on allowing these  
10 markets to earn what we call normal profits or a reasonable  
11 rate of return.

12           So, normal profits are the returns that are  
13 necessary to get a firm to invest and produce output in an  
14 industry at a reasonable rate of return. So, in this chart  
15 I cited  $Q^{IC}$  and  $Q^{PC}$  to represent what may be a --  
16 conceptually what may be the output and price that  
17 generates normal profits in the sector.

18           And keep in mind that market price, quantity and  
19 profits in imperfectly competitive markets may be  
20 reasonable, but they're not going to be economically  
21 inefficient, so we're always going to have some level of  
22 what we might call, what economists call market failure.  
23 And so, that's a reason that we would need to have some  
24 oversight in these types of markets.

25           And so, how do we determine whether or not

1 profits are normal profits or profits are reasonable? And  
2 we could do that in several ways. We could consider  
3 looking at similar markets using the same resources or  
4 perhaps, the same industry in different locations. We can  
5 look at historical outcome. We can also look at how costs  
6 are changing, and, whether or not, margins are changing in  
7 the same way.

8 All right. So, now -- so, then that allows us to  
9 then define what we mean by excess profits. So, let's  
10 suppose that in an imperfectly competitive market the  
11 output is now  $Q^x$  and the price is  $P^x$ . And this is a price  
12 that's above the reasonable returns price. And when  
13 returns in an industry deviate from what is reasonable or  
14 normal profits, we call those excess profits. When these  
15 excess profits are persistent, then that raises concerns  
16 about the possibility that firms in this industry may be  
17 exercising market power and possibly abusing it.

18 So, that's when these types of markets will  
19 require oversight and sometimes intervention to realign the  
20 profit incentives with consumer wellbeing.

21 All right. So, that's our stylized model. So,  
22 now in the real world, how do we know when profits in real  
23 world markets are excessive and require realignment? What  
24 we do is we study the industry, we try to understand the  
25 demand in a particular industry and production and pricing

1 dynamics.

2 Now, let's turn to the real world of the  
3 petroleum refining industry to look at some of their data  
4 that's helping us understand the dynamics in this market.

5 U.C. Berkley Professor Severin Borenstein  
6 observed California gasoline prices persistently exceeding  
7 U.S. prices after 2015 -- that was the Torrance refinery  
8 fire date -- even after controlling for costs and  
9 regulatory distances between California and the rest of the  
10 U.S. This unexplained premium for California gasoline is  
11 referred to as the mystery gasoline surcharge or MGS.

12 Professor Borenstein's plot here clearly show the  
13 sharp increase and the MGS after February 2015.

14 So, that's one piece of information that we would  
15 want to look at to see, well, what caused that change, what  
16 caused that increase, that premium, in California, that  
17 mystery surcharge in California after 2015. So, we want to  
18 explore and understand what's going on here.

19 Now, here in this chart, I plot the refining  
20 margins, and this is data from the Energy Commission's  
21 website and from the dashboard, so this is from publicly  
22 available data.

23 This chart shows margins for all gasoline  
24 distribution channels in 2023 dollars. We see that margins  
25 are quite volatile going month to month, and if we focus on

1 the orange trend line, we see that on average margins have  
2 been increasing since 2012.

3 Now, going back to this concept of setting a  
4 benchmark to be able to compare whether or not in  
5 industries experiencing excess profits, we can see this  
6 graph and see that it's -- that we can look at -- we can  
7 set the time period 2012-2014 as a benchmark. You can see  
8 that this might make a reasonable benchmark. It might not  
9 be the only benchmark, but this is a benchmark that we  
10 might consider to measure what normal returns might be in  
11 this industry, and this period, 2012-2014, is before the  
12 Torrance fire, and I shaded this period in this graph, and  
13 you can see that margins fluctuated but were on average  
14 relatively stable.

15 So, I plotted and this green line is the average  
16 refining margin for all gasoline channels during the  
17 benchmark period.

18 We see a few things here. We can see that the  
19 trend line in orange is rapidly increasing relative to the  
20 benchmark. We also see that after 2024, the margins tend  
21 to be above the green line, which suggests possibly excess  
22 returns based on relative to this particular benchmark.

23 So, let's explore specific spikes that we see  
24 during this period, which actually I'll go back and I'll  
25 show you, so this would be June 2022. We can look more

1 closely at September 2022 and September 2023 in the next  
2 slide.

3 All right. So, here we've seen -- at these three  
4 peak periods we see that, for example, in June 2022,  
5 relative to the benchmark refinery margins were 241 percent  
6 larger than the margins during -- than the average margins  
7 during the benchmark period. At the same time during the  
8 same time period, the cost of crude had decreased by 8.6  
9 percent relative to the benchmark, and I know crude is not  
10 the only cost. This gives you a sense of cost comparisons.

11 So, now let's look at the peak in 2022. We see  
12 that in September 2022, the refinery margin increased 257  
13 percent relative to the benchmark, and during this time  
14 period the cost of crude increased -- I'm sorry, decreased  
15 by 30 -- a little bit over 30 percent, and then in  
16 September 2023, refinery margins were 219 percent larger  
17 than the benchmark, and crude costs had decreased by 32  
18 percent.

19 So, while these data show compelling evidence  
20 that margins and the gasoline refining sector may be  
21 exceeding normal returns and may be excessive, these are  
22 only a few data points. We are continuing to collect data,  
23 industry data, exploring industry data to better understand  
24 the dynamics in this market and understand why gasoline  
25 prices in California are so much higher than the rest of

1 the U.S.

2           If we determine that policy intervention is  
3 required to realign profit incentives with consumer  
4 wellbeing, the policy intervention proposed in SB X1-2 is a  
5 maximum gross gasoline refining margin and penalty.

6           So, let's explore how this policy would work.  
7 So, excess margins signal a misalignment between producer  
8 incentives and consumer wellbeing. And a maximum GGRM,  
9 gross gasoline refining margin and penalty, will reduce the  
10 incentive to strategically limit production, provide the  
11 incentive to increase output if capacity is available, and  
12 decreases price as a result. It does not dictate price.  
13 It does not set a cap on price, and that's something that  
14 seems to be misunderstood about margin -- maximum margins.  
15 Producers are allowed to set price based on output  
16 decisions under this type of policy.

17           So, let's -- and the other piece, too, is that  
18 with a maximum gross margin with a penalty policy, the  
19 penalty is collected and then would be used to benefit  
20 consumers harmed by excess margins.

21           So, to help us conceptualize this policy, let's  
22 go back to our stylized model which measures returns in  
23 terms of economic profits. So, total revenue less -- so  
24 economic profits are total revenue less all costs,  
25 including opportunity costs.



1           Now, in the real world, we rely on accounting  
2 concept of profitability such as gross margins. So, there  
3 are some important differences between these two concepts  
4 for policy, design and implementation, but not so much for  
5 conceptualizing how the maximum gross margin works.

6           So, please keep in mind as I go through this  
7 stylized model that it's a useful simplification of a  
8 complex market that allows us to conceptualize. So, think  
9 of it much like Google Maps is a useful simplification of  
10 the transportation infrastructure, so is this stylized  
11 model.

12           All right. So, in this stylized model, profits  
13 will represent the returns to the firm's production  
14 activities, so we have a market with leaner demand as  
15 before in blue here and constant marginal in orange.

16           And let's suppose that the industry is producing  
17 as  $Q^x$  and at this level of output the price is  $P^x$ . Now,  
18 assume that at this level of production and price that  
19 based on our analysis we determined that this is in excess  
20 of -- this is of normal profit, so these are excess.  
21 Profits are generated as is price and quantity.

22           All right. So, now suppose -- that's profit in  
23 green. Now suppose that we implement a maximum gross  
24 gasoline refining margin with a penalty. The policy  
25 imposes a constraint on the demand faced by this market,

1 so, it doesn't set a price; it imposes a constraint on the  
2 demand. And this constraint, you can see, can be  
3 represented by this equation, and this symbol, pi-bar is  
4 the maximum margin that has been determined by the  
5 regulator. And notice that this constraint depends on the  
6 maximum margin that's determined for this particular  
7 market. It depends on the level of output. It also  
8 depends on costs.

9           So, one thing to notice is that as quantity gets  
10 bigger, this penalty or this constraint will get smaller.  
11 So, higher quantity, lower constraint.

12           Now, at any point along this constraint, but --  
13 by definition at any point along this constraint, the  
14 maximum margin will be satisfied, and so, producers can  
15 produce anywhere along here without facing a penalty.

16           Along this constraint the profits are going to be  
17 equal to the maximum profits that are set by the  
18 regulators, so pi-bar.

19           From the perspective of the producer, the effect  
20 of demand curve will now be the highlighted demand curve.

21           So, now what happens to production when we impose  
22 this maximum GGRM constraint? So, if firms -- so, if firms  
23 continue to produce at  $Q^x$ , which we were doing originally  
24 before we imposed this constraint, if they're continuing to  
25 produce at this level of  $Q^x$ , the price will decrease to  $P^x$

1 minus the penalty, okay. And profits will decrease to the  
2 smaller green rectangle, and the amount of the penalty  
3 that's collected is in this orange area.

4 Now, remember that the penalty collected is going  
5 to be used to compensate consumers for excess prices,  
6 therefore, this orange area is a benefit to consumers.

7 So, if firms have capacity, that is, is the  
8 constraint on output, is the choice to produce at  $Q^x$  and  
9 price at  $P^x$  is not due to true scarcity, then production  
10 will not remain at  $Q^x$  once we impose the maximum GGRM.

11 Individual firms are going to see this price  $P^x$   
12 minus the penalty and they're going to say, well, if I'm  
13 facing this price, I can do a little better by just  
14 producing a little bit more. And when the firms produce a  
15 little bit more, then enjoy a profit, and the penalty will  
16 be adjusted. And then firms will again say, well, at this  
17 new price I can produce a little bit more and make a little  
18 higher profit.

19 And, so, firms are then going to have an  
20 incentive under this policy to increase output until they  
21 reach the point where they can no longer do better by  
22 increasing output under this policy, and then they'll reach  
23 the point  $Q^M$  at a price  $P^M$ .

24 So, that would be the dynamic through which a  
25 gross gasoline refining margin with a penalty would

1 generate higher output and lower price. But keep in mind  
2 that this -- what's required for that is that there's  
3 capacity to increase. If there is no capacity, then firms  
4 are not going to be able to produce more, even with a  
5 penalty.

6           And also keep in mind that by setting a maximum  
7 gross gasoline margin, it doesn't set the price. Producers  
8 choose the level of output based on this constraint that  
9 they face, this gray line, and, so, this is not a price  
10 cap.

11           If the excess profits in this market are driven  
12 by scarcity, then the prices will not -- will not increase,  
13 and if it is raised by scarcity, then the prices will --  
14 the prices will not necessarily go down.

15           All right. So, let me give you some concluding  
16 thoughts. The petroleum refining industry is an  
17 imperfectly competitive market that requires oversight.

18           Excess margins are margins that are --  
19 persistently exceed the benchmark -- a benchmark, and so  
20 that's yet to be determined what the appropriate benchmark  
21 is.

22           A policy that sets a maximum GGRM and penalties  
23 can be an effective way of realigning industry and consumer  
24 incentives.

25           Assessing how the California market would benefit

1 from a maximum gross gasoline refining margin requires us  
2 to analyze data about the industry. For example, output,  
3 prices, margins, costs, all data sets the CEC is currently  
4 working to improve, and to design a system that provides  
5 refiners the incentive to align their incentives with  
6 consumer welfare. It is essential to consider factors  
7 important to stakeholders when we're implementing a maximum  
8 GGRM and penalty.

9 Thank you.

10 VICE-CHAIR GUNDA: Thank you, Jeremy and Gigi. I  
11 think we're going to just move to any questions from the  
12 dais.

13 So, first of all, Jeremy, thank you to you and  
14 Gigi. Thank you so much for really kind of the extremely  
15 helpful presentation there.

16 I have a couple of quick questions to just kind  
17 of situate myself. Just kind of going back to the slide on  
18 the benchmark, just as we consider this, Gigi, how do we  
19 think about an appropriate bench mark? You did mention,  
20 you know, kind of looking, probably going back 10 years,  
21 even before the Torrance refinery, probably a good idea to  
22 have kind of a good understanding of the benchmark and then  
23 you -- you know, I think what you did in the analysis is to  
24 adjust for inflation and other costs, and I'm just kind of  
25 taking from what you said that, you know, we will have to

36

1 adjust those for different regulatory statutes, but can you  
2 just give us a little bit of frame on and expand on how to  
3 think about that benchmark setting?

4 DR. MORENO: Yes. Thank you for that question.  
5 So, yes, how do we set the benchmark? That's a really  
6 important question. I think what we do is we analyze the  
7 data to try to find -- not only analyze the data, but also  
8 to let information from industries and from other market  
9 participants to try to understand what would be a  
10 reasonable comparison time period or a reasonable  
11 comparison -- say another geographic location to be able to  
12 assess whether or not the benchmark is a reasonable  
13 benchmark.

14 I would also suggest that we consider maybe  
15 multiple benchmarks and make decisions based on those  
16 multiple benchmarks.

17 VICE-CHAIR GUNDA: Thank you. I have just a  
18 couple more questions. You mentioned on one of the slides  
19 as you were kind of walking through the economic theory  
20 that if there is capacity, right, that it could have a  
21 significant impact, but I think with or without an increase  
22 in capacity, what I understand the slides to be is with,  
23 you know, some sort of an intervention it could kind of  
24 temper the prices. But I just want to understand what are  
25 the variables, you know, could it impact. So, I'm just

1 kind of trying to let -- let me clarify to articulate the  
2 question more clearly.

3 Under the assumption that there is an opportunity  
4 to increase capacity, and I think the economic theory  
5 suggests that, you know, that refineries are incentivized  
6 and the industry is incentivized to move that production  
7 up. If there's a constraint on that can you just explain  
8 how the spot market might intervene, how the prices might  
9 fluctuate, and what other constraints do you think there  
10 might be that we should think about? I understand the  
11 theory that with some sort of an intervention we will  
12 essentially, you know, change the nature of the  
13 supply/demand curve and the pricing strategy, and that  
14 would be, you know, definitely beneficial, but I'm just  
15 kind of thinking through the conditions under which there  
16 is not, you know, chance for increase in capacity, or for  
17 some other reason the capacity is not increased, how else  
18 do you want to think about the other conditions in the  
19 market?

20 DR. MORENO: Right. So, that is a challenge,  
21 right. So, if the -- if the industry does not have  
22 capacity, so there is no way that industry can respond by  
23 increasing output, then you do have a situation where the  
24 policy looks more like a price cap within the refining  
25 sector. And, so, I think that's going to be an important

1 consideration when we design this policy.

2           And the other thing to think about, though, is  
3 that because this isn't a price cap policy, that the -- if  
4 there is no capacity what's going to happen is you could  
5 potentially increase price at the retail end of the market.  
6 And, so, I think those are things to take into account in  
7 developing this policy. So, those are concerns that need  
8 to be addressed.

9           VICE-CHAIR GUNDA: Thank you, Gigi. Just kind of  
10 one last question. Again, super helpful as you're  
11 thinking, as you're framing this.

12           So, could I kind of just summarize kind of on the  
13 back of that. You know, given the competitive nature just  
14 being imperfect in a competitive market, some sort of an  
15 intervention is required to protect the consumer is one  
16 takeaway, and in instituting the penalty it has, you know,  
17 the potential to not only blunt the price spikes, but  
18 potentially protect the consumer bringing down prices.

19           And, you know, there are certain other conditions  
20 that could -- that might have to be looked in in totality,  
21 so I think my last question is the SB X1-2 does give us,  
22 you know, some authority over eventually the inventory  
23 levels, for example, or thinking through plan maintenance  
24 as scheduled is there any wiggle room there? Could you  
25 just comment on how the totality could better position the



1 penalty?

2 DR. MORENO: I think -- I think this could be  
3 part of a mix of policy that you suggest. One of the  
4 things, you know, in considering an exemption from the  
5 maximum gross margin is considered how efficient firms are.  
6 If firms can show that they have higher margins because  
7 they're really low cost, then they should be compensated  
8 for that, so that we encourage innovation to produce fuel  
9 more efficiently. So, you know, that would be one way you  
10 could use the exemption from the margin.

11 Or if firms do not have capacity but other firms  
12 do, then the firms who have capacity have the incentive to  
13 increase output.

14 And, as you mentioned, there's the -- some policy  
15 that can be implemented related to inventory then timing of  
16 -- timing of maintenance, I think those are -- those should  
17 be included as part of I guess you can say a portfolio of  
18 policies to how to make this -- to help us achieve our goal  
19 of maintaining some level of competition and protecting  
20 consumers in this market.

21 I don't think necessarily that one single policy  
22 is the only way to do things. I think it needs to be a  
23 multi-faceted approach.

24 VICE-CHAIR GUNDA: Thanks, Gigi. Sorry to just  
25 kind of go through that one last time, so I just want to

40

1 kind of take it through in setting up the penalty as we  
2 think through the positives and the conditions necessary  
3 for it to be successful, you know, would you suggest that  
4 it has to be thought through in totality with other things  
5 that we should do, or penalty by itself could be a tool.

6           The only reason I ask is how do we make the  
7 conditions around the penalty setting, if that's the path  
8 we are going, to maximize the benefit to the consumers.  
9 So, if you could just summarize that, you know, like the  
10 penalty framework requires, you know, multitude of -- like  
11 in your words like the different facets, and if that's kind  
12 of how we should look at it as penalty as a part of the  
13 totality that we need to optimize it out. Thank you.

14           DR. MORENO: Thank you. You know, one other  
15 piece of that is -- an important aspect of all of these  
16 policies is the data collection, and having good data so  
17 that we have a clear picture of what's going on in the  
18 market. I think that's going to be -- and transparency in  
19 the industry as well. I think that's going to be a key  
20 component of making sure that with GGRM and penalty -- the  
21 maximum GGRM and penalty work that it's going to be an  
22 important piece to any of the other options of policies  
23 that we have, the inventory or maintenance. And, so, I  
24 think that's an important piece that I probably did not  
25 mention strongly enough.

1                   VICE-CHAIR GUNDA: Thank you so much. Any --  
2 Director Milder.

3                   DIRECTOR MILDER: Just one question for me.  
4 Thank you.

5                   Dr. Moreno, I think it was your slide number 12  
6 that shows the increase in profitability compared to the  
7 benchmark period, and to really stark examples of profit  
8 spikes during 2022 and 2023, which would indicate excessive  
9 profits, going back to an earlier point you made, why do  
10 persistent excess profits signal market power?

11                  DR. MORENO: Yes, thank you. The reason is that  
12 if an industry or maybe a subset of firms within an  
13 industry can maintain excess profits for a long period of  
14 time, that suggests that they're using their -- they're  
15 using their market power. They're using their ability to  
16 dictate prices in the market. If we've established, say  
17 like slide 12, I'm no longer sharing my slides, so in my  
18 slide 12 the average monthly margin in the period 2012 to  
19 2014 was 40 cents per gallon. In that period, it was  
20 reasonable if that was enough incentive for firms to invest  
21 and to stay in this market. We have to ask, well, why is  
22 it that margins have to be \$1.20 on average, \$1.40 on  
23 average at peak periods.

24                  And, so, I think when those types of -- if this  
25 is truly excess margins and not a structural shift in cost

1 the way they produce gasoline, this is a persistent margin,  
2 then that worries me that there's a big deviation between  
3 the profit incentives and the welfare of consumers, and  
4 potential market power is being used in a way to drive that  
5 wedge between consumer wellbeing and profitability. Have I  
6 answered that question?

7 DIRECTOR MILDER: Thank you.

8 VICE-CHAIR GUNDA: Thank you. Director Maduros.

9 DIRECTOR MADUROS: Thank you. Just a couple of  
10 questions. One, could you expand a little bit on your  
11 comment that it may require multiple benchmarks?

12 DR. MORENO: Oh, yes. So, I mean, what I was  
13 suggesting is that the 2012 to 2014 benchmark it's not, you  
14 know, the only benchmark that you could use. There might  
15 be other benchmarks that are reasonable.

16 You'd have to study the market and understand  
17 what time period or geography you would need to compare  
18 that would identify what is that reasonable rate of return,  
19 what is a normal rate of return.

20 I selected in this analysis of 2012 to 2014 time  
21 period because it looked -- there weren't any severe  
22 spikes. It was consistent spikes over that time period.  
23 And it was also before the Torrance refinery, so we know --  
24 and it wasn't during the pandemic, so we know that I've  
25 excluded any extreme events from that.

1           You know, other benchmarks that I selected that  
2 I've looked at is 2017 to 2019, and I get similar results  
3 for that. I didn't share those on my slide deck. And so  
4 that's what I mean, it's okay to consider different  
5 benchmarks, and I wanted to point out that the 2012 to 2014  
6 isn't the only benchmark, it's just the one that looked  
7 most reasonable to me given the data that we have.

8           DIRECTOR MADUROS: Thank you. And one last  
9 question. Have you thought about how policymakers and CEC  
10 ought to think about imported gasoline, whether from  
11 Washington state or from Asia, that might be CARB compliant  
12 as refineries here in California transition to green?

13           Northern California has been transitioning to  
14 renewable diesel and the output drops how do we create or  
15 implement a penalty that doesn't provide a disincentive or  
16 maybe provides an incentive for importing gasoline that  
17 might be refined out of state? Have you thought at all  
18 about that or do you have thoughts on how we should be  
19 thinking about that?

20           DR. MORENO: Well, I'm always open to additional  
21 competition, right, so whenever we can get more competition  
22 that's a good thing. But, I mean, I have not considered  
23 specifically and I have not looked at data related to  
24 imports. I think other considerations when we're talking  
25 about imports should be the additional cost. You know, is

1 it really going to reduce prices? So, that's something to  
2 think about. And I think we need to also consider the  
3 additional solution that we create by shipping fuel here a  
4 much longer distance.

5           So, I think all those things should be taken into  
6 consideration fundamentally. I would be -- I would want to  
7 explore the potential for additional competition. I think  
8 that would be great. I think on the surface it sounds like  
9 a great idea, but I have not studied the data or the  
10 dynamics and then considered all the other costs associated  
11 with that.

12           VICE-CHAIR GUNDA: Dr. Moreno, I'm going to just  
13 kind of follow up on Director Maduros's question. Given  
14 the way the gross margin is being calculated, so it's  
15 basically we're removing the taxes where it starts with the  
16 rack, removing the crude and taking off the imports. So, I  
17 think it's a flag for us to think through. I absolutely  
18 subscribe, you know, to what you just said. I think  
19 increasing the competition and the liquidity in the market  
20 is, you know, through whatever means is kind of like what  
21 we are kind of getting to.

22           You know, if you have any thoughts right now or  
23 maybe that's a subsequent, you know, workshop where we are  
24 able to get your thoughts on it. But just thinking through  
25 the way we are calculating the value of what the gross

1 margin means and how the import costs are being excluded,  
2 it would be helpful to like think about, you know, what  
3 potential market power distortion that can create.

4 DR. MORENO: Yes, so I think it's definitely -- I  
5 think we should definitely consider how we compute the  
6 margins. That's definitely something we need to talk  
7 about. And I think that this is where it's important to  
8 get input and transparency from the industry as well.

9 VICE-CHAIR GUNDA: All right. Thank you.  
10 Director Bohan, do you have any questions?

11 DIRECTOR BOHAN: Yes. Dr. Moreno, thanks for  
12 that explanation, very clear and simple, so I appreciate  
13 that.

14 You know, it's been suggested that one or more  
15 refiners may take measures to avoid going over a max margin  
16 penalty if one were set, so I have two questions. One, do  
17 we believe that's likely and why or why not? And, two, if  
18 it were to happen, what impacts might we expect to see?

19 DR. MORENO: So, is your question they're not --  
20 they're not going to exceed --

21 DIRECTOR BOHAN: It's been suggested that  
22 refiners may use tools like exports or reduce capacity, or  
23 something like that so that they avoid hitting that level.  
24 And I'm just curious if those are threats that are to be  
25 taken seriously or if there's widespread evidence that

1 companies routinely look at that as a cost of doing  
2 business, and then, second, if they do that, though, what  
3 -- how does that change the way we think about the impact  
4 of the penalty, if at all?

5 DR. MORENO: Right. So, I have not explored that  
6 specific question. I think -- I think any regulation can  
7 be manipulated by the subject of the regulation, and so I  
8 think what's going to be important in our approach is that  
9 we develop policy that minimizes the risk of manipulation,  
10 because we don't want to create an additional failure in  
11 what economists call a market failure.

12 So, we want to -- in developing and designing and  
13 implementing such a GGRM, a max GGRM of penalty we need to  
14 consider what are the incentives that the firms will face  
15 or will have under this policy and what are some unintended  
16 consequences from that. So, I think those would be  
17 important pieces that we would have to consider and in the  
18 development and implementation of the policy.

19 VICE-CHAIR GUNDA: Thank you so much, Dr. Moreno.  
20 Just want to say again, thank you so much for making that  
21 very, you know, simple understandable, you know, kind of  
22 both a problem statement and the opportunity here with the  
23 penalty. Really appreciate you kind of both framing a  
24 solution here and what are the other things that we need to  
25 do to enhance that.



1           Also, Jeremy, thank you for setting the context  
2 from the Energy Commission's work. I just want to ask you  
3 one question. I know we are planning to, you know,  
4 complete the penalty this year. Are there any things that,  
5 you know, the public should know in terms of, you know, the  
6 data work that we are trying to do to Dr. Moreno's point on  
7 enhancing some of the data work?

8           DEPUTY DIRECTOR SMITH: Yeah, thanks Vice Chair.  
9 I'll just say that we continue to look at opportunities to  
10 collect more data and provide more information to help make  
11 this decision. You know, we've got rulemakings in terms of  
12 expanding the refining margin data that we collect, and I  
13 think that should help along the way.

14           And, you know, the only other thing I would say  
15 is, you know, again, encourage folks that are listening and  
16 participating in this that a lot of this data is available  
17 publicly and we would encourage them to weigh in through  
18 the RFI to really chime in and talk about how to make these  
19 decisions and ultimately arrive at the outcome that we're  
20 all looking for.

21           VICE-CHAIR GUNDA: Thank you. And, you know,  
22 again, just incredibly glad that we have Dr. Moreno and  
23 DPMO to be able to help support some of this work. And I  
24 know you're already doing this, but really request you to  
25 continue to work with Dr. Moreno to further the data needs.

1 Thank you.

2 With that, I think we can go to the next section.

3 Thank you, Dr. Moreno.

4 DEPUTY DIRECTOR SMITH: Thank you. On to the  
5 next slide. I'd like to introduce our next speaker. This  
6 is Dave Hackett. He's Chairman of Stillwater Associates.  
7 Dave, if you could take over and share your screen.

8 VICE-CHAIR GUNDA: Thank you. Jeremy, I just  
9 want to understand, instructing the next two presentations,  
10 I know we have Director Zagoza-Watkins here as well helping  
11 us with the next couple of presentations. Could you just  
12 set the stage on how it's going to be done?

13 DEPUTY DIRECTOR SMITH: Sure, absolutely. So,  
14 the first presentation by Dave Hackett, that will be  
15 followed up by a presentation from Tom O'Connor, the Senior  
16 Director of Energy Markets at ICF, and then we'll invite  
17 Matt Zagoza-Watkins to participate in the discussion,  
18 comments and questions afterwards to support any other  
19 comments from the dais.

20 VICE-CHAIR GUNDA: Thank you so much.

21 CHAIRMAN HACKETT: Good morning, Mr. Vice Chair,  
22 Directors, staff and workshop participants. I'm Dave  
23 Hackett, Chairman of Stillwater Associates.

24 Stillwater is a transportation and energy  
25 consulting company with long experience in the West Coast

1 fuels markets.

2 Stillwater has been retained frequently by  
3 California government agencies to advise on fuels matters.

4 I'm here today to talk about the maximum gross  
5 gasoline refining margin and SB X1-2.

6 Our focus today will be on how the MGGRM is  
7 calculated and its impact on the market. We will also  
8 explore the dynamics of price spikes which are the drivers  
9 of this legislation.

10 So, a price spike in the fall of '22 that was the  
11 catalyst for SB X1-2. This illustrates where crude or oil  
12 prices are created. For crude oil they're created -- the  
13 price can be created at the wellhead, or at the crude oil  
14 refinery, or somewhere in between.

15 The first place that gasoline is priced is at the  
16 spot market and in reference to a pipeline hub. The  
17 California spot market has hubs at Kinder Morgan Watson in  
18 Southern California and Kinder Morgan Concord in the north.

19 Pipelines move the product to outlying terminals  
20 where the product is loaded on to trucks. The truck  
21 loading facility is called a truck rack. The price of  
22 gasoline in the MGGRM is the rack price, both branded and  
23 unbranded, created here at the truck rack.

24 Trucks then deliver the product to the gas  
25 station is where the price is called dealer tank wagon.

1 That's the delivery price into the station. And then  
2 finally, retail prices are seen at the pump.

3 And, so, what we're going to be focusing on today  
4 are the product price in this margin calculation are  
5 primarily truck rack gasoline prices and the crude oil  
6 price at the refinery.

7 So that the maximum gasoline gross refining  
8 margin is equal to the weighted average rack price less  
9 taxes and fees for gasoline sold in California, less the  
10 low carbon fuel standard and cap and trade component, less  
11 the cost of crude oil input to each refinery, and any  
12 gasoline purchases that the companies have made.

13 What you can see here is the range of -- wide  
14 range of data on refining margins over time, and these data  
15 are from the M1322 data that the companies have submitted  
16 to the California Energy Commission.

17 And, so, the refineries with the best margin are  
18 represented here, the highest margin. Refineries with the  
19 lowest margin is there.

20 Essentially there is about a 63 -- on average  
21 there's a 63 cent a gallon difference between the margins.

22 The red line in the middle represents the  
23 gasoline weight average margin for the period.

24 Now, these margins vary as a function for  
25 different sales outlets, also called classes of trade, and

1 crude oil costs, and essentially they reflect the different  
2 decisions that the companies have made on how they're going  
3 to run their businesses.

4 The MGGRM is a gross margin, and gross margin  
5 calculations are commonly used to approximate the  
6 profitability of the business. This particular chart shows  
7 Stillwater investment of gross margin for the three West  
8 Coast refining enclaves, Southern California, Northern  
9 California, and the Pacific Northwest.

10 And the MGGRM is a gross margin like a gasoline  
11 crack spread comparing the gasoline sales revenue with a  
12 crude oil cost. And these are tools. Gross margin  
13 calculation generally include other revenue that the  
14 refiners generate like jet fuel and diesel, as well as all  
15 of their costs.

16 And because the calculations are done  
17 differently, it's difficult to reconcile a refiner gross  
18 margin with the MGGRM. And, so, therefore, in my view the  
19 MGGRM is not a complete picture of refiner profitability,  
20 but it is useful. You can learn from that calculation.

21 Now, refineries do -- two refineries currently  
22 report quarterly gross margins for the California refining  
23 business, Valero and PBF Energy. And in this chart are  
24 data that go back to 2017. Refiners report this quarterly,  
25 and Valero's numbers are in the orange and PBF's are in the

1 blue. We've got net income as well as gross margin in  
2 here. And you can see where during the COVID period that  
3 margins were, you know, considerably lower than they are  
4 now. 2022 was a banner year for all of the oil companies.  
5 2023 was a good year as well, but both companies struggled  
6 in the fourth quarter. So, you can see that these can be  
7 fairly volatile.

8           So, I want to turn to price spikes, and price  
9 spikes are the reason that really, frankly, that we're  
10 here. And in our view there are three times, world events,  
11 unplanned maintenance and market manipulation. And world  
12 events examples include Hurricanes Katrina and Rita came  
13 ashore in 2005, and it did heavily damage the refining oil  
14 industry in Louisiana and in Texas. This raised gasoline  
15 prices around the country and improved the margins for  
16 refiners in California, but there were no really -- there  
17 were no shortages of gasoline here in the state.

18           Unplanned maintenance, I think we're all familiar  
19 with this. The biggest example was the Torrance explosion  
20 in 2015 led to a lot of volatility.

21           And then, finally, marked manipulation, and we  
22 are aware -- and we have observed manipulation in the  
23 gasoline spot market specifically around the 2015 Torrance  
24 outage, and this activity has resulted in litigation  
25 initiated by the California Department of Justice.

1           So, then, let's turn to -- I'm going to show you  
2 a very busy graph. But what's going on in this graph,  
3 we're going to look at three sets of prices. The red line  
4 here is the spot price of gasoline in L.A. called the L.A.  
5 CARBOB R. The blue price is -- I think of this as the  
6 reference price for gasoline in the world market. The New  
7 York Mercantile Exchange also known as NYMEX, and then we  
8 need to have crude oil in here as well, and we're using  
9 West Texas Intermediate on the NYMEX as our reference for  
10 crude oil.

11           So, we can see three kinds of -- we're talking  
12 about three kinds of world events-Ukraine, potential  
13 manipulation, refinery issues.

14           And, so, let's start with refinery issues. Down  
15 here at the bottom where we have the refinery issues sort  
16 of highlighted, you can see this gold bar. Well, the gold  
17 bar is the difference between the spot price in Los Angeles  
18 and the NYMEX price. So, essentially this is the  
19 difference in the markets due to -- well, local conditions,  
20 you know, real farther away from additional supplies and  
21 everybody and the quality of our gasoline is different, and  
22 so that creates additional costs. It's when these gold  
23 bars start to spike, that is to say when the L.A. price  
24 gets a lot higher than the New York price, that you know  
25 something is going on locally. Locally means here in

1 California.

2           Okay. So, coming back to world events, here's  
3 the run up to -- the start of the Ukraine war. Actually,  
4 the run up begins, you can see in crude oil, this in '22,  
5 begins here and comes up and then as embargoes were imposed  
6 and the like, then the market gyrated. For the most part,  
7 in this area, certainly early on, the L.A. market -- well,  
8 the redline went up with the New York market and the blue  
9 line, but in this period here L.A. continued up but New  
10 York dropped down and that's why you see this spike in the  
11 difference between the two markets.

12           From our perspective we also think that there are  
13 periods in here that where potential manipulation is  
14 possible, and we see those periods, especially with these  
15 spike here. This is when you get a big -- a really big  
16 deviation between L.A. and the NYMEX, and, so, you see that  
17 in the spring of '22, certainly in the fall of '22, and in  
18 the fall of '23.

19           And then there are -- and so that's how we're  
20 looking at this. And if you've got an organized way to  
21 think about these spot prices, then that helps you in your  
22 analysis of the various policies. Will these policies have  
23 an impact on -- allow this kind of volatility in the  
24 market? And, so, I think we are all looking for solutions  
25 to that volatility.



1 All right, so we'll press on then. We think that  
2 September, '22 spike contains elements of all three issues.  
3 Gas and inventories were low that fall due to poor refinery  
4 reliability. Our opinion is that this is as much a  
5 hangover from COVID as anything else.

6 Some plants had overdue turnarounds, pushed into  
7 the fall, from the fall to the spring, as the refineries  
8 planned to go in, the turnaround continue to run because of  
9 the runup due to the war. And then other refineries had  
10 unplanned maintenance.

11 There was a shortage of import cargoes driven by  
12 the lack of tanker availability caused by the international  
13 trade flow disruption that resulted from the Russian  
14 embargo. It was reported to us that refiners couldn't find  
15 tankers to make the deliveries because the tanker market  
16 had completely changed.

17 And then when we look at the trading patterns and  
18 drill down into the details of the spot market activity on  
19 an individual basis, we see patterns that suggest the  
20 possibility of manipulation.

21 Okay. So, now let's switch to that question that  
22 we were asked which is how will refineries respond to a  
23 maximum gross gasoline margin. What we have -- we've been  
24 told and what we hear is that refineries will not violate  
25 the margin, and so, if that's the case, then they'll

1 quickly move their margin to the maximum margin. And, so,  
2 once the program is implemented, assuming it's implemented,  
3 then refineries' behaviors will start to change at that  
4 point.

5 In the case of the margin being below the max,  
6 refineries would probably leave prices up close to the  
7 maximum level, and we get this -- we come to this  
8 conclusion from our experience in Hawaii where in Hawaii  
9 the government said, hey, maximum gasoline price and  
10 refiners moved their prices to as close to the maximum as  
11 they could get them.

12 All right. So, now we're going to -- I'm going  
13 to walk you through a map here. We're going to talk about  
14 how one would look at the calculation.

15 On this chart I've got three curves. This is the  
16 OPIS basket racks for the second half of 2023, and we'll  
17 use this as our -- as the model for our rack price.

18 And then the blue line is the OPIS spot market  
19 price, and, of course, what you can see is the rack price  
20 follows the spot price very closely.

21 And finally, we have a crude oil price in here,  
22 that's the NYMEX.

23 And what we're going to do in the next slide is  
24 going to subtract the cost of crude oil, list cost of crude  
25 oil from this rack price, and we're going to show you what

1 that curve looks like.

2 And, so, in this first half of the slide, we've  
3 done that. What you see here is the OPIS basket racks  
4 minus WTI on a weekly basis over this six-month period.  
5 And here's that late-September price spike that we saw in  
6 2023 and we observed earlier.

7 And, so, let's assume that somewhere in here a  
8 maximum gasoline gross refining margin was imposed, and for  
9 the sake of this exercise we'll put it at \$2.00. Now, no  
10 recommendation has been made about maximum gross margins at  
11 this point, but I use this to illustrate where we're going  
12 with this.

13 So, the shaded area below the line is the  
14 potential additional refiner margin that would be  
15 available, and the shaded area above the line is the area  
16 that represents potential refiner penalty.

17 And, so, during the late-September spike with the  
18 MGGRM in force, we're assuming refineries would only price  
19 up to the \$2.00 margin in this example which would benefit  
20 consumers. Consumers -- refiners -- consumers who are  
21 supplied by refiners wouldn't necessarily be seeing this  
22 higher price passed to them.

23 However, after the spike when the prices fell  
24 quickly, see, the prices zoomed down here, refiners would  
25 be slow to decrease prices, trying to maximize the margin

1 under the max.

2 Competition from nonrack sellers would eventually  
3 force rack prices down. This is the effect of the  
4 competition from nonrefiner rack sellers. We call that  
5 line AB. So, there's an area under line AB which has got a  
6 slope of about 3 cents per gallon per day.

7 This area looks to be greater than the area above  
8 -- during the price spike, and what this illustrates is  
9 that consumers might be worse off with a maximum gasoline  
10 margin. What they did is they paid more here and paid less  
11 there. But with a margin in, I think an example is they  
12 might have paid -- saved a hundred units here and then had  
13 to pay back 110 or 120 there.

14 So, then talking about -- also talking about  
15 things that refiners might very well do, here's our margin,  
16 right, which is gas price, minus crude oil price, minus  
17 purchase gasoline cost. And what we know is that they  
18 create and closely manage the rack gasoline price. This is  
19 an activity that they do every day. They try to manage  
20 their crude oil cost, but this is not as -- they don't have  
21 as fine a control over crude oil cost as they do over  
22 gasoline price, and then purchase gasoline cost has been  
23 what it is.

24 However, in the event of an MGGRM, where they  
25 have to manage this rack gasoline price closely, they may

1 very well be making less margin than they would otherwise,  
2 and so, they will come up with other things to improve  
3 their margin under the cap.

4 As far as gasoline price is concerned, one thing  
5 might be -- one concept might be to add fee-based revenue  
6 generators, and in this case I would think of this as you  
7 might think this is a baggage fee that the airlines charge.  
8 It's not even in the price of the ticket, but if you check  
9 a bag, you're going to pay extra for that.

10 An example here could be a dollar a truck loading  
11 fee that's billed separately, so at the end of the month or  
12 the end of the week the customer gets a separate invoice  
13 from the rack price invoice, or there could be other  
14 administrative processing or booking fees.

15 On the crude oil cost side, they would have  
16 incentives to increase their crude oil costs, so they could  
17 buy, for example, crude at a high price from an affiliate,  
18 or they could blend in other raw materials into the crude  
19 oil price, raising the crude oil cost, or they could charge  
20 all the crude all with just costs to crude, and one of  
21 those ways would be, say, lease the refinery tank farm to  
22 an affiliate who charges them, gives them an invoice for  
23 services. So, you'd expect that they would look for ways  
24 to increase their crude oil cost.

25 Then, finally, purchase gasoline cost. In this

1 particular case they could put together a buy/sell with  
2 another company where they bought gasoline at a high price  
3 in San Francisco and sold it back at a high price --  
4 similar high price to a competitor in Los Angeles. That  
5 would be an example.

6           So, if, indeed, they will work and not exceed the  
7 gasoline gross refining margin, businesses will change to  
8 optimize around that decision.

9           Okay. So, we talked about short-term stuff and  
10 we saw a whole list of potential list of things they can  
11 do. On a medium-term basis they would look to move volume  
12 out, regulate the classes of trade, in this case the rack  
13 market and develop other sales channels, and as we talked  
14 about, might find ways to increase the crude or gasoline  
15 costs and manage the margin with a higher gasoline price.

16           And then on a long-term basis, if the maximum is  
17 too restrictive because it reduces long run profitability,  
18 refiners will consider an early market exit, or find other  
19 creative ways around the regulation to make an adequate  
20 return on investment.

21           So, that's the presentation at this point. I'd  
22 be happy to take questions or are you going to go straight  
23 to Tom from here, Jeremy?

24           VICE-CHAIR GUNDA: Jeremy, are we going to go to  
25 the next presentation? Thank you.

1           DEPUTY DIRECTOR SMITH: Thanks, Dave. We'll do  
2 comments from the dais after the presentations. So, now  
3 I'd just like to introduce the next speaker, Tom O'Connor,  
4 Senior Director of Energy Markets at ICF.

5           DIRECTOR O'CONNOR: Thank you, Jeremy. Let me  
6 know if I'm visible there.

7           DEPUTY DIRECTOR SMITH: Yeah, we can see it.  
8 Thank you.

9           DIRECTOR O'CONNOR: You've got a -- okay, there  
10 we go.

11           Okay. Thanks, everyone. I'm Tom O'Connor. I'm  
12 the Energy Director and Energy Markets Director at ICF, and  
13 I appreciate the opportunity to discuss the recommendation  
14 we've made to the Commission on this work.

15           ICF does a lot of work for California agencies as  
16 well as California utilities, and we're very involved with  
17 state impacts of various energy issues throughout a number  
18 of the states in the country and are happy to be able to be  
19 doing work for CEC on this important opportunity.

20           Let's see. Okay, so, you've heard a lot about  
21 the gross gasoline margin. I just want to make sure it's  
22 clear, the way we've looked at it here is basically it's as  
23 described here. The margin is the controlling mechanism  
24 under SB 1322. The one -- and the one caveat I want to say  
25 is I think Dave was talking about the gross gasoline rack

1 margin. Most of the data we've looked at and you're going  
2 to see here today is inclusive of all channels of gasoline  
3 sales. Rack sales, branded plus unbranded only represented  
4 about 30 percent of California's refinery gasoline sales.  
5 So, it's two narrow of a band to be able to fully  
6 appreciate and regulate, and those tend to exclude some  
7 refiners from the process. So, we look at everything here  
8 you're going to see on a -- looking at all sales channels  
9 from refiners.

10           And as Dave indicated, higher gross gasoline  
11 margins are going to correlate to higher refinery profits.  
12 However, it does not represent the actual profits of  
13 refineries because it does not include refinery operating  
14 costs, and California's refineries have some of the highest  
15 operating costs in the country. It doesn't reflect impacts  
16 from refinery performance, inefficiencies, outages and so  
17 on, and, also, it doesn't take into account the relative  
18 value of other products produced in the refinery.

19           For example, gasoline and diesel are much higher  
20 than crude oil price normally, but other significant  
21 production streams in California, like petroleum coke, and  
22 gasoline byproducts, and, also, LPG and so on, are well  
23 below crude oil. So, you don't get a full look at the  
24 total refinery profits from the gross gasoline margin as  
25 its defined.



1           So, we're going to look at a couple of factors  
2 driving -- you know, driving supply and demand and  
3 apologizing for probably some of these things earlier  
4 today.

5           What you're looking at on this chart is the  
6 average gross gasoline margin as I just defined it,  
7 including all channels of sales from 2013 to late 2023  
8 based on data reported by most of the state's refiners  
9 under SB -- under 1322.

10           Supply and demand issues have a major impact on  
11 gross gasoline margin. You can see clearly the increase in  
12 average margin following the Torrance event in 2015, and  
13 then in 2022 and 2023, and also the relatively short peak  
14 in 2019.

15           What I want to point out is that the closure of  
16 the Marathon Martinez Refinery in late 2020 resulted in a  
17 much tighter gasoline market in California, particularly as  
18 demands increased in the 2021 post-COVID recovery period.  
19 In other words, the game had changed. We're not in 2013  
20 anymore or even 2015. There's less production. Refiners  
21 in order to meet their sales demands, you know, have to  
22 import more, and that's more expensive.

23           So, the Rodeo Refinery closure in March is going  
24 to tighten the market in Northern California significantly  
25 further, and you're probably seeing some of that with the

1 most recent data from CEC that came out last night.  
2 Production is down, stocks are down, and I haven't seen the  
3 data today, but I'm guessing prices are going to be up.

4           Also, you can't easily see this from the chart,  
5 but gross gasoline margins are seasonal. The demands  
6 decline in the winter months due to higher RVP which means  
7 more supply. The demands go down slightly in the winter  
8 months, but the production goes up because of the butane  
9 added in gasoline in the winter months. So, that usually  
10 results in the November to February period on average over  
11 the last 10 years having a 17 to 23 cent per gallon lower  
12 gross gasoline margin than during the March to October  
13 periods. So, that is -- that's very significant and also  
14 demonstrates supply and demand makes a significant  
15 difference.

16           The next factor affecting gross gasoline margins  
17 is the sales mix, and this is probably the most critical  
18 factor.

19           The data received and analyzed by our team  
20 indicated that there's significant diversity in sales  
21 channels for each refiner. The bar chart shows that some  
22 refiners sell no gasoline at DTW or dealer tank wagon  
23 delivered basis, but some also have sales shares as high as  
24 80 percent. So, that could mean some refiners may not be  
25 impacted significantly by this margin ceiling or margin

1 penalty if DTW sales channel is excluded. So, it sets up  
2 kind of an unfair situation, so we wanted to look at things  
3 reflecting all these different sales channels.

4 Some people sell bulk and spot sales that range  
5 from nearly zero to 50 percent of their sales. Unbranded  
6 has some up to 50 percent and branded roughly 25 percent.

7 So -- and you can see from the prices at the  
8 bottom, and again, keep in mind this is over 10 years of  
9 data, but DTW and branded prices, and again, these are  
10 delivered prices to the service stations for DTW and rack  
11 prices for branded and unbranded, and bulk and spot are out  
12 the refinery gate for the most part.

13 So, branded and unbranded do have significantly  
14 higher prices, and if you apply one threshold or one gross  
15 gasoline margin basically to all the refiners, you're going  
16 to see some significant variations in impacts to refiners  
17 because they have different sales channels.

18 Refiners that sell bulk and spot are selling to  
19 parties like Shell, BP, Exxon Mobil and others. The  
20 purchasing parties are effectively bypassing the margin  
21 management and are not required to report their sales to  
22 the Commission. So, that sets up two different types of  
23 marketers -- multiple types of marketers in California even  
24 at the rack and at the DTW level.

25 So, basically my point is people are bypassing

1 the regulation because of how they buy gasoline versus the  
2 refiners who are tasked with actually producing the  
3 gasoline for everyone in California.

4 So, the gasoline marketing strategy has a big  
5 difference, and I think those things have been entrenched  
6 for refiners for years, and I think that's not a simple  
7 thing for them to change, and the potential here is it  
8 might happen because of a regulation like this.

9 So, let's take a quick look at the final factor  
10 -- I don't know if it's final, but the purchase mix. Crude  
11 oil is a prime feedstock for all the refineries in  
12 California, but some refiners are supplementing, or almost  
13 all refiners are supplementing their gasoline production  
14 with purchases, and, based on report data over the past 10  
15 years, some refiners supplement as little as 4 percent,  
16 others as much as 25 percent. The average crude price over  
17 that period has ranged, as you see in the slide, from \$68  
18 to \$71 a barrel which is a relatively small difference.  
19 All the refineries in California are very competitive and  
20 can process lower cost crude and have invested billions to  
21 be able to do that.

22 So, that difference is only seven or eight cents  
23 per gallon per se. And when you add in the fact that  
24 there's some gasoline purchases for some of them, it might  
25 increase that from 69 -- up to \$69 to \$74 a barrel, which

67

1 is maybe about a 12 cent a gallon range of impact based on  
2 input costs.

3           So, there's a big range in gross gasoline margin  
4 from supply and demand events in different sales channels  
5 and, also, crude costs have an impact. And each of the  
6 sales channels has significantly different operational  
7 costs. It costs money for refiners to deliver gasoline to  
8 a service station. Some have proprietary additives that  
9 are more expensive; others have generic. Some refiners are  
10 inherently more efficient than others, and each refinery  
11 produces a different mix of products and byproducts and has  
12 a different operational history.

13           So, that leads us to suggest a totally different  
14 approach to profit sharing and finding a way to explore how  
15 a mechanism may actually work.

16           Our proposed approach is to recognize those  
17 differences by using an individual refinery's historical  
18 gross gasoline margin as the benchmark for identifying  
19 relative profit levels. When a refiner's gross gasoline  
20 margin exceeds 90 percent of all their monthly gross  
21 gasoline margins in the past 10 years, they would be  
22 subject to giving up a portion of their profits above that  
23 threshold. Note that each refinery will have a different  
24 threshold aligned with their sales channel.

25           A review of the actual operational cost data

1 indicates that there were wide inconsistencies in how  
2 refineries reported, and we agree with the refiner's  
3 contention that it is impossible to allocate expenses  
4 solely to one product. Rather than include operational  
5 costs, we think it should be excluded from the potential  
6 margin penalty assessment. This allows refiners the  
7 incentive to reduce their costs with energy efficiency  
8 investments, cogent-type investments which are in  
9 everyone's interest.

10           Let's take a look at what that means with some  
11 examples on how this could work.

12           There's a profit sharing penalty in this example.  
13 The refinery is at the 105 cent per gallon as their target,  
14 or ceiling, before incurring profits. You can see over the  
15 past 10 years, similar to some of the slides Dave and  
16 others have shown, that the Torrance period is in a penalty  
17 area and '22 and '23 are in penalty areas. So, basically  
18 there would have been -- this process there would have been  
19 profit sharing in those periods.

20           Our proposal uses a monthly average reported  
21 gross gasoline margin, which the Commission receives  
22 usually two to three weeks after the month end, and  
23 compares that to the history 10-year threshold. And again,  
24 when we look at this for this particular refiner, they're  
25 selling at some percentage of DTW, some percentage of

1 branded rack, maybe some unbranded, maybe some spot. The  
2 average over the past 10 years is 105 cents per gallon.

3 So, when the -- so, in comparing to the history  
4 we have several tranches of penalty. If they're 10 cents  
5 above that 10-year average, they would yield 40 percent of  
6 their profits above the ceiling. If they're 20 cents per  
7 gallon above, they would yield 60 percent. And anything  
8 above that, they would yield 80 percent.

9 What's important to note is there's almost never  
10 any associated increase in refinery operational costs  
11 during these spikes.

12 Each year the 10-year period would update, so the  
13 threshold will vary from year to year.

14 We'll take a look now at how this actually  
15 calculates, and we can look through this calculation. I'm  
16 not going to go through any great detail here, but  
17 basically if this refiner X is selling 60,000 barrels a day  
18 of gasoline, or 1.8 million barrels of gasoline in a month  
19 at 105 cents per gallon threshold, and in June, 2022 gross  
20 gasoline margin was 155 cents per gallon, then as measured  
21 with the mix of DTW and everything minus crude costs, then  
22 they would yield 25 million dollars and 25.7 million  
23 dollars back to the state of California after the  
24 calculations are done at the end of the month. The  
25 refinery still retains 12 million dollars in that revenue

1 above the ceiling, so -- and, so, there's a sharing here.  
2 In this case -- in this case the amount that the -- the 50  
3 cents a gallon that was exceeded, exceeded the threshold,  
4 incurred all three tranches of volume. So, the profit  
5 sharing percentages still incentivize refiners to run  
6 crude, sell gasoline above the ceiling as you can see from  
7 the retained profits.

8           Okay. So, a little more data on it, additional  
9 perspective. You know, based on this the chart looks at  
10 the period from 2013 where profit sharing may have been  
11 triggered. Apart from the Torrance incident in 2015, most  
12 of the penalties would have occurred from 2022 and 2023.  
13 You will note that the impacts hit all refiners regardless  
14 of their sales channels because that's how the sales  
15 channels methodology here works.

16           California, and these are big numbers, California  
17 would have received about 850 million dollars over this  
18 period, primarily in the 2022 and 2023 period, assuming a  
19 90 percent threshold, and it would have received 570  
20 million if it was a 95 percent threshold. In other words,  
21 if you -- the benchmark here, if I go back to the earlier  
22 presentation, the benchmark here is a 90 percent threshold.  
23 They can also be a 95 percent threshold, depending upon how  
24 the Commission wants to allocate the money that may be  
25 viewed as excessive.



1           So, in this case, in the 90 percent case,  
2 refiners would have had to give up 850 million dollars over  
3 the last 10 years, but they would have retained 1.2 billion  
4 dollars in the 90 percent case, and again, that's over the  
5 90 percent threshold. So, they're already getting what's  
6 under 90 percent threshold.

7           And I think what's important here is also, you  
8 can see these are actual numbers from different refiners,  
9 and if you can figure them out, good luck, but we can back  
10 them up with data.

11           And the key point here is that everybody,  
12 regardless of their sales channel, you know, depending upon  
13 how they're excelling, could be subject to this penalty.

14           And also, you'll also notice the Martinez impact,  
15 and apologies to Marathon and everything, but it's  
16 important because it made the market tighter, and supply  
17 and demand is, again, the primary driver.

18           So, California is now more vulnerable to price  
19 spikes, and they're probably going to become more  
20 vulnerable to price spikes with the Rodeo closure. And  
21 those folks are going to be continuing to be supplying  
22 their customers probably through imports, you know, or  
23 blend stocks that they get in, but the -- you know, the  
24 fact is that California is a little closer to the edge day  
25 in and day out because of the shutdown which was done

1 basically to provide renewal diesel into the California  
2 market for both refiners, which was a good and admirable  
3 thing for them to do, but it puts gasoline on the hotseat.

4           Okay, I'm almost done. I'm not going to go  
5 through everything here, but the benefits of this  
6 methodology is it doesn't put a ceiling on the gross  
7 gasoline margin which could certainly result in aberrant  
8 market behavior to avoid the cap. It provides a way to  
9 return some refiner profits to impact the constituents in  
10 California while still preserving an incentive for the  
11 refiners to run the refineries.

12           And, of course, there's dark sides to every  
13 regulation, and this mechanism as its proposed really  
14 impacts refineries only. The people who purchase wholesale  
15 gasoline are free to sell that gasoline at retail without  
16 restriction during price spike periods. They don't suffer  
17 any penalties from it. So, that's one impact of this that,  
18 you know, hasn't been anticipated I don't think.

19           And then secondly, of course, the earlier prices  
20 spike up and then they float down like a feather, that's  
21 definitely there in California. So, retail dealers can  
22 charge what they want and their response to price spikes  
23 and the duration of the escalation definitely needs to be  
24 studied, but it's not something under this -- under this  
25 regulation. They will come under more pressure over time

1 as competition for lower gasoline sales increase.

2 And then, I guess, obviously refiners are going  
3 to find ways to try to maximize their profits under this  
4 regulatory structure, and we're not quite sure how they may  
5 do it. Dave had some suggestions on what they may do, but  
6 I don't know whether this strategy that we've proposed here  
7 is something that would possibly endure the incentive for  
8 them to continue producing fuel and not try to shrink the  
9 market or export fuel.

10 I appreciate your attention. Everybody has given  
11 you a lot of numbers today, and the proposal attempts to  
12 strike a balance between the required profits for a massive  
13 industrial infrastructure and the need to provide some  
14 compensation to citizens who have suffered during periods  
15 of very high refining margins they can pass through to the  
16 wholesale and also critically the retail market, and this  
17 may be one way of helping that.

18 I do not believe -- I do not believe that this  
19 mechanism is going to create more fuel for the state of  
20 California. I think there are a number of options the  
21 state has looked at which may be able to do something like  
22 that to help mitigate margins, but it's going to take more  
23 than one regulatory action to kind of harness the  
24 transition that we're going to be going through over the  
25 next few years to make sure that the consumer impact is

1 minimized, and I'll stop there.

2 I'm going to stop sharing my screen now, too,  
3 Jeremy.

4 DEPUTY DIRECTOR SMITH: Sounds good. Thank you,  
5 Tom. I'd like to thank both Dave and Tom for providing  
6 their expertise and providing these presentations for the  
7 discussion today.

8 Before we move to comments from the dais, I  
9 wanted to say one thing real quick. It seems like we've  
10 got the IT issues resolved in the room, but if you do want  
11 a copy of the slides, we did print some of those out.  
12 They're in the front room.

13 And then I'd also like to welcome Matt Zaragoza-  
14 Watkins here to just initiate the discussion with Dave and  
15 Tom with a couple questions before we move to the dais, so,  
16 thank you.

17 MR. ZARAGOZA-WATKINS: Thank you, Jeremy. I'm  
18 Matthew Zaragoza Watkins. Thank you for the opportunity to  
19 participate today.

20 I think what we've heard this morning represents  
21 just a tremendous amount of work and expertise that has  
22 gone into thinking about how to maintain and improve the  
23 competitiveness of what is a very complex market. I think  
24 it also underscores there's still a lot of important work  
25 that's left to be done so that we can understand how these

1 markets function and the impact of the regulatory  
2 intervention on this market might be. But again, I  
3 appreciate the very thoughtful comments and analysis from  
4 Dr. Moreno, Mr. Hackett and Mr. O'Connor.

5 I can try and synthesize what I heard this  
6 morning. I think we see that we've identified from  
7 historical record several examples of instances where  
8 prices in California have risen significantly above the  
9 competitive benchmark. And if we can think about a sort of  
10 organized way of analyzing those, the drivers of them are  
11 underlying fundamentals of input costs. So, when crude oil  
12 prices rise and prices rise around the world and in  
13 California as well, we're unsurprised by that. Those are  
14 fundamental drivers of scarcity.

15 When refinery margins, that is the spread between  
16 crude oil prices and NYMEX, the New York Mercantile  
17 Exchange, prices at New York Harbor rise, what that  
18 reflects is a true scarcity in refining capacity in the  
19 United States. And when spreads rise between L.A. and that  
20 New York Harbor, what that represents is true and  
21 potentially artificial scarcity that exists in the  
22 California market.

23 And amongst those sources of true and artificial  
24 scarcity we have sort of a taxonomy that breaks it down  
25 into three main potential drivers, right. Market

1 manipulation which comes from instances where a few actors  
2 are able to significantly change wholesale prices over a  
3 short run and which doesn't necessarily reflect fundamental  
4 scarcity, right. I mean clearly gathering data is going to  
5 be a method for creating transparency and trying to  
6 mitigate that.

7           We have the exercise of market power, that is  
8 where firms restrain their potential supply in order to  
9 maintain prices above that competitive benchmark. I mean  
10 that can happen persistently, and as Dr. Moreno pointed  
11 out, we've seen that here in California.

12           And then we can have true scarcity, right, when  
13 unexpected outages lead to an inability to expand capacity,  
14 potentially bottlenecks driving imports leads to  
15 fundamental imbalance between supply and demand that market  
16 actors couldn't address.

17           Now, that's all a lot of preamble into asking  
18 questions, and so the first question I'll ask is for Mr.  
19 Hackett.

20           So, it seems like your analysis, Dave, there's  
21 real assertion that refiners would quickly move their  
22 margins up to the maximum level. It relies on the  
23 assumption of sort of no (indiscernible-audio skips) of  
24 additional supplies, right, that movement of refiners,  
25 moving their prices higher, doesn't lead alternate

1 suppliers to increase the quantity that they're offering in  
2 order to capture those, you know, higher margins, which  
3 then would have kind of a downward pressure on price,  
4 right. And I wonder if you could just expand a little bit  
5 on sort of your uncertainties around exactly what those  
6 dynamics might be.

7           CHAIRMAN HACKETT: Well, as we saw that one  
8 graph, we'd consider that headroom, and they would be -- on  
9 an everyday basis they try to charge as much as they can,  
10 and the market restrains them from that. What you would  
11 see, though, is all of a sudden you've got a new incentive  
12 for them to figure out how to get the price closer, and  
13 certainly in our view would figure out how to improve their  
14 margin under this situation. But they are restrained by  
15 nonrefiner competitors, and so we think that could be 15 or  
16 20 percent of the market, and that provides some balancing  
17 mechanism, but their drive will be to maximize their margin  
18 under the calculation, and a piece of that will be trying  
19 to get as much price as they can.

20           MR. ZARAGOZA-WATKINS: And to what extent do you  
21 think that the adoption of maximum refining margin would  
22 induce additional supply or additional capacity into the  
23 state?

24           CHAIRMAN HACKETT: Well, I don't see anything  
25 within this program that would increase supply. Tom

1 O'Connor just said that. In many of the instances you  
2 might find opportunities to -- that could improve your  
3 bargaining by buying high price gasoline, and, so, there  
4 may be something there. But fundamentally this doesn't  
5 improve logistics. It doesn't increase refining capacity.  
6 It doesn't provide incentives for investment.

7 MR. ZARGOZA-WATKINS: And just with the regs the  
8 taxonomy of market manipulation, market power and then true  
9 scarcity, and again, you sort of alluded to this in your  
10 comments already, to what extent would a maximum refining  
11 margin potentially address some of those, and to what  
12 extent does SB X1-2 have other mechanisms for addressing  
13 them, do you think?

14 CHAIRMAN HACKETT: Yeah, thanks for that  
15 question. If you go back to our analysis of the spot  
16 prices, you see world events and unplanned maintenance and  
17 market manipulation, it's our view that SB X1-2 gives the  
18 Energy Commission through the Department of Market  
19 Oversight the ability to understand what's going on in the  
20 spot market provides transparency to the spot market, and  
21 it's our belief that that transparency will significantly  
22 limit the kinds of market manipulate that we've observed in  
23 the past. And when that happens, then that part of the --  
24 that one feature of price spikes will be reduced we think  
25 dramatically. And, so, that solves a lot of the problems

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1 that have been vexing us all for a long time.

2 MR. ZARAGOZA-WATKINS: Thank very much, Dave, and  
3 again, I just really appreciate your thoughtful analysis,  
4 and obviously we'll continue to chat as we work through  
5 these issues. Still a lot to figure out.

6 Mr. O'Connor, in sort of reverse order, regarding  
7 that taxonomy as sort of manipulation market power and then  
8 true scarcity, how do you see implementation of the maximum  
9 margin as you've kind of outlined it addressing those?

10 DIRECTOR O'CONNOR: Well, I think the fact that  
11 the process is -- and again, I'm talking about the process  
12 that we've recommended. The fact that the process is in  
13 place, the refiners are going to be aware of that. I mean,  
14 I don't believe they're going to be able to do anything to  
15 drive their prices up to the maximum because there's just  
16 too many players involved in the market and they'll lose  
17 market share.

18 So, if the current market is balanced and prices  
19 are from most refiners under the ceiling, I think life will  
20 go on pretty much as normal. When markets get tight, you  
21 know, and we're watching the Northern California market  
22 right now, when prices get tight and the spread in the Bay  
23 Area is well over the NYMEX, it's a red flag that supplies  
24 are tight and that the market needs to be monitored for  
25 possible manipulation.

1           Manipulation is one thing. The fact that if  
2 supplies are very scarce there's going to have to be --  
3 there's going to have to be -- the industry is going to be  
4 doing something to try to take advantage of that by  
5 increasing -- if they can't increase production because  
6 shortages in production are what's driving the spike,  
7 they're going to have to try to ramp up imports or move  
8 product from Southern California to Northern California.  
9 In prior years they had to move from Northern California to  
10 Southern California because Northern California was  
11 oversupplied, you know, on average.

12           So, they'll be looking to get product in from the  
13 Pacific Northwest or further away to be able to balance the  
14 market again. And that's going to cause prices to --  
15 that's a legitimate reason to cause prices to increase to  
16 attract imports.

17           If you have some rogue trades to take place like  
18 we had happen last year, I think the monitoring of those  
19 trades is going to do something to help identify that  
20 quickly and also, you know, and recognize that.

21           I also think it wouldn't be a bad idea to try to  
22 sit down -- you know, some of the folks at the Commission  
23 there to sit down with parties like OPIS or Argus and try  
24 to get their feedback. If that's been done I'm not aware  
25 of it. But get them to sit down to basically go over how

1 they come up with prices and how they validate the prices  
2 that they publish every day. I think that could be  
3 somewhat revealing and I think it would be a good thing for  
4 the OPM to investigate.

5 MR. ZARAGOZA-WATKINS: Thank you, and just one  
6 last question for you, Mr. O'Connor. Your analysis is  
7 somewhat different from Mr. Hackett's in the sense that it  
8 supposes that refiners would pass through higher prices in  
9 response to scarcity and that potentially it would be a  
10 profitable strategy to increase prices even in a world  
11 where there's a cost sharing component. How do you imagine  
12 that flowing through in impacting retail prices?

13 DIRECTOR O'CONNOR: Well, retail prices I don't  
14 believe are going to be changed by what I'm proposing,  
15 okay. In other words, if the spot market increases, the  
16 proposal that we have is not going to do anything to reduce  
17 retail prices. It's not going to reduce spot prices which  
18 is basically going to capture what would be deemed by a  
19 historical perspective which is, I think, something that  
20 Gigi was talking about, you know, look at what -- how do  
21 you determine what is -- what is a price -- a margin  
22 maximum. If we look at that over history for each refiner  
23 based on their sales channels and basically say some of  
24 this money is going to get plowed back, and the higher you  
25 go above your historical 90 percent or 95 percent point,

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1 whatever it is, that's going to get plowed back to  
2 consumers so that they can get some benefit from the higher  
3 price spikes.

4           So, it's not going to affect that, and I think  
5 there are a number of other initiatives that the Commission  
6 is looking at that can mitigate the price spikes more  
7 quickly, the RVP process was one that obviously you can  
8 only do that at certain times during the year, but, you  
9 know, that's one tool to be used. But I think there are a  
10 number of tools that could be used that would complement  
11 this margin management proposal so that -- so that  
12 refineries really would probably try to do everything they  
13 can to -- they still are going to make more money, you  
14 know, due to the price spike, but it's not going to be as  
15 much because some of it is going to get plowed back.

16           I can't remember if I mentioned it off the top,  
17 but that 850 million dollars penalty over the 10 years,  
18 that's about a penny a gallon for all the gasoline sold by  
19 the refiners that reported the information. That's a penny  
20 a gallon that will, you know, amount to a lot of money  
21 because it's a lot of volume.

22           So, I think that's -- probably said enough.

23           MR. ZARAGOZA-WATKINS: Thanks, Tom, that's very  
24 helpful, and again, I'll just say thank you to Dave and  
25 Tom. I really appreciate your analysis. I'm looking

1 forward to working with you in the future.

2 VICE-CHAIR GUNDA: Thank you so much, Mr.  
3 Zaragoza-Watkins for kind of keeping us up there. I think  
4 I want to just pick up right where you left, so I think,  
5 Tom, again, you and Dave, thank you so much for the  
6 presentations. It was really helpful for us to be  
7 contextualized today in the broader kind of strokes of the  
8 opportunity of regulation by Dr. Moreno and then kind of  
9 like really kind of think through, you know, these two  
10 different points of view and start building the record on  
11 how the Commission could exercise the tools that have been  
12 given to the Commission to, again, really focus, laser  
13 focused on protecting the consumers at the pump.

14 So, Dave, if you want to come on line, I really  
15 would like to invite a discussion here between you and Tom.  
16 I think there's a fundamental position that I took away  
17 from this which is, you know, from, Dave, your  
18 presentation, the penalty, if set up, could blunt, you  
19 know, the overall price spikes, and the contention there  
20 would be the industry might try to maximize within the  
21 confines of the penalty.

22 Tom, what I heard from you is it doesn't really  
23 blunt the price spikes, but really gives you an opportunity  
24 to kind of crawl back or, you know, share, whatever the  
25 word is, the profits of the industry to kind of, you know,

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1 again, certain benchmarks to put it back into the pockets  
2 of the consumers in some shape or form.

3           So, could we just expand on that a minute? I  
4 think I would like to have that a little bit more explored  
5 here. Tom, if you have a question for Dave, or, Dave, if  
6 you have a question for Tom, I would welcome that.

7           DIRECTOR O'CONNOR: Well, I think it's just a  
8 different perspective of how we're looking at it. I mean I  
9 -- I'm trying not to impede the normal market process as  
10 much as possible. In other words, I'm not trying to set up  
11 anything that would cause a refiner to say I shouldn't  
12 continue to run crude oil; I shouldn't continue to produce  
13 fuel; I shouldn't think about exporting fuel just to keep  
14 under a cap. You know, I get better value by producing  
15 CARBOB gasoline and selling it in the state of California,  
16 as long as the demands in the state of California make that  
17 economically attractive to me.

18           So, as demands decline over the years, you know,  
19 refiners are going to have some difficult decisions on what  
20 they have to do, and I think there's going to be a lot of  
21 ups and downs in the supply/demand balance over that period  
22 of time, and that, I think, this process enables that to be  
23 monitored clearly, and it's actually a very simple  
24 calculation that can be done every month to determine what  
25 needs to be done. And it certainly allows latitude for

1 refiners to basically say -- I mean if a refiner, you know,  
2 shuts down unexpectedly and their gross gasoline margin  
3 goes through the ceiling because they created a problem and  
4 they may be subject to a penalty at that point, they might  
5 say, hey, you know, we should be an exception here this  
6 month because we created the market that we're not selling  
7 any gasoline in this market.

8           But I think Dave is just looking at it from a  
9 different perspective, but I'm certainly inviting his  
10 comments.

11           CHAIRMAN HACKET: I completely agree with Tom  
12 about the supply/demand issues, and I'm glad he pointed out  
13 the Martinez shutdown in the summer of 2020 has changed the  
14 marketplace.

15           This has kind of happened over the years. The  
16 market has gone from being long to short to being long to  
17 short again, and you see that in the 10-year thing on the  
18 margins. A lot of that is a function of supply and demand  
19 in the marketplace, and now here we are in 2024  
20 (indiscernible-audio stops) and so the going forward here  
21 is going to be rougher than it has been. I think the  
22 market is short (indiscernible-audio stops). So, the  
23 onshore people are -- the refiners who we're talking about  
24 here are necessarily going to have probably a better margin  
25 than they've had in the past, and so then the question gets

1 to be how do you manage that. I think that -- and so one  
2 of the ways you manage that in my view, you know, we talked  
3 about this earlier, is we figure out how to bring  
4 transparency to the spot market and you dampen down  
5 manipulation driven spikes. I think that's clear that that  
6 needs to be done.

7 Tom's concept about profit sharing at the margin  
8 once it gets to be above a certain level is interesting. I  
9 hadn't thought about that before. That's a new one on me,  
10 and so, that will take a little bit of thought from my  
11 perspective.

12 VICE-CHAIR GUNDA: Thank you. I have a few more  
13 questions, but I want to first go to Director Maduros and  
14 then Director Milder.

15 DIRECTOR MADUROS: Thanks. A question I guess  
16 for both of you based on Dr. Moreno's presentation because  
17 I know, Mr. O'Connor, in your remarks you said, you know, I  
18 think both of you said you don't really see this providing  
19 sort of more supply into the market. Dr. Moreno in her  
20 presentation sort of outlined, at least in economic theory,  
21 how this would alter the supply and demand curve to provide  
22 an incentive for refiners to actually produce and sell more  
23 into the market if they do, in fact, have that capacity, in  
24 which case you would think in economic theory again that  
25 those would show up actually in the retail price as well



1 because there would be then, you know, an increase in  
2 supply and more competition out there in the market.

3 I'm wondering -- I mean all of this I guess there  
4 are two parts of this that are interesting to me. There  
5 are lots of parts that are interesting, but one is if you  
6 -- and both of you have mentioned the possibility that  
7 there's some market -- power market manipulation going on.  
8 Do you think that there's more capacity out there that is  
9 being artificially restrained, and then, two, how do we  
10 incentivize -- I mean if we are 15 percent short, how do we  
11 incentivize or allow more imports because it seems like  
12 sort of the primary importers are also the primary people  
13 who have refiners here, and if you -- if not having a lot  
14 of extra supply coming into the market leads you to have  
15 very high prices for what you are producing, do you have an  
16 incentive to actually bring in more, and if there are other  
17 people -- you know, we've talked some and I've got some  
18 more questions about sort of discussions about the  
19 nonrefiner rack sellers, but they're largely buying from  
20 these same in-state refiners as well, or the same group of  
21 refiners, but I'm not sure. Can you talk a little bit  
22 about those issues, and I've got more questions, but --

23 CHAIRMAN HACKETT: Well, let me go first. I  
24 don't think there's spare capacity to increase production.  
25 If there were at the kind of prices that we're seeing,

1 refiners would take as much as that as they can, and so I  
2 think they're running as far as they can.

3 And, so, I think Gigi's analysis is really  
4 interesting, and I'm looking forward to getting into it and  
5 understanding it more, but I heard it was conditional on  
6 there's no capacity to increase production, and so that's  
7 where I think we are.

8 Tom, do you agree with that?

9 DIRECTOR O'CONNOR: Yeah, I agree with you, Dave.  
10 I think the refiners are running as hard as they can. I  
11 haven't ever known or met a refinery manager that didn't  
12 try to make a few more bucks if they could do it, and  
13 oftentimes they ran too much and killed their own margin.

14 But I think they're trying as hard as they can.  
15 I think they're fighting, you know, some fundamental  
16 issues, you know, with the refineries' unreliability and  
17 trying to deal with, you know, the transition. You know,  
18 the two refiners that made the decision to go renewable  
19 diesel spent a tremendous amount of money to do that, and  
20 they're off the market now in terms of running crude to  
21 make -- to make gasoline and diesel.

22 The other thing I'll say is that the logic of the  
23 economics of increasing capacity with refineries it's a  
24 little different. I mean, if I was making widgets and I  
25 had more capacity, I could increase -- I could make more

1 widgets. But if I'm a refinery, most of the refineries in  
2 California are already maximizing gasoline production as  
3 much as they can. So, if they ran more crude, if they had  
4 the capability to run more crude, they'd probably be making  
5 more diesel, and that's not going to have the same -- I  
6 mean diesel is not badly priced in California, but it  
7 doesn't help make gasoline. So, unless they add some  
8 additional capacity to make more gasoline, which they're  
9 not going to invest in in the current environment because  
10 it's going away, you know. So, the theory of the capacity  
11 increasing being able to generate more gasoline to me is --  
12 it's okay. It works for most industries, but I don't think  
13 it works here because running more crude to make diesel,  
14 it's just going to get exported, so --

15 CHAIRMAN HACKETT: And another way to sort of  
16 think about it is --

17 VICE-CHAIR GUNDA: Tom and Dave, apologies, just  
18 kind of -- if you could entertain this question as well  
19 into what Director Maduros asked, and I'm just kind of  
20 taking, you know, the perspective here from you.

21 So, assuming that it's factual that, you know,  
22 the refineries are running full throttle, wouldn't this at  
23 least kind of give -- begin to give incentives to delay  
24 potentially the timing or those kinds of things to keep the  
25 capacity going -- existing capacity going?

1                   DIRECTOR O'CONNOR: To delay?

2                   VICE-CHAIR GUNDA: Yeah. So, here's where kind  
3 of like where I -- I think that we're kind of hearing a few  
4 different things and I understand this is a complex issue.  
5 It is kind of -- I think there is an agreement, you know,  
6 that the overall capacity is tight, right. There's an  
7 agreement generally that the capacity is tight, and we need  
8 to do everything we can possibly do within the tools that  
9 we're given in SB X1-2 to increase that liquidity, right.  
10 And at a minimum, even if the capacity were not to be  
11 increased, you know, there's that idea of kind of taking  
12 some of those profits and to the benefit of the consumers  
13 if we can blunt the price spikes, right.

14                   So, all of that was laid out by you two. What  
15 I'm kind of getting at is if it is tight and if there is  
16 market power, you know, as the demand declines as the  
17 demand is expected to decline, what conditions under which  
18 a penalty could actually slow down the deterrents? I mean  
19 it just seems intuitive that, you know, that we are trying  
20 to increase the capacity and given the current demand maybe  
21 we don't have enough capacity, but after demand goes down,  
22 the liquidity grows, right, and then it finally is kind of  
23 making a decision on whether they should, you know, kind of  
24 the commission can work, whatever it is. But there is that  
25 headroom, like that's where I'm going.

1           CHAIRMAN HACKETT: And, so, the way we think  
2 about this is that the decline in demand is driven by  
3 regulation, that's improvement in vehicle miles traveled  
4 and a transition to an electric economy will reduce  
5 gasoline demand over time. And, so, with that reduction in  
6 gasoline demand, the margins will go down here, as long as  
7 the refiners -- refinery count stays where it is, they will  
8 lose margin and essentially what will be lost is the  
9 imported barrels. Those will kind of back out and as  
10 demand goes down until you get to the point sometime in the  
11 future, before the end of the decade we think, that  
12 margins will get to the point where the next refinery will  
13 shut down. And, so, that's, you know, three to five years  
14 from now, something like that. Very difficult to tell, of  
15 course, but that will be the dynamic, the decrease in  
16 demand will come out of imports until it gets to be the  
17 margins are unsustainable and the next refinery shuts down.

18           DIRECTOR O'CONNOR: I don't disagree with that,  
19 and that could very well be the timeframe. I think, you  
20 know, we've looked at that and, you know, the next refinery  
21 is probably going to be in Southern California, but so much  
22 depends upon, you know, whether the CARB forecasted decline  
23 in gasoline demand in California is going to be accurate or  
24 whether it's going to be a slower decline, and the refiners  
25 are just going to -- they're going to have to watch that,

1 and as they've said, the margins will start declining. It  
2 will make less incentive for imports. Refiners if they can  
3 feel they can buy the product cheaper within the state,  
4 they'll do that and back out imports. And then at some  
5 point a refiner is just not going to have the ability to  
6 stay afloat, and they'll shut down, and the market will  
7 then rise up again and may incentivize imports again, and  
8 you're going to go through that, that cycle, as you go  
9 through the transition.

10 And eventually you're going to probably have, you  
11 know, one to two refineries in Northern California and  
12 maybe a couple in Southern California, but you're still  
13 going to have to supply Arizona and Nevada, so I don't  
14 think those refineries are going to go away, but the  
15 transition period over the next 10 to 15 years is highly  
16 dependent on the EV penetration, and so it makes predicting  
17 very difficult.

18 But, you know, under a set of circumstances you  
19 can certainly make a forecast, and when the -- if the  
20 average refinery utilization drops under, you know, 70 to 80  
21 percent, I mean you're going to have a refinery shut down.  
22 The fixed costs for California's refineries are very high,  
23 and that's difficult to overcome if the margins are  
24 declining.

25 VICE-CHAIR GUNDA: Director Milder.

1           DIRECTOR MILDER: I think I want to talk about  
2 this capacity issue for a moment, and then I have a margins  
3 issue that maybe I'll come back as we go through questions  
4 here on the dais.

5           Regarding capacity, both Mr. O'Connor and Mr.  
6 Hackett, you're talking about refinery capacity as though  
7 it is sort of a fixed number. I just wanted -- and maybe  
8 that's something with the SB X1-2 transparency that we can  
9 revisit and sort of create more of a record on in a future  
10 proceeding, but I just wanted to sort of confirm when you  
11 think about the capacity that our refiners have to bring  
12 products to market during a price spike, during a period of  
13 shortage, I want to confirm that it's likely the case that  
14 the refineries could bring in more supply via imports of  
15 intermediate feedstocks that they could use to produce more  
16 finish gasoline as well as finish gasoline, itself, and  
17 blending components, such that I think capacity as a fixed  
18 number is something that I think we should perhaps revisit  
19 with a bit more complexity.

20           CHAIRMAN HACKETT: Well, I think that it would be  
21 useful to get a real look at the analysis to see where  
22 these capacity restraints might be, that is to say do they  
23 have all of their process units filled up to the maximum  
24 capacity, not just running (indiscernible-audio echoing).  
25 So, we're taking a look at that.

1           They certainly do have the ability to bring in  
2 blend stocks and finish gasoline (indiscernible-audio  
3 echoing). They're capable of doing that.

4           DIRECTOR O'CONNOR: And I would also add to that  
5 that the -- you know, there are other parties that can  
6 bring in gasoline as well to take advantage of the market,  
7 and they watch the market, the traders and people of that  
8 nature. Vitol and people like that will try to utilize  
9 their ability to buy and sell the (indiscernible-audio  
10 echoing) product into the California market.

11           But in terms of refinery capacity, most refiners  
12 have demonstrated that they can bring in blend stocks and  
13 finish gasoline. It's primarily blend stocks they turn  
14 into finish gasoline and provide that into the market. And  
15 the economics of that are typically good or they wouldn't  
16 be doing it.

17           And we can look at that -- and we've looked at  
18 that data from the standpoint of the data that's been  
19 provided, you know, by individual refiners, in terms of  
20 what gasoline they've bought, and you compare that to what  
21 they've sold gasoline for and they're on average making  
22 money doing that, but it's far less money than they make by  
23 processing food to make gasoline.

24           The thing is, as Dave said before, I think  
25 they're at capacity in making gasoline from crude, but they



1 all have the capability of (indiscernible-audio echoing)  
2 blend stocks and feed it into the Kinder Morgan system and  
3 get it to California consumers.

4 DIRECTOR MADUROS: I may come back to that issue,  
5 but there was also some discussion this 10-year, sort of  
6 running on a 10-year historical average. If a penalty  
7 structure were designed that way are there, you know, we  
8 clearly have some higher price channels in California than  
9 others. How do you think about what that might do to, I  
10 mean are you basically locking in people's historic  
11 profitability, are you penalizing people who maybe were  
12 operating, sort of serving more affordable end of the  
13 market than others if you were to just sort of base it on  
14 their 10-year historical profitability? I mean I know it's  
15 not profit, 10-year historical margin rates. How do you  
16 think about that or am I thinking about it not the right  
17 way?

18 DIRECTOR O'CONNOR: No, I mean that's a good  
19 question. And we looked at this a number of different  
20 ways. You can look at 10-year historical, you can look at  
21 a 5-year. You can look at 90 percent, 95 percent as a  
22 threshold. You can look at different penalty tranches that  
23 we look at, so there's a lot that we can study on this, but  
24 the main issue -- the main issue is -- is that you're  
25 recognizing that the different channels that people are

1 selling in, so if refiner A is selling primarily to the  
2 bulk spot market, it doesn't -- I mean that's a lower  
3 value. It's a lower revenue, but they don't have any of  
4 the costs associated with -- you know, with in some cases  
5 transporting fuel to terminals or the service stations that  
6 is basically delivering into a pipeline. And that's a very  
7 low cost operation, and they're probably additizing with a  
8 relatively generic additives, but they're selling to  
9 unbranded customers. So --

10 DIRECTOR MADUROS: The additive -- I don't think  
11 -- that's a very small price, I think. I mean even the  
12 difference between the CARB required additive and the  
13 branded additives, I don't know that that would show up  
14 that heavily in the penalties.

15 DIRECTOR O'CONNOR: Well, no, I guess what I'm  
16 saying is when you sell to an unbranded -- when you sell to  
17 unbranded, basically they're supplying a lot of little mom  
18 and pop stations as you'll see, and some of them are  
19 bigger. They could be selling unbranded to Costco, for  
20 example. And those refiners are getting product out there  
21 to disadvantaged areas, and that may be their target market  
22 for the unbranded sales. Those buyers make out every day  
23 because they buy at significantly lower prices than some of  
24 the Chevrons and Shell stations that you see in California.  
25 But nobody is stopping that channel from taking place.

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1 We're just basically saying if you're selling in the  
2 unbranded market, that's part of your overall sales  
3 profile.

4 I think, Dave, you were going to say something.  
5 I don't want to keep talking.

6 CHAIRMAN HACKETT: I'm good on this one.

7 DIRECTOR O'CONNOR: Okay.

8 VICE-CHAIR GUNDA: I know we are over time but I  
9 want to maximize this discussion as long as possible.  
10 Artie, would you just ping me when we have to absolutely  
11 stop for public comment.

12 DIRECTOR MILDER: Thank you, Vice Chair. One  
13 quick question for Mr. Hackett. A big issue here with the  
14 penalty is about the incentives that refiners face. And  
15 you mentioned both price spikes and also refinery  
16 maintenance events. From an incentives perspective how do  
17 price spikes on the spot market impact refinery  
18 profitability and why is that the case?

19 CHAIRMAN HACKETT: The price spikes do improve  
20 with (indiscernible-audio echoing) profitability. And I  
21 kind of got this lesson in spades 10 years ago, nine years  
22 ago when I was on a petroleum market advisory committee and  
23 we were watching the volatility in the spot market that  
24 happened after the Torrance event. And the volatility was  
25 not explainable from fundamentals. It was clear to me at

1 that time that (indiscernible-audio echoing) manipulation.  
2 And I sat at the dais right where you guys are in May and  
3 said, why isn't somebody doing something about this spot  
4 price.

5 But I sort of thought (indiscernible-audio  
6 echoing) should be reacting to that, and then a while later  
7 and thought about it, the fact of the matter, all the other  
8 (indiscernible-audio echoing) events in the spot market  
9 benefit from that. Anybody who is a seller and in here  
10 benefits from that. Those higher prices improves their  
11 margin, no question about that. But they can feel good  
12 because they can say, well, it wasn't us. We didn't do  
13 that. We don't behave like that. It wasn't us. It was  
14 those other guys, but they still collect the margin. And,  
15 so, in my view our policy should be directed at fixing  
16 these problems in the spot market.

17 I've already talked about market manipulation,  
18 but another one that Mr. Maduros kind of touched on was  
19 imports. I think it's going to be important for -- to  
20 understand what's happening with the import market, the  
21 capacity of the industry to bring imports and the like to  
22 ensure that there's no market power in the import receiving  
23 segment of the business.

24 DIRECTOR MILDER: And briefly, from your chart it  
25 seemed as those these price spikes are correlated with more

1 significant refinery maintenance. Why is that the case?

2 CHAIRMAN HACKETT: When a refinery goes down  
3 suddenly generally what will happen is that their trading  
4 people have to go into the marketplace, may very well go  
5 into the marketplace in order to purchase gasoline to meet  
6 their contractual commitments. It doesn't always happen.  
7 There have been times when refineries have had problems and  
8 (indiscernible-audio echoing) buyers. Basically, it starts  
9 off as a reaction to some kind of unplanned shortage of  
10 supply within their supply system.

11 VICE-CHAIR GUNDA: Thank you. Dave and Tom, just  
12 one question. I think it is really important to establish  
13 for the record as we consider the penalty this year, so I  
14 think what you both -- what I take away from all the  
15 presentations today is the industry, it's legal, illegal,  
16 that's not what we're talking about, is always going to  
17 maximize their profits, all right. That's what they're  
18 going to do. And when the price spikes happen, right, what  
19 I heard is that it is increased profitability to the  
20 industry, right. Again, just kind of as a fact of  
21 statement. And when the price spikes happen, the consumers  
22 in California, especially those in, you know, in the income  
23 bracket that cannot afford those price spikes are going to  
24 be significantly impacted, right. So, that's another --  
25 you guys don't have to comment on that. I can comment on

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1 that.

2           So, as we think through that problem lens, right,  
3 what I'm taking away from this conversation is there's a  
4 problem, right, in terms of the impact to the consumers at  
5 the pump, and, you know, whether the behavior of the  
6 industry ethical, unethical, I'm going to just not comment  
7 on that. But industry has no incentives to reduce the  
8 prices at the pump.

9           And what I took away from Dr. Moreno's  
10 presentation this morning is in these conditions where  
11 there is imperfect competition a regulatory framework is  
12 necessary to protect the consumers when the prices of  
13 something like a commodity like this which is so essential  
14 to mitigate those price spikes to ensure they're protected.

15           So, I just want to like, you know, frame that as  
16 my statement. Would you offer anything to that?

17           DIRECTOR O'CONNOR: Well, I kind of feel that the  
18 -- I agree with Dave that the price spikes, and I think I  
19 mentioned this to Drew??, it's true, when the price spikes  
20 occur everybody takes advantage of it because they raise  
21 their prices because they feel they have to raise their  
22 prices because if they don't, then they're going to -- if  
23 their rack prices don't increase, if their DTW prices don't  
24 increase, then they're going to sell more gasoline than  
25 maybe they have to sell. So, they try -- they typically

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1 will react together and the market will go up.

2           In theory, that should attract more supply coming  
3 into the state of California. But I don't -- I have a  
4 tough time, yeah, you know, refiners want to maximize their  
5 profits, but they also -- I think they also -- well, I  
6 guess I'm going to say here that they don't -- they don't  
7 have that incentive to bring it back down, but, in fact,  
8 they do in most cases ultimately bring it back down. When  
9 it comes back down you can see in most cases, even the ones  
10 that are non-RVP related, came back down in June of 2022  
11 very rapidly. But, again, the retail price at the pump is  
12 different. That doesn't come down that quickly. So, I  
13 think it's not necessarily the refiners that are sustaining  
14 the higher prices for the state of California consumers.  
15 You know, they should and do react to a spike up in  
16 producing more fuel if they can or importing fuel, and I  
17 believe they do that and that's part of why things decline.  
18 But I think the -- you know, I think some of the measures  
19 that the Commission is looking at to potentially improve  
20 supply and so on would be beneficial to implement along  
21 with the margin management system.

22           CHAIRMAN HACKETT: From my perspective I think  
23 it's -- I think that the Commission is doing the right  
24 thing by looking at the root cause issues of the  
25 volatility, looking at the spot market and looking at any

1 potential market power in the import sector of the -- of  
2 the industry.

3 VICE-CHAIR GUNDA: I --

4 DIRECTOR O'CONNOR: I'm sorry.

5 VICE-CHAIR GUNDA: Go ahead, Tom.

6 DIRECTOR O'CONNOR: I was just going to add that  
7 the resolution of the -- the source of the spikes and the  
8 resolution of the spikes are also somewhat dependent upon,  
9 you know, California CARBOB regulations which make it very  
10 difficult for others to produce it, make it very difficult,  
11 you know, I think California refiners are maximizing how  
12 much they make, but when the time comes that there's a  
13 shortage, it's very hard to get somebody on the Gulf Coast  
14 or in Korea to be able to quickly respond to be able to  
15 meet that stipulation.

16 So, you know, again, you could quell the spot  
17 market very quickly in California, by simply allowing  
18 refiners who may carry a million barrels of non-California  
19 gasoline in storage to be able to selectively use that  
20 gasoline to help minimize the spot so that people don't  
21 feel compelled to have to -- to have to go begging for  
22 CARBOB gasoline and then just wait for the -- wait for  
23 somebody to finally throw out an offer that's 30, 40 cents  
24 a gallon above where the market is today.

25 So, that involves issues with the CARB and



1 everything, but it's frustrating to see that you can't do  
2 that, whereas on the East Coast if we have a hurricane and  
3 we need to put a waiver in place to be able to sell CBOB  
4 instead of RBOB in New York, or Atlanta, or someplace like  
5 that, they can do that. EPA grants those waivers. But  
6 there's no waivers capable in California to do something  
7 somewhat similar to quell the market.

8 VICE-CHAIR GUNDA: Thank you. I'm just going to  
9 note the time. We have four more minutes. Any other  
10 questions?

11 Again, I just want to say thank you, Dave and  
12 Tom, for providing your perspectives and answering the  
13 questions we have. Really helpful to build the record and,  
14 you know, as we continue on these conversations, but thank  
15 you. Look forward to talk to both of you again.

16 Jeremy, back to you.

17 DEPUTY DIRECTOR SMITH: Yeah. First, I'd just  
18 like to echo the appreciation for Dave and Tom for joining  
19 us today and providing their expertise and helping us to  
20 better understand these complex issues and make progress  
21 towards our goals to enact policies that provide benefits  
22 to Californians.

23 As the Vice Chair said, I know we're short on  
24 time, so I just want to mention this very briefly before we  
25 go to public comment.

1 Feedback is welcome and appreciated as the CEC  
2 continues to investigate and consider whether to recommend  
3 a maximum gross margin and penalty.

4 If you'd like to provide a written comment, those  
5 can be submitted to Docket 23-OIIP-01 by 5:00 p.m. on May  
6 3.

7 There is a second way to participate in this.  
8 It's also to respond to the Request for Information. Those  
9 responses are also due by 5:00 p.m. on May 3.

10 Okay. With that, I'd like to turn over to Eric.  
11 We'll go to public comment. Thank you.

12 ERIC: Hi, everyone. As we move over to public  
13 comment we'd just like to say that one person per  
14 organization give comments, and comments are limited to  
15 three minutes.

16 If you're in person we ask that you come into the  
17 dais. Please state your name and spell it out for us and  
18 we will give you three minutes.

19 MS. ELLINGHOUSE: Okay, I think we're all good.  
20 Oh, very scary to hear a voice like that.

21 Sophie Ellinghouse, S-O-P-H-I-E, E-L-L-I-N-G-  
22 HOUSE. I'm the General Counsel for the Western States  
23 Petroleum Association.

24 We want to remind the CEC that SB X1-2 prohibits  
25 this body from adopting a margin, cap or penalty if those

1 things will actually hurt Californians more than helping  
2 them.

3 As the law itself recognizes, the only way you  
4 can know that is by first evaluating the actual market  
5 evidence and assessing whether a margin cap will lead to an  
6 even greater imbalance between supply and demand than we  
7 have today, or even higher prices at the pump.

8 The evidence collected to date by third-party  
9 experts, and even the CEC's own DPML have been clear about  
10 the underlying market reasons for California's high prices  
11 and that ongoing market volatility can be traced directly  
12 to chronic obstacles to market supply and sustain strong  
13 demand from Californians. A cap addresses none of these  
14 things.

15 First, chronic structural fuel supply obstacles  
16 that account for price volatility remain unaddressed in  
17 California. This is only compounded when California  
18 continues to pursue policies that shrink in-state supplies  
19 of fuels while discouraging capital investments and  
20 proposing the increase to cost of compliance with existing  
21 state programs.

22 There's also no supply help on the way from other  
23 states. Most refineries outside of California cannot  
24 produce fuels that meet our strict specifications, and even  
25 for the few that do, California is not directly connected

1 to other domestic refining centers. So, getting those fuel  
2 supplies here is more difficult, expensive and time  
3 consuming.

4 So, because of this and because California has  
5 chosen to reduce its own in-state supply, the state is  
6 forced to depend on importing fuel from overseas. This is  
7 slow, expensive and exposes us to the uncertainties of the  
8 global market. It also makes it more difficult to satisfy  
9 in-state demand in real time. All of this means that the  
10 more products we must import across an ocean, the more  
11 expensive our gas becomes.

12 Our members cannot change these economic  
13 realities, nor can we change decades of state policies that  
14 have caused California's consumers to become increasingly  
15 dependent on a global market that we cannot and do not  
16 control.

17 We are hoping that the delayed Transportation  
18 Fuels Assessment will evaluate all this in more detail.

19 Second, (indiscernible) leaders encourage  
20 investment in new and expanding refinery capacity in  
21 California which will only further diminish our in-state  
22 gas supplies. Refining is a cyclical business, and the  
23 CEC's own data has demonstrated that. Penalizing profits  
24 will make California a less attractive investment for  
25 companies.

1           Additionally, energy affordability issues must be  
2 considered and continuously re-evaluated as they evolve.  
3 This includes how California's steadily increasing  
4 electricity rates will likely make transportation  
5 electrification efforts more difficult, thus extending  
6 reliance on transportation fuels.

7           Finally, independent experts have already  
8 concluded that a cap on gross refining margins had the  
9 potential to harm consumers and drive up prices by further  
10 aggravating the structural supply constraint issues,  
11 exactly what you all are trying to prevent.

12           Thank you.

13           ERIC: Anyone else like to make a comment in  
14 person?

15           MS. CHO: Hello. My name is Connie Cho. I am a  
16 Policy Advisor with the Asian Pacific Environmental  
17 Network. We organize Asian immigrant and refugee  
18 communities that live next door to the biggest polluters in  
19 our state, including oil refineries.

20           And our communities right now are paying twice  
21 over because of the power and profiteering of refineries --  
22 refiners, first, with their health and, second, at the pump  
23 with their pocketbook.

24           So, we expect to submit written comments, but I  
25 did want to provide some high-level reaction, especially

1 since the CEC staff are in the room and I'm here.

2           So, first, a lot of gratitude and encouragement  
3 to the state for setting up really important regulatory  
4 infrastructure, staffing and data collection processes to  
5 set a more robust foundation to steward the energy  
6 transition away from fossil fuel, which is necessary to  
7 respond to the climate crisis and should not be left to the  
8 whims of the oil industry that has literally fueled the  
9 crisis in the first place.

10           The industry has a record of deceptive practices  
11 significant enough for the attorney general to file a  
12 lawsuit on that premise.

13           In particular, I want to offer gratitude to the  
14 Commission DPMO leadership who have shared their thoughtful  
15 guiding questions, the Energy Assessment Division Staff  
16 presentation for their Herculean work so far, and Dr. Gigi  
17 Moreno for the extremely thoughtful foundational shared  
18 framework at the start of this workshop.

19           What seems clear to me in this workshop is that  
20 the DPMO CEC and beyond the whole state will really need a  
21 regulatory tool to address this market of imperfect  
22 competition as it has started to do in separate tracks in  
23 workshops like the one this afternoon, and as advocates we  
24 will be considering all of these together.

25           It's important to encourage the state to use this

1 opportunity now to engage in a holistic thinking process  
2 and provide partnership to the Governor, the Legislature  
3 and other agencies that regulate parts of the oil industry  
4 as you collect data and build this infrastructure to  
5 regulate the industry to address the system in its whole  
6 complexity.

7           And to that end, more information is crucial to  
8 the design of any policy intervention, and as a  
9 environmental justice advocate I know how much the industry  
10 will fight tooth and nail to dispense or distort, slice and  
11 dice the data to their favor. So, I want to offer a few  
12 remarks which I'll write on later.

13           So, we support the comments made in discussion  
14 about investigating supply constraints stated by refiners.  
15 In particular, and I think this is low hanging fruit for  
16 the Commission, we do urge you to collect information of  
17 what relates to the whole picture of refining operations  
18 where portions of each barrel of crude are domestic and  
19 foreign exports and it's not carved out what products are  
20 they, where are they going, because they have produced more  
21 CARBOB than non-CARBOB products for exports.

22           How can the state additionally verify the margins  
23 data that the refiners are providing? We also support to  
24 the extent that it's under consideration feasible that the  
25 state consider refiners who are also distributing and

1 pricing retail prices differently in the same way our  
2 communities who live next to these refineries experience  
3 different impacts and maneuvers to avoid accountability  
4 based on the refiner.

5 So, we appreciate the effort to examine the  
6 potential and likely reactions of oil refineries, but we  
7 also ask that you keep our communities in mind when you're  
8 designing your policy intervention. Thank you.

9 ERIC: Anybody else like to make a comment in  
10 person? Okay. For the next portion we will be moving over  
11 to the Zoom. Once again, one person per organization may  
12 make a comment. Your comments are limited to three  
13 minutes.

14 So, first, Amanda Gray, can you please state your  
15 name and spell it out for us for the record, and we will  
16 start the timer.

17 MS. GRAY: Thank you. My name is Amanda Gray,  
18 A-M-A-N-D-A, G-R-A-Y. I'm with the Arizona Petroleum  
19 Marketers Association.

20 APA's membership includes both small and large  
21 retailers and distributors of fuel in all parts of the  
22 Grand Canyon state. We're proud to represent family-owned  
23 companies and their second and third generations.

24 The fuel industry in Arizona is dependent on  
25 California refineries for fuel supplies. Arizona has no



1 fuel refineries, so we bring in the vast majority of  
2 gasoline, diesel and aviation fuel via pipeline, one from  
3 the west originating from the Los Angeles area in  
4 California and another from the east originating in El  
5 Paso, Texas.

6 I don't usually testify in hearings in other  
7 states, but the implementation of this California policy  
8 has a high likelihood of affecting Arizona fuel supply and  
9 price. As a result, I have both concerns and questions for  
10 your consideration.

11 I have concerns that the CEC will not account for  
12 out-of-state impacts resulting from the implementation of  
13 SB X1-2. California refineries have already experienced  
14 supply challenges based on the state's policies that  
15 discourage oil and gas exploration, refining and capital  
16 investments. This makes it harder for the industry to  
17 supply Arizonans with transportation fuels that they need.  
18 Decreasing the incentive to invest in oil and gas  
19 infrastructure through a margin and cap penalty can further  
20 reduce fuel supply capacity and increase long-term prices  
21 for Californians as well as Arizonans.

22 Because the law only directs CEC to seek to  
23 defray increased costs to California consumers, I'm  
24 concerned that the drivers in Arizona will be left to bear  
25 the costs of market policy changes.

1           I also have concerns about CEC policies that  
2 could reduce or seek to even stop deliveries of refined  
3 products to neighboring states like Arizona. It's my  
4 understanding that in a workshop last August regarding the  
5 transportation fuels assessment there was discussion about  
6 a policy of export coordination. I'm not sure what that  
7 means, but I think it's important that the CEC makes clear  
8 if intent with neighboring state stakeholders about what  
9 that policy would seek to do and how its costs would be  
10 allocated. Would the CEC encourage reducing or stopping  
11 deliveries of fuel to Nevada or Arizona in response to  
12 market volatility happening in California where refineries  
13 have to reduce production if they're coming close to  
14 violating a cap imposed by CEC and, if so, how will that  
15 impact Arizona supplies coming from California. These are  
16 very important questions.

17           Surely, the Legislature was not intending SB X1-2  
18 to shift market volatility, supply concerns and higher  
19 costs on to neighboring states.

20           We would request more detailed information on how  
21 CEC envisions its proposed regulations are going to govern  
22 out-of-state exports of gasoline and other refined products  
23 and what costs it will -- the regulations will impose on  
24 other states like Arizona.

25           Thank you for your time and the chance to speak

1 today.

2 ERIC: Okay, thank you for your comment. Next,  
3 Julia May, can you unmute yourself, state your name and  
4 spell it out for us, and give us your comment, please.

5 MS. MAY: Thank you. Julia May, Communities for  
6 Veterans --

7 VICE-CHAIR GUNDA: Julia, can you please unmute  
8 on yourself. Thank you.

9 MS. MAY: Can you hear me now?

10 VICE-CHAIR GUNDA: Yes, thank you.

11 MS. MAY: Thank you. Julia May, Communities for  
12 a Better Environment. Thanks very much for the  
13 illuminating presentations and discussions. Very helpful.  
14 I have three points.

15 One, we need to once more emphasize the missing  
16 set of numbers in the proceeding regarding California  
17 refineries exporting gasoline overseas, reducing the supply  
18 in California. I'm not talking about Arizona and Nevada,  
19 our nearby states. I'm talking about California refineries  
20 profiting by supplying gasoline over the Pacific Rim  
21 outside the country to China, India, Brazil, Mexico and  
22 others. We're very concerned about the gap in the  
23 assessment. Even as California residents reduce their own  
24 gasoline demand, refineries in California increased  
25 exports. We've previously submitted comments about this.

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1 This gap affects your assumption about whether refineries  
2 could increase production or not. You identified scarcity  
3 as a major factor during price spikes, but scarcity can  
4 also be caused by exports, not just by refineries shutting  
5 down. Such exports are not theoretical. A lot of this  
6 data comes from CEC.

7           So, we would really, once more, urge you to do  
8 that evaluation. There's been a lot of excellent  
9 evaluations, but we need to include exports of finished  
10 products like gasoline out of the country.

11           Two, in addition to making gasoline, refineries  
12 could be required to store additional gasoline ahead of a  
13 shutdown to increase supply and smooth out the lumps in  
14 supply. That can be done before a shutdown. Maximizing  
15 support for in-state storage and use instead of for export  
16 is an important factor. Right now, we know that at least a  
17 portion of refinery gasoline storage is used to support  
18 this export market, and the storage is even increasing, so  
19 we ask that you evaluate storage as well.

20           Three, we must remember that the price gouging by  
21 the industry is happening within the bigger context that  
22 California and the world are currently captive of fossil  
23 fuel markets, and they're held hostage for both the  
24 financial and the health costs.

25           In South Coast District they found they'll never

1 meet the smog standards until we have zero emission  
2 transportation, and they will have to phase out most of the  
3 stationary sources of pollution as well. So, we'll never  
4 meet the smog health crisis and fix it, nor avoid the  
5 catastrophic climate change without a phase out.

6 So, we understand it's hard. California has to  
7 balance two things, help consumers who are now dependent on  
8 gasoline and being price gouged while we also gradually  
9 shift to affordable zero emission transportation. We keep  
10 that in the context as well.

11 So, the preceding has been really helpful, but  
12 it's also a matter of life and death that we plan the phase  
13 out and we don't fall for oil industry fear tactics about  
14 this long-term phase out.

15 So, thank you very much.

16 ERIC: Okay, and thank you for your comments.  
17 Next up we have Julian Canete. You are unmuted.

18 MR. CANETE: Thank you. Julian Canete,  
19 California Hispanic Chambers of Commerce. I'd like to  
20 thank the Commission for the presentation and the staff for  
21 their work, their hard work in this area.

22 A couple concerns from a small business  
23 perspective. We represent over 800,000 Hispanic businesses  
24 throughout California through our 125 diverse and Hispanic  
25 chambers and business associations throughout the state.

1           The thing that concerns us really center around  
2 costs and the initial -- you know, the final impact on our  
3 small businesses and consumers.

4           There's three points. Number one, penalties will  
5 be passed on through the supply chain all the way down to  
6 the consumer, and this equates into higher gas prices and,  
7 of course, more pain at the pump for consumers and small  
8 businesses.

9           To avoid hitting the margins, refineries will  
10 have to ramp up production which will shrink a supply that  
11 is already dangerously tight and lead to a more volatile  
12 market and gas shortages.

13           And finally, this all equates to less supply  
14 means less competition, you know, and simple economics, you  
15 know, this has never worked in favor of consumers or small  
16 business.

17           Thank you for the opportunity to address you.

18           ERIC: All right. Thank you for your comment.  
19 Next up with Estella.

20           MS. SCHWARTZ: Hello. My name is Megan Schwartz.  
21 I'm Catalyst Environmental --

22           ERIC: Hold on. I was going in order. You're  
23 next, Megan. I apologize.

24           MR. KESSLER: Sorry. Okay, thank you. My name  
25 is Doug Kessler. I am the Executive Director of Si Se

1 Puede of the Central Valley, and I want to thank you for  
2 the important information.

3 As Julian just said, we represent and educate  
4 people in small rural communities in the Central Valley,  
5 and these people, you know, whatever you do (indiscernible)  
6 higher cost on them, so I ask you to really think about  
7 what you're doing, really look at this. You know, the  
8 price in some of our communities is already over \$6.00 a  
9 gallon and it's just going to continue to go up. I don't  
10 see how with what was presented that it's going to be of  
11 anything to help the consumer. And these are, you know,  
12 very poor communities that do not have the time to come  
13 testify at these hearings, can't afford it. They are, you  
14 know, in very impoverished areas.

15 Thank you very much for allowing me to speak, and  
16 that's it.

17 ERIC: Okay, thank you for your comment. Okay,  
18 Megan should be good to go now.

19 MS. SCHWARTZ: Thank you. My name is Megan  
20 Schwartz. I'm with Catalyst Environmental Solutions  
21 Corporation.

22 Our team conducted a review of economic  
23 literature regarding market interventions and price fitting  
24 in the oil and gas markets specifically related to this  
25 bill, and it shows an historic parallel to the crude oil

1 profit tax period essentially to capture a perceived excess  
2 in profit and lower consumer prices.

3           However, the prevailing finding from the numerous  
4 economic analyses of this regulatory approach is that it is  
5 ineffective in lowering consumer and retail prices and has  
6 not historically resulted in a less volatile market for  
7 consumers.

8           The literature is consistent in demonstrating  
9 that both retail price controls and profit taxes can  
10 contribute to reductions in domestic supply and an  
11 increased dependence on foreign oil. Therefore, the use of  
12 excise taxes to capture perceived excess in profit has not  
13 historically resulted in achieving the goal of lowering  
14 consumer prices.

15           Following the energy crisis of the 1970s, there  
16 were many iterations of price setting on the domestic oil  
17 market. A consistent technical finding in economic  
18 literature is that inefficiencies in the market appeared as  
19 a response to price setting. By setting domestic prices  
20 below the world market rate of oil, the U.S. saw an  
21 overconsumption of imported oil and underproduction of  
22 domestic oil. Likewise, the crude oil windfall tax of 1980  
23 was effectively a temporary excise tax that replaced the  
24 price cap regulatory structure, and it also was not  
25 successful in its primary goal to generate revenue for the



1 federal government following the first stages of market  
2 deregulation.

3           The transition away from direct price setting at  
4 the federal level was found to contribute to a lowering of  
5 gasoline prices by reintroducing market efficiency and  
6 competition measures. The removal of a disruptive market  
7 intervention framework allowed operational changes by  
8 gasoline wholesalers and retailers that were consistent  
9 with the pace of innovation with the emerging technology  
10 and consumer demand propelling them.

11           Fostering economic efficiency directly  
12 contributed to lowering gasoline prices after the price  
13 caps were removed.

14           Beyond the 1970s and '80s federal efforts, Hawaii  
15 is the only state to ever introduce legislation regarding  
16 direct price controls as a response to high consumer  
17 prices. This regulatory framework was in place from 2005  
18 to 2006 and there were varied economic results.

19           The technical assessments that were done on  
20 behalf of the state indicated that a potential wholesale  
21 price cap would not directly achieve the goal of lowering  
22 retail prices for consumers.

23           In 2008, following the termination of the gas cap  
24 program, economic analysis found that spot pricing  
25 mechanisms required under the price control schemes are

1 difficult to (20:19:24) to the global price of crude, and  
2 because of this the setting of a price cap acted as an  
3 artificial control to the conditions of setting prices in  
4 the global spot market.

5 Further, the fluctuation of crude oil prices  
6 globally was not functionally accounted for in the price  
7 cap formula in Hawaii and showed a continuation of gas cap  
8 from 2006 to 2008 that would have resulted in lower prices.

9 Thank you very much for your time.

10 ERIC: Thank you for your comment. Next up, Tim.  
11 Unmute yourself, state your name and please spell out your  
12 name for us for the record and make your comment.

13 MR. SHER: Good day. My name is Timothy Sher,  
14 T-I-M-O-T-H-Y, S-H-E-R.

15 As a representative of the Asian Food Trade  
16 Association and their organization comprising of 40 Asian  
17 food distributors supporting and delivering to tens of  
18 thousands of small businesses, I stand before you to voice  
19 a strong opposition to the scoping plan. This plan, if  
20 implemented, will undoubtedly inflict severe harm upon  
21 small enterprises, particularly those by Asians who are  
22 still grappling with the aftermath of COVID 19 disruptions.

23 California's business landscape is already  
24 growing increasingly challenging for small ventures, and  
25 the imposition of additional costs through the scoping

1 plan, especially amid a looming recession, will only  
2 exacerbate their struggles.

3           Minority-owned businesses in particular will face  
4 the harsh reality of having to make difficult decisions  
5 potentially resorting to layoff of staff or, worse yet,  
6 closing their doors permanently.

7           What is most disheartening is the apparent lack  
8 of outreach from CARB staff to ethnic chambers and small  
9 business associations to engage in meaningful discussions  
10 about the impact of the scoping plan on our communities.

11           It seems that only certain groups are being  
12 consulted, neglecting the broader spectrum of voices that  
13 should be heard. This one-sided approach fails to provide  
14 a comprehensive understanding of the feedback, a  
15 ramification associated with the scoping plan. It is  
16 imperative that all stakeholders, regardless of background  
17 or affiliation, have the opportunity to contribute to this  
18 crucial dialogue. The future of our small businesses and  
19 the wellbeing of our communities depend on it. Thank you.

20           ERIC: Thank you for your comments. Aaron,  
21 you're up next. Please state your name and affiliation.

22           MR. FLYER: Thank you. Good afternoon. Can you  
23 hear me?

24           ERIC: Yes.

25           MR. FLYER: Great. My name is Aaron Flyer from

1 Tinley, Austin, LLP on behalf of Italy 2 which is a fuel  
2 resaling company.

3 We just wanted to voice our concerns about  
4 potential unintended consequences that may not have been or  
5 may not will be fully -- may not be fully evaluated, excuse  
6 me, in the course of this rulemaking. As even Dr. Moreno  
7 has stated today earlier (indiscernible-audio echoing),  
8 first of all, it's still unclear what effect a price cap  
9 could have on the market and how the market will respond.  
10 There's also additional data that still needs to be  
11 reviewed by CEC and as an ongoing process with an undefined  
12 deadline, and so we would urge the CEC to release its  
13 studies that it's relying on well before the public  
14 commentary begins so the industry and interested  
15 (indiscernible) have an opportunity to review that data and  
16 beyond the (indiscernible-audio skipping) being relied  
17 upon.

18 We would ask the agency submit that as  
19 (indiscernible-audio skipping).

20 ERIC: Aaron, you're breaking up. Are you still  
21 there? I think we lost him. Okay, Tessa, state your name  
22 and give your --

23 MS. ROBINSON: Good afternoon. My name is Tessa  
24 Laxalt Robinson, L-A-X-A-L-T, R-O-B-I-N-S-O-N. I'm with  
25 the Nevada Trucking Association where we have over 500

1 member companies.

2 As over 95.3 percent of goods in the silver state  
3 are moved by trucks, Nevadans depend heavily on  
4 California's fuel. Actually, we have over 90 percent of  
5 our fuel comes from California.

6 Sharing the largest border with the Golden State  
7 we know from firsthand experience how detrimental public  
8 policies can affect the nation as our residents get hit  
9 first and hard.

10 Our members are concerned for the detrimental  
11 costs all Nevadans will feel, with the lack of access to  
12 fuel our big rigs. Thank you.

13 ERIC: Thank you. Aaron, are you still there?  
14 You were breaking up at the end, so we want to give you the  
15 opportunity to restate what you were saying before you  
16 broke up.

17 MR. FLYER: Thank you. I'm here. Can you hear  
18 me?

19 ERIC: Yes, we can hear you now.

20 MR. FLYER: Thank you. I will be brief. I'm not  
21 sure of my time record when I broke up.

22 But I just stress two more points. First, there  
23 appears to be a disconnect between the data that's being  
24 used to evaluate margin caps here and all of the other data  
25 being collected for other transportation fuels from other

1 entities beyond simply refiners as part of the spot market  
2 transactions, and we would ask that the Commission explain  
3 the connection between that data and the data that's being  
4 used to set or consider margin caps.

5 ERIC: Thank you for your comment. Next up,  
6 Peter. Unmute yourself and state your name and give us  
7 your comment.

8 MR. KRUEGER: Good morning. My name is Peter  
9 Krueger, Peter, P-E-T-E-R, Krueger, K-R-U-E-G-E-R. For the  
10 record, I am the State Executive of the Nevada Petroleum  
11 Marketers and Convenience Store Association. Our  
12 association represents Nevada fuel terminals, jobbers,  
13 retailers, and we're all so dependent on California fuel  
14 supply which accounts for more than 90 percent of the  
15 refined product that is shipped and used in the state of  
16 Nevada.

17 In Northern Neva where I am in Reno, we are  
18 literally at the end of the pipeline, and, therefore, all  
19 product arriving in excess of 95 percent comes via the  
20 pipeline. Any interruption we've seen in the last number  
21 of years in the pipeline has a catastrophic impact on our  
22 supply.

23 In Southern Nevada we obviously rely on tourism,  
24 so price becomes a critical factor as well as supply.

25 I'm not going to repeat the comments that my

1 colleague Miss Gray from Arizona highlighted which apply to  
2 the state of Nevada by and large. But we are concerned  
3 that CEC is not considering, at least in workshops and  
4 things I'm aware of last year, what the impact on the out-  
5 of-state sources or out-of-state users would be. We  
6 understand that California has supply challenges. They  
7 have interruptions. People have been talking about  
8 scheduled interruptions and scheduled turnarounds, but what  
9 really hurts us and where we see the greatest price  
10 increase are unscheduled interruptions in supply like fires  
11 and other catastrophes, earthquakes and other natural  
12 disasters.

13           We cannot understand here in Nevada how any kind  
14 of artificial margin cap or penalty that we feel would  
15 further reduce supply capacity and affect us here in  
16 Nevada.

17           Another concern, of course, is we read it, CEC is  
18 tasked to look at defraying the increased cost consumers,  
19 but again, what about that you supply from outside the  
20 state.

21           I think by and large it's fair to say that our  
22 members are -- need more detailed information on how CEC  
23 envisions its proposed regulations, how it will govern  
24 exports of out-of-state product and import of out-of-state  
25 crude as well.

1           So, these are important issues and we look  
2 forward to, hopefully, having the continued dialog with CEC  
3 such as this provides, but there are some very great  
4 concerns for us that are recipients of California refined  
5 product. Thank you.

6           ERIC: Thank you for your comment. Next up, we  
7 have Louie Diaz. Please state your name clearly before you  
8 give your comment. Thank you.

9           MR. DIAZ: Good afternoon, Board Members. My  
10 name is Louie Diaz, L-O-U-I-E, D-I-A-Z, and I am from  
11 Teamsters Local 848.

12           I work in the trucking and transportation field  
13 and any new proposed regulations that will cost our  
14 industry more in rising fuel costs cannot be absorbed by  
15 our members. We all agree that one day energy will  
16 convert, but until we have the proper infrastructure to  
17 support the electric path, we cannot push thousands out of  
18 their jobs.

19           We oppose any fast track path to changing current  
20 regulations that took years to put into place and aren't  
21 working.

22           Thank you for allowing me to give a brief  
23 statement.

24           ERIC: Thank you for your comment. Now we ask --  
25 I don't see any more hands on Zoom, so if you're calling in



1 we ask that if you would like to comment, please dial star  
2 nine to raise your hand. Once we acknowledge you, press  
3 star six to mute and unmute yourself once we allow you to  
4 speak. Once again, state your name and spell it out for us  
5 for the record and give us your comment.

6 So, it looks like we have no more hands raised,  
7 so we'll end public comment.

8 DEPUTY DIRECTOR SMITH: I just wanted to thank  
9 everyone for attending today's workshop. For those that  
10 provided oral comments, for those that already or plan to  
11 submit written comments, thank you for participating in the  
12 public process.

13 I do just want to point out one small mistake in  
14 the slide I was presenting before we went to public  
15 comment. Written comments submitted to the docket are  
16 actually due by April 25th at 5:00 p.m. as it was written  
17 in the workshop notice. I apologize for that. Responses  
18 to our Request for Information, however, are due by 5:00  
19 p.m. on May 3rd. Again, apologize for the confusion.  
20 We'll update the slide to reflect that change before we  
21 post the presentations to the docket.

22 Before we close, I'd just like to thank the staff  
23 of the Transportation Data Fuels Analysis Unit that helped  
24 prepare materials for the workshop, the members on the dais  
25 for providing their thoughts and comments, and the other

1 presenters for sharing their valuable insights.

2 Over to you, Vice Chair for any closing comments.

3 VICE-CHAIR GUNDA: Thank you, Jeremy. When are  
4 we starting the next part of the workshop?

5 DEPUTY DIRECTOR SMITH: We have another workshop  
6 scheduled to start at 1:00 p.m.

7 VICE-CHAIR GUNDA: Okay, thank you. So, we will  
8 keep closing remarks here short.

9 I'm going to start with Director Maduros.

10 DIRECTOR MADUROS: Just thank you, again, for  
11 including CDTFA. I think this is really important work and  
12 a very important discussion.

13 Just one thing I would hope would get looked at  
14 more, and I think it would be useful if people who are  
15 planning to submit written comments included some more  
16 information on this, is around the import pieces, as Dave  
17 Hackett discussed, and I know the WISPA??? (20:33:00  
18 representative here today talked about how expensive it is  
19 to import refined product. The numbers I've seen, you  
20 know, it doesn't seem that expensive, and I know industry  
21 also says that California operating costs are very  
22 expensive. It seems like, you know, all things can't be  
23 true, and so I would love to understand more the interplay  
24 between those costs both on the California production side  
25 and on the import side, presumably from locations where

1 production is less expensive, if, in fact, California is a  
2 very high expensive place to produce, and to think about  
3 how any sort of penalty structure could provide increased  
4 incentives for imports, or if there are other barriers to  
5 import that CEC ought to address in the months going  
6 forward.

7           DIRECTOR MILDER: I would like to add my thanks  
8 to the panelists today and to staff.

9           In regards to some of what we heard during public  
10 comment, at the DPMO, we welcome a robust dialogue and we  
11 want voices from stakeholders, including voices from  
12 industry, including trade groups, lawyers, spokespeople,  
13 the like. Just, once again, invite an honest dialogue  
14 about what we're grappling with here, including the fact  
15 that what we're discussing here, the penalty, if you've  
16 listened to the presentation for several hours today you'll  
17 see that penalty is very different than I think some of the  
18 strawmen caps that folks are trying to talk about. I think  
19 having a dialogue about what it is we're really dealing  
20 with here and having constructive dialogue with industry  
21 would be most helpful.

22           On that front, I have to say I heard a reference  
23 to something DPMO allegedly or purportedly put out that I  
24 don't think is accurate at all, and, so, I again would ask  
25 that as industry is engaging on this issue, we do so in a

1 forthright way and that's the way that we can engage in an  
2 honest discussion. We may not disagree about how to  
3 interpret facts or policies, but some of the baseline facts  
4 here I think are things that we can discuss honestly.

5           In closing, I think it's jarring to see the  
6 amount that the price spikes have raised compared to the  
7 benchmark of what was profit in this industry a decade ago.  
8 I think it's accurate to say that price spikes are really  
9 profit spikes for industry, and the question I think that  
10 remains open that we've been discussing is why isn't more  
11 supply coming into the state or made on line when the  
12 profits are as they appear to be. I look forward to  
13 exploring those questions about excess profits and these  
14 policies as we go forward this spring and this summer.

15           VICE-CHAIR GUNDA: Thank you, Director Milder,  
16 Director Maduros and Director Bohan.

17           I also just want to begin by saying thank you for  
18 the participation today from everybody that's calling in,  
19 in the room, and specifically to the panelists that have  
20 taken time to really walk us through. Jeremy, to you for  
21 your presentations, Dr. Moreno, Dave Hackett, just kind of  
22 really thoughtful conversation, and, also, Tom, just kind  
23 of set the conversation here.

24           I do want to associate my closing comments with  
25 both what Director Milder and Director Maduros kind of

1 mentioned, but I just wanted to close off by just making  
2 sure in the spirit of that honest discussion, and  
3 transparency, and comments there are some things that are  
4 really articulated today, and those are when the spikes  
5 happen, profits happen, and the spikes happen, consumers,  
6 especially low income, get hurt.

7           And the spirit of SB X1-2 is to ensure protection  
8 for the consumers at the pump. And currently there are no  
9 incentives for industry to minimize their profit to support  
10 consumers. There are no incentives.

11           And today what I take very clearly today is some  
12 regulatory intervention is essential in protecting the  
13 consumers on such an important commodity in an imperfect  
14 market which is all established today in the discussion.

15           It's also been established that there are  
16 multiple things we can do, and none of them are mutually  
17 exclusive. One, we could take some of the profits and put  
18 it back in the consumers' pockets, whether that increases  
19 supply or not and stop the problem. We could do things to  
20 ensure that the amount of liquidity in the market is high  
21 and the competition is high, and we could do things to  
22 ensure that the planning is better and the data  
23 transparency is there, and when planned maintenance happens  
24 there are enough reserves, you know, that are planned for  
25 to protect the consumers. All of these are not mutually

1 exclusive and as we think through this, there is absolutely  
2 a desire from the Legislature in implementing this bill to  
3 blunt the spikes. There's absolutely a desire, and that's  
4 something we will be looking at. And there's absolutely a  
5 desire to make sure that supply and demand conditions over  
6 this transitional period are carefully maintained so the  
7 price spikes -- the overall prices do not go up.

8           So, all of these are going to be taken in  
9 totality, and I do want to make sure that we don't -- you  
10 know, as we think through the penalty as one of the many  
11 solutions in the (indiscernible), penalty by itself will  
12 have some impact and we are going to consider those  
13 impacts, the positive impacts of that.

14           And finally, I do want to put this in the context  
15 of as we do this, you know, we are going to do an  
16 assessment. We are going to do a transition plan with CARB  
17 and ensure that there is transparency, and I just don't  
18 necessarily hear regularly from out-of-state stakeholders  
19 commenting on our proceedings. I just want to take the  
20 time to say thank you for voicing your concerns, and we  
21 welcome discussions, and we will ask staff -- directing  
22 staff to follow up to make sure your perspectives are  
23 reflected in the work we do.

24           With that, I'm just going to adjourn for the day  
25 and thank you, everybody, for being here.

(Adjourned at 12:40 p.m.)

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CERTIFICATE OF REPORTER

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 9th day of September, 2024.



ELISE HICKS, IAPRT CERT\*\*2176



CERTIFICATE OF REPORTER

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 9th day of September, 2024.



MARTHA L. NELSON, CERT\*\*367