DOCKETED

Docket Number:	15-PMAC-01
Project Title:	Petroleum Market Advisory Committee
TN #:	215208
Document Title:	Transcript of 11/29/16 Petroleum Market Advisory Committee Meeting
Description:	N/A
Filer:	Cody Goldthrite
Organization:	California Energy Commission
Submitter Role:	Commission Staff
Submission Date:	1/10/2017 10:49:49 AM
Docketed Date:	1/10/2017

BEFORE THE

CALIFORNIA ENERGY COMMISSION

In the matter of,	)	
	)	Docket No. 15-PMAC-01
	)	
Petroleum Market Advisory	)	
Committee	)	

PETROLEUM MARKET ADVISORY COMMITTEE MEETING

CALIFORNIA ENERGY COMMISSION

FIRST FLOOR, ART ROSENFELD HEARING ROOM

1516 NINTH STREET

SACRAMENTO, CALIFORNIA

TUESDAY, NOVEMBER 29, 2016

10:23 A.M.

Reported By:
Kent Odell

APPEARANCES

Commissioner

Janea Scott

Committee Members

Severin Borenstein, Chair

Amy Myers-Jaffe

Kathleen Foote

James Sweeney

Dave Hackett

CEC Staff Present

Ryan O. Eggers, Supervisor, Transportation Fuels Data Unit

Susan Ejlalmaneshan

Gordon Schremp, Senior Field Analyst

Samantha Arens

Presenters

Jamie Court, Consumer Watchdog (Via Telephone)

Ryan Hanretty, California Independent Oil Marketers Association (CIOMA)

Public

John Fostick, Concerned Citizen

INDEX

P R O C E E D I N G S

NOVEMBER 29, 2016 10:23 A.M.

CHAIR BORENSTEIN: Good morning, for those of you on the phone, and those of you in the audience. I am Severin Borenstein. I am the Chair of the Petroleum Market Advisory Committee. I'm joined here by Jim Sweeney, and Amy Myers-Jaffe, and Kathleen Foote.

And we are, today, meeting to discuss retail gasoline markets and the potential issues in them. And Ryan Eggers, our trusty support person, staff, has something to say.

MR. EGGERS: Yeah, sorry, Severin. Susan does have some opening housekeeping items to go through really quick.

CHAIR BORENSTEIN: Okay. And, so, we will start. Susan.

MS. EJLALMANESHAN: Good morning, Commissioner Scott. Good morning Chair Borenstein.

CHAIR BORENSTEIN: Is your mic on?

MS. EJLALMANESHAN: Is it on?

CHAIR BORENSTEIN: Yeah.

MS. EJLALMANESHAN: Okay. Good morning, everyone. Thank you for coming here on this cold day, Tuesday, November 29, 2016.

Just on housekeeping, before we get into the meeting, for public comment we get Joscelynne, a Public Adviser representative, sitting in the back, which will take the blue cards any comments that you have.

And if you have a business card to give to our court reporter, who's sitting over there, that will be very helpful.

And please do say your full name, and before making any comments. And please note that this meeting is being recorded.

For those of you who are not familiar with this building, the closest restrooms are located in the back, next to the exit. And there's a snack bar on the second floor, under the white awning.

And, lastly, in the event of an emergency and the building is evacuated, please follow our employees to the appropriate exits. We will reconvene at Roosevelt Park, and it's located diagonally, across the street from this building. Please proceed calmly and quickly. Again, following the employees with whom you are meeting, so to safety exit the building.

And, now, I'm going to transition over to Dr. Borenstein. Thank you.

CHAIR BORENSTEIN: Thank you. So, we're going to start with approval of the minutes from the last meeting, August 16, 2016. The Committee has all had an opportunity to review those minutes.

So, do I hear a motion to approve the minutes?

COMMITTEE MEMBER FOOTE: So move.

COMMITTEE MEMBER SWEENEY: Second.

CHAIR BORENSTEIN: And seconded by Jim Sweeney.

All in favor say aye.

(Ayes)

CHAIR BORENSTEIN: Opposed?

So, the minutes of August 16th are adopted.

The next order of business is opening remarks on gasoline markets, on retail gasoline markets. I will make a few comments.

We're here, today, most of what the Committee has explored in previous meetings has looked at the wholesale end of the market, from crude oil and finished product imports, to refining in-state, and how those markets have come together to create wholesale supply, and set wholesale prices.

In the process of exploring those issues, a number of speakers have mentioned potential problems in the retail sector of the supply chain. Where, from in the retail sector we are defining, today, to mean from the refinery downstream. So, the rack distribution, the form of distribution to retail outlets, and then the actual distribution from retail outlets to final, end-use consumers. So, that's what we're going to be exploring today.

As with all of our previous meetings, a central question of the Committee is whether we can attribute the high gasoline prices in California to cost bases, or logistical issues, and whether some of the higher prices in California might be due to the exercise of market power by some participants to raise the price above what would otherwise be competitive levels.

So, what we're going to focus on today is the potential to sort out those two, potential explanations at the retail level, and to what extent the retail margins account for California's higher gasoline prices.

And when I say higher gasoline prices, as we have done throughout the PMAC meetings, we're referring to prices being higher in California after adjusting for the higher gasoline taxes, the cap and trade costs, and the costs associated with the Low Carbon Fuel Standard.

At this point, California's gasoline prices remain above national average, I think by about 10 cents a gallon these days. The Low Carbon Fuel standard is adding, I think -- Ryan, are you actually going to remind us of these numbers in your presentation?

MR. EGGERS: No, I wasn't, actually.

CHAIR BORENSTEIN: Okay. Well, maybe Gordon can

-- Gordon Schremp is here and he can probably do this off the top of his head.

The Low Carbon Fuel Standard, which adds a few cents, we'll get a precise number. And cap and trade, which continues to add about 10 cents a gallon to the price of gasoline.

And maybe what we will do is after you give your presentation, we'll ask Gordon to just quickly comment on those factors, the most recent updates.

So, that's all I have to say before we get started. Do other Members of the Committee have comments? Jim, Kathleen, Amy?

Okay. Hearing no other comments, then we're going to move to the next item on the agenda, which is a presentation by Ryan Eggers on California gasoline prices.

MR. EGGERS: Thank you. Good morning, Commissioner Scott, Members of the Petroleum Market Advisory Committee. Once again, I'm Ryan Eggers. I'm the Supervisor of the Transportation Fuels Data Unit. And my presentation is just going to be an overview on what's been going on with California gasoline prices, roughly from 2010 to 2016.

Now, this presentation is just to sort of give an outline and some background information on some of the topics we've been discussing so far, in the PMAC meeting. So, this is sort of a broad overview of what's been going on, recently.

My presentation is also broken up into sections. And, so, at the end of every section there is some key takeaways, and this would be a perfect time to be interrupted. So, you know, the PMAC is always welcome to interrupt at any time, but it might be advantageous to sort of wait until the very end there.

So, to start off here, I'm going to talk about some general retail gasoline pricing trends out here, in California.

Now, here, at the Energy Commission, there are basically two information sources we typically go to in order to get gasoline price information for California. The first is the EIA, which is the Energy Information Administration. They have gasoline prices and other energy prices for, not only the U.S., but for California-specific and other state-specific zones.

Here, what you're seeing is the red, blue and a green line, which are all EIA gasoline prices. The red is the conventional gasoline price, which pretty much describes the rest of the Nation.

The blue is the reformulated line, which is very similar in spec to the California gasoline price. And then, behind that black dotted line, there, is California's assessment of the weekly gasoline price out here, in California.

Now, that black line are basically our other source of gasoline prices here, at the Energy Commission, which is the OPIS gasoline price. And OPIS stands for the Oil Price Information Service.

And in the case of the OPIS data, we have actual, individual retail station information by day, for all stations showing up in their database for California.

And then, I turn that information into a weekly average and then compare it to the EIA data. They appear very similar. As a matter of fact, that black line is almost overlaying that green line almost one for one. Which is kind of good news, because we have two different sampling methodologies going on and both are agreeing, generally, what the price trend is and what the general price was. As a matter of fact, these particular two lines only deviate for about one percent, one cent over this particular time period.

That's not to say that they don't deviate a little bit more. I think the max was about seven cents. But a little bit of that is reflection on how the information is collected.

So, what we're seeing here is, for the most part, over the entire time period, California gasoline prices are, for the most part, following national trends. There are pretty much -- there are a couple of deviations. The most noticeable one, early, is in 2012, October of 2012, as a matter of fact. I'll get into a little bit of the reasons why that is, in my later slide. The next is, obviously, what the PMAC has been talking about for the last two years, which are these three spikes out here in 2012, which happened in March 2nd, May, the early part of May ,and then the early part of -- I apologize -- July.

So, going into a little more on what's going on there, looking at California spot prices, here in California, what we have here on this particular chart is the yellow and green line has now been added. And this is the San Francisco spot price and the L.A. spot price.

Also included on this graph is the EIA Brent price, and WTI price. And for the most part, a lot of the changes in the spot price have been driven by changes in the crude oil prices, except for these spikes, obviously.

Now, the first spike does appear to be a result of the Richmond fire, which actually happened on August

6th. The actual spike didn't take place until about, roughly, two months afterwards. And in this case, both the San Francisco and the Los Angeles spot market price rose very substantially. And that, then, translated over to the retail section up here, at roughly the same time period.

Now, from 2012, all the way into 2015, everything pretty much went back to normal. And then, we had that drop off in 2014. Then, starting off in 2015, there did appear to be a little bit of a correction as prices came up, as the differential between the spot market price and the crude oil price narrowed quite substantially.

Then, we had the Torrance explosion on February 18th, and there was a resulting spike. Unlike the Richmond fire, almost immediately on both the San Francisco and Los Angeles spot market price.

Here, though, we see the first evidence that the Los Angeles price went much higher -- or, not much in this particular case, but went higher than the San Francisco price. But this, like the previous spike, was a short-term sort of phenomenon, only lasting a couple of weeks before the price came back down.

Roughly about a month, a month and a half later, then prices rose once again. Again, we have both the

San Francisco and Los Angeles spot price rising. But again, once again, the Los Angeles price, right over here in the second spike, was much higher than the San Francisco price.

Like the previous one, this is sort of a short-term phenomenon, lasting a little bit longer, a couple of weeks in this particular case, before falling down.

Then, the third spike happened the week of July 20th, which was the peak here. In this particular case, the spike was almost entirely a Los Angeles phenomenon. While the San Francisco did rise, it didn't rise to the same magnitude that it previously did. While the magnitude on the Los Angeles rise was greater than the previous spike.

And, again, short-term phenomenon before both spot markets fell down. But, again, we have a little bit of a separation between the two spot markets, in San Francisco and L.A., right at the beginning of 2016.

Now, this sort of -- you know, since we have a little bit of a different movement in both the spot markets, this sort of raises the question on whether the retail market responded in the same way as the spot market prices.

And one of the great things about the OPIS information is it does provide us individual retail station information, that we can then split up into a north/south split, that we don't necessarily have with the EIA information. And that's what I've done here.

In this case, the blue line is the Southern California average retail price, per the OPIS database. The red line is the Northern California retail price.

And what we're seeing here is, for the most part over this entire time period, the Northern California and the Southern California spot markets track, or the retail track what's happening in the spot market, almost, pretty close to one for one. As a matter of fact, over the entire time period, the average was about one dollar and one cent for the differential between the Northern California retail price and the Southern -- or the San Francisco spot.

Now, for that same, for the same time period, the Southern California retail differential to the L.A. spot was about $1.09.

That being said, both of these particular differentials grew in 2015, as prices arose very quickly. In the case of the Northern California differential, that rose roughly about 10 cents, to $1.11.

In the case of the Southern California, it rose much greater. It rose, actually, 31 cents to $1.40.

And as we can see here, the same sort of separation between the San Francisco and L.A. spot market prices were reflected in the actual retail prices, as well.

In this particular case, in 2015, the Southern California prices rose much more than the Northern California prices, almost to the point where that third hump really didn't happen in Northern California, as it did, we have a really big increase over here in Northern California [sic].

The same sort of event happens late in 2015 and in early 2016, where we do have a rise in the L.A. price, as opposed to the Northern California price.

So, looking at -- you know, this is my first takeaway slide. So, looking at this very broadly, what we can quite easily say is both OPIS and EIA prices, roughly the same. So, any sort of possible suggestion that, you know, these two data sets were different, the data doesn't necessarily support that. I mean, once we average everything out, and get it to like terms, both of these two data sets agree, you know, almost one for one.

Now, overall, from 2010 to 2016, for the most part California prices have followed the national average. The obvious sort of deviations happened in the week of October 8th, in 2012, and that seemed to be from the Richmond fire. And then, in 2015, we had those three sort of different deviations in the week of March 2nd, of 2015, May 18th, of 2015, and July 20th, of 2015.

Now, both the spot markets here, in California, trend-wise did go up and down, and roughly for the similar motions in 2015. The outside exception was really that July 20th, 2015, where we had the larger spike.

That being said, we did see a noticeable difference between the spot markets and that was, then, later reflected in the retail prices, as these both responded differently, it appears, to the February Torrance Refinery outage.

At the end, it does look like the Torrance Refinery had a much bigger impact in Southern California, as opposed to Northern California, with the differential between the spot market and the retail price growing 31 cents on average.

And as I said, if there's any questions right now, now's the perfect time to start hitting me up.

CHAIR BORENSTEIN: Yeah, thanks Ryan. This is Severin Borenstein. So, two things happened in the retail margins in the last couple of years. One is the cap and trade went into effect for fuels, on January

1st, 2015, which raised the cost about 10 cents a gallon.

The other is the taxes have been coming down on fuels, due to lower oil prices, than the weird way California calculates its excise tax, where it's adjusted, as I understand, on July 1st, every year. And I think it has actually, over the last couple of years, come down about 10 cents a gallon. And, so, those are two offsetting effects, I would imagine.

Do you know how much taxes have come down?

MR. EGGERS: Taxes decreased six cents, I believe. I'm looking over at Gordon.

CHAIR BORENSTEIN: Six cents on which --

MR. EGGERS: The excise tax.

CHAIR BORENSTEIN: Yeah.

MR. SCHREMP: Chair Borenstein, this is Gordon Schremp, Energy Commission staff.

Yeah, the taxes have come down. API does a quarterly examination of taxes in all states, so you can do a comparison four times a year. The latest information available, from November 1st, is that the difference between California and the U.S. average is 7.7 cents.

And, so, what you said about a couple of years ago, the differential was closer to 15 cents so, yes --

CHAIR BORENSTEIN: Okay, so it came down.

MR. SCHREMP: -- the tax difference in California being higher, it's still higher, but it's not as high as it was. And, so, that is about 10 cents change from where it was before.

CHAIR BORENSTEIN: So, those two effects are approximately offsetting, the adding the cap and trade, and removing -- and reducing the taxes.

But the Low Carbon Fuel Standard was, as time we -- or a couple of times ago, when we discussed it, adding about four cents a gallon. And my understanding is the price of Low Carbon Fuel Standard allowances has plummeted in early 2016 -- or late 2016, and so, it's now down to about two cents a gallon, is that --

MR. SCHREMP: It's about three cents as of Monday, 3.1 cents.

CHAIR BORENSTEIN: Okay, great.

MR. EGGERS: And you are correct in pointing out, all the retail prices you are seeing here are not adjusted for taxes in this particular case.

CHAIR BORENSTEIN: Yeah.

Jim Sweeney?

COMMITTEE MEMBER SWEENEY: Yeah, if you go back to your slide on page 5, I want to make sure I've interpreted it correctly. Because you focused on the spikes and I focused on the difference between the areas, of which I view as more of an important issue.

If I were to look at the time before the Richmond fire, if I were to eyeball this chart, I would see a difference between the retail price and the spot price of average what, if I eyeball it, say about 75 cents. And, of course, if I had to eyeball this, but I'd say about 75 cents. Correct me if I'm wrong.

Then, in the 2015, you have differences, $1.11, $1.40. And if I were to look at 2016, I'd also see the same sort of difference.

Is that correct that the difference between -- the gap between the retail and the spot market, over this six-year, five, six-year time period, moved from about 75 cents to about $1.20, $1.50? First, am I reading that correctly? And, if so, do you have -- can we talk about anything you know about why that was a big gap, rather than the spikes?

MR. EGGERS: You are correct in saying that the gap does appear wider. Now, I don't know the exact magnitudes, right off the top of my head. But, yeah, from 2015 into 2016, the gap between the two does appear much larger.

Now, a little bit of this does appear to be a phenomenon that Dr. Borenstein wrote about in the past.

A little bit of it, we do have a decrease in price in the spot market. And that doesn't filter into the retail section as quickly. That's a little bit of the down, like a feather sort of effect. And, so, when you do have strong ups and downs --

COMMITTEE MEMBER SWEENEY: Well, this would be a feather with an updraft.

MR. EGGERS: Well, the updraft in the rocket happened, yeah, with the spikes. But on the way back down there always appear to be a little bit of a gap in that. And we do have a large, sort of decrease in the latter half of 2015, into 2016.

That being said, you are correct in pointing out that from the March 4th, the week of March 4th until July 4th, the gap seems to have stayed in both markets. And I don't have a reason for that right at this moment.

COMMITTEE MEMBER SWEENEY: Good. I just wanted to make sure that I was reading the graph correctly. Because I think it's more important to focus on why it's roughly stayed high over a long period of time, rather than the dynamics of spikes. Because dynamics of spikes, spikes happen. And the down-like-a-feather phenomena is real, but typically is not that long. It's not a two-year feather.

MR. EGGERS: Well, especially now that we've seemed to have hit a trough in retail prices.

COMMITTEE MEMBER SWEENEY: Yeah.

MR. EGGERS: You know, seeing it stay there, it is -- yeah, I don’t have a reason for that.

CHAIR BORENSTEIN: Can I ask one more clarifying question? Then numbers here say, in 2015, Northern California retail prices average $1.11 over spot. And then above that, for the entire data series, Northern California averaged $1.01. That entire data series includes 2015 and 2016.

MR. EGGERS: Yeah, correct.

CHAIR BORENSTEIN: So, if we go back to the earlier years, it’s just doing some weighted averaging, probably on the order of 95ish cents differential, for the pre-2015 period.

COMMITTEE MEMBER SWEENEY: It can be calculated. It would probably be good to be, afterwards, to calculate it.

CHAIR BORENSTEIN: Yeah.

COMMITTEE MEMBER SWEENEY: And, so, we’re not just guessing it, from looking at it.

CHAIR BORENSTEIN: Yeah, but just doing the weighted averages.

COMMITTEE MEMBER SWEENEY: It’s still a big difference.

CHAIR BORENSTEIN: So, it looks like the differential in 2015 is likely to be about 15 cents higher than it has been in the earlier --

COMMITTEE MEMBER SWEENEY: No, I think it’s a bigger different than that, if I eyeball it.

MR. EGGERS: Well, you know, yeah, for your information’s sake, I can go back and recalculate each of those years, what’s the average of each of those years --

CHAIR BORENSTEIN: Yeah, that would be good.

MR. EGGERS: -- for different time periods. And then, get that information to you, not a problem.

CHAIR BORENSTEIN: Great. Amy, Kathleen, anything? Okay.

Why don’t we continue on.

MR. EGGERS: Perfect, thank you.

So, seeing this kind of divergence in prices, in both Northern California, and in sort of inspired by a comment that Dave Hackett made at our last meeting, I’d started looking into, you know, what was happening in the brands? Did we see sort of a deviation in brand pricing during this time? Especially since we have had comments, you know, that certain brand behavior was happening, but we’ve never really seen any sort of hard information on it.

So, getting OPIS's permission, and I do thank OPIS for providing that information, I was able to split a little bit of the gasoline retail prices to by-brand, and looking at it that way.

Before we start there, I wanted to give a little bit of context on who sells what, at the retail level here, in California. And what you're looking here are results from our 2015 Annual Retail Fuel Outlet Report. Which, basically, goes from station to station and asks how much gasoline that particular station sold in the previous year.

Now, obviously, we collected this information in 2016, and so this is the most up to date that we have. Our 2016 Survey will be going out at the beginning of next year.

But in 2015, what we found out is, you know, based on who reported to this particular report, Hypermarts represented roughly about 15 percent of sales in California, at the retail level. ARCO was roughly about 14. Chevron was the leading seller of gasoline, at roughly 19 percent. ExxonMobil was actually a very small portion of flagged stations that actually reported sales to us, at roughly about 3 percent.

The thing to remember about A15 information, though, is we've never gotten complete reporting from every station in California. If we compare the numbers we get out of this particular report, with those reported by the BOE -- or, the BOE, or the Board of Equalization, basically, we only cover about 80 percent.

Now, a little bit of that friction comes from the fact of what is retail. Taxable sales do include government use of fuel here, in California, for gasoline. It also includes a lot of commercial fleets, which wouldn't necessarily have to report to us for a retail fuel annual report.

That being said, there is also a little bit of under-reporting. Nobody in California -- there's no central database for stations out here, in California. Instead, we often have to go by word of mouth in order to get a lot of this.

But for the most part, we do feel that, you know, we cover a good portion of retail stations out here, in California. And we definitely do believe that we've accounted for all Hypermart and large chain sales, because there's usually one representative for us to contact in that particular case.

What's more interesting here, though, at least what I think is going to be more interesting later, is roughly about 58 percent of these sales were composed of Hypermart, ARCO, and other brands. Which, typically, or anecdotally, and actually what I'll show later, typically to be the more inexpensive gasoline sold here, in California. While the other 42 percent is more of the premium brands, the Shell, the Chevron, the Exxon, Union 76, which typically have an additive package, which typically makes their gasoline more expensive at retail.

That being said, in 2015 there was a -- the BOE did report, roughly, about 15 billion gallons of gasoline was sold in 2015.

COMMITTEE MEMBER MYERS-JAFFE: Can I ask a question?

MR. EGGERS: Yeah.

COMMITTEE MEMBER MYERS-JAFFE: What category was --

CHAIR BORENSTEIN: I don't think it's on.

COMMITTEE MEMBER MYERS-JAFFE: What category would Valero and Tesoro fit in, on this chart?

MR. EGGERS: Again, we're talking about flagged stations in this particular case. Not necessarily what refinery that the gasoline came from.

COMMITTEE MEMBER MYERS-JAFFE: Well, Valero has their own stations.

MR. EGGERS: They do have their -- there are Valero-flagged stations. That being said, they're not a huge part and they do fall in that other category, that other total part of these particular sales.

The same goes for the Rotten Robbies, the USA, the Flying J's. A lot of that stuff where I didn't want to split it into too fine of categories.

COMMITTEE MEMBER MYERS-JAFFE: So, I would just suggest, for the purposes of this Commission, it would be good to have the categories tied directly to those with refining assets. So, to the extent that you have people in "other", that are companies with refining assets, I think they should be broken off. Because there's a big difference between Valero, and companies with refining assets, and Flying J, which is more like -- probably more comparable to the Hypermart. So, you're not having the categories actually capture the kinds of things we're looking at in terms of market power.

CHAIR BORENSTEIN: I think it's the case that Valero actually sold off its chain of -- they're still under the Valero name, but they're not affiliated. But we can check this.

MR. EGGERS: Yeah, this gets into how vertically integrated the retail stations are with the refinery and --

CHAIR BORENSTEIN: Yeah. No, that's Amy's point. And I think it's important to know that. But I think Valero is -- the Valero flag stations actually are not affiliated with the Valero Refinery any more.

MR. EGGERS: That was sort of my understanding, but I'm not a hundred percent sure of that, yeah.

COMMITTEE MEMBER SWEENEY: But that's true of most majors, too, that they don't own the retail stations that --

CHAIR BORENSTEIN: No, but these are not -- these are not even lessee dealers to Valero. They are a completely independent chain, like Rotten Robbie, that just happens to be flying under the Valero name. I believe. And we should check that.

Whereas the relationship, as we're going to see, between a Chevron station and Chevron is quite different and, actually, does have a direct corporate tie.

MR. EGGERS: That being said, I can slice this off in other, sort of different ways, if you need that information, Dr. Jaffe.

So, continuing on, looking at California at a whole, and breaking these different retail prices apart, I sort of used the same categories as was in my pie chart. And as you can see here, the redline, which is at the very bottom, is the Hypermarts. Which, for the most part, in this particular case, definitely form the floor of retail prices here, in California. And it’s followed very closely by ARCO prices, which were very much towards the bottom.

At the very top were the premium brands that I was talking about earlier, was the Shell, the Chevron, the 75, and the Exxon.

And what’s probably jumping out really quickly here is we do see a very high spike, on the third spike in 2015, for Exxon prices. Now, as you remember, Exxon was only 3 percent of stations reporting here, in California. And once I saw this, I thought this was very interesting and very weird.

And what I found out later, and as I’ll show in some of these different graphs, a lot of the Exxon stations were centralized in Southern California. This is not to say that there weren’t retail stations up in Northern California, but the large population of those sales, in this stations, were in Southern California. Almost to the point where even though there were a few stations that reported in both the Bay Area, and in Sacramento, the price series that I had from OPIS wasn’t complete enough for me to put it on the actual charts. We had reporting stations within the 10s, much less than the Hypermarts, and so I just excluded it for reporting purposes.

But as you're going to see later, a lot of that spike is sort of resulting from that. But for the most part, the prices over this particular -- from the 2014 to 2016, did seem to follow sort of a generalized orbit, with all of the other stations, that "other" category falling kind of in between the Hypermart, ARCO slash orbit in the premium brand orbit.

And then, to demonstrate the anecdote about Exxon, and how they were very much focused in Southern California, I started looking at these by actual different regions. And in this particular case, you're looking at Los Angeles area prices, which go into Counties of Los Angeles, Orange, and Ventura.

And here, we see that a lot of -- a little bit of that difference we saw in the north/south price, earlier, where we see a very strong third spike, and very -- you know, very pronounced first and second spikes.

That being said, for the most part, over this entire time period the orbits were also maintained. There wasn't a lot of, you know, changing of orbits. As a matter of fact, for the most part ARCO kept pace very much with the Hypermarts. There was a little bit of separation on the down end of 2015.

That being said, the peak price in 2014 was

$4.39, and this was roughly matched by the third peak in 2015, at $4.40.

Now, must to see what's sort of the average differences between, you know, the different price series was, I did look at a differential between Chevron and ARCO. The reason I chose this particular differential was both of them have, roughly, the similar sort of business models. They're both station operations.

I didn't chose ARCO, because ARCO didn't show up in Northern California, so Chevron was the next comparable one. And I didn't -- I didn't do the Hypermarts because what became very clear to me, as I was looking at this information, is location very much mattered. Where you are, physically, very much mattered to what your price was. And the Hypermarts tend to be located in very high foot traffic areas. Whereas the ARCOs do have -- there are stations out in the middle of nowhere, selling ARCO gasoline.

And I felt that was more sort of apples-to-apples with Chevron stations as opposed to, you know, Hypermarts.

But for the most part, in the Los Angeles area, during the 2015, we did have an average of, roughly, about 27-cent difference. It did get as large as 41 cents between the two prices. It got as narrow as 17 cents. This was a little bit bigger, as far as differential-wise, than in 2014. I want to say there was roughly -- which was roughly about 24-cent average difference in 2014.

Now, just as we saw a deviation in --

COMMITTEE MEMBER FOOTE: Hold on, can we go back?

MR. EGGERS: Yeah.

COMMITTEE MEMBER MYERS-JAFFE: I have a question. How unusual is it? Is that an unusual thing to have the majors' prices be that much higher retail than the discounting providers? I mean, and I notice in your chart, because it's kind of hard to see with everything, that the congruence between Exxon, and Chevron, and Shell is so tight that you can't even really see the distinction between Exxon and Chevron.

So, is that normal to have a maximum differential of 41 cents for a branded station versus an unbranded station?

MR. EGGERS: I don't have any information beyond California and this is the data --

COMMITTEE MEMBER MYERS-JAFFE: No, I mean in California.

MR. EGGERS: Yeah, in California, this did appear to be the norm throughout our entire price series for the --

COMMITTEE MEMBER MYERS-JAFFE: So, even going back five years ago, or ten years ago, they typically carry a much higher level?

MR. EGGERS: No, the average difference was roughly in the 20s. So, as I said, in 2014, there was a 24-cent difference between the ARCO and the Chevron. That seemed to carry back all the way to 2010, when the OPIS price series actually starts for us.

And so, yeah, there was roughly about a 3-cent increase in 2015, in the average.

COMMITTEE MEMBER MYERS-JAFFE: And the --

CHAIR BORENSTEIN: We're seeing --

COMMITTEE MEMBER MYERS-JAFFE: And how about the swings? Because, you know, this maximum 41 cents seems rather high. Is that normal?

MR. EGGERS: That actually was normal for the --

COMMITTEE MEMBER MYERS-JAFFE: That's normal, okay.

MR. EGGERS: That was normal for the entire price series. The minimum was little bit less, when I looked at the entire price series. It was roughly about 12 cents, when I looked at the norm for L.A.

CHAIR BORENSTEIN: But, Ryan, it looks like 2016 is substantially larger. Eyeballing it, I would say 2016, the average differential, Chevron/ARCO, is close to 40 cents.

MR. EGGERS: Yeah, I didn't do that calculation. But, yeah, it does appear to be larger.

CHAIR BORENSTEIN: It seems that during the 2015 disruption, it looks like we saw a bit of an increase in 2014. But during the 2016 calm, although calm at a higher level of price differential, we seem to be seeing a larger differential between the majors and ARCO, or the majors and Hypermarkets than we saw back in 2014.

MR. EGGERS: Yeah, and I can definitely run those numbers when I get back to my office, for you.

CHAIR BORENSTEIN: Okay.

MR. EGGERS: For the PMAC.

COMMITTEE MEMBER MYERS-JAFFE: Thank you.

COMMITTEE MEMBER SWEENEY: And if you're running it, I find it useful to look at -- besides this absolute graph, just choose one as a reference and just take differentials to that one, and it's much easier to see whether there's trends over time. So, instead of year-by-year averages, do the whole graph that shows the difference from the lowest of these, the Hypermart --

CHAIR BORENSTEIN: Actually, probably the three majors, the difference from the three majors would be the most useful because that's a --

COMMITTEE MEMBER SWEENEY: Yeah, but doing deltas, plotted over time --

MR. EGGERS: But, basically, what you're saying is plot the differences between them, and display that.

COMMITTEE MEMBER SWEENEY: Yeah.

CHAIR BORENSTEIN: Yeah.

MR. EGGERS: That is definitely something I can do.

CHAIR BORENSTEIN: Okay.

MR. EGGERS: All right. So, moving on to the Bay Area, as we can see, the price spike in the Bay Area was nowhere of the same magnitude of the L.A. And I put both of these sort of charts in the same sort of area, so I could flip back through. And as you can see, there is a drop in just the overall price in this particular case.

As I mentioned earlier, Exxon stations didn't appear in numbers that I felt was appropriate to put on this particular graph. And, so, as you can see, now Chevron and Shell is at the very top, with ARCO and the Hypermart still forming the floor price, if you will, in this particular area.

That third hump really never sort of happened in the Bay Area. And the average differentials here are very much similar to what we saw in Los Angeles. Here, the average difference in 2015 was only 29 cents. We have the same maximum, but a little bit bigger of a minimum difference during that particular time period.

But, once again, all of the orbits seem, you know, very closely similar to what we saw in L.A. And this is for counties that are all around the Bay Area, all the way from the north, in Napa, all the way down to Santa Cruz.

Moving on to Sacramento, we see sort of the same pattern that we saw in the Bay Area prices. Here, though, the average differential sort of was a little bit bigger here, in Sacramento, as opposed to the Bay Area, as opposed to L.A. Here, the average difference was roughly about 35 cents.

Once again, we have the same sort of orbits being maintained. That being said, ARCO prices here tend to be a little bit less than the Hypermarts. As you can see, that blue line does show up below the red one more often than it did in the any of the other areas or regions that we were looking at.

And this is one of the sort of the things that was sort of telling me that the location really mattered in this particular analysis.

That being said, in 2015, the peak price actually happened on the second peak, as was similar to the Bay Area. And in this particular case, it was only $3.67.

Moving back down south we see, now, price patterns much similar to the L.A., down here in San Diego. Again, here the Exxon stations come back onto this particular graph, and they are the very top. And, so, that was a little bit of a reason why we saw that deviation on the California averages.

Here the average, again, was a little bit less than L.A. and the Bay Area. Here, it was at 23 cents, with a maximum of only 38 cents, and a minimum of 13 cents.

But, once again, we're seeing a lot of the same sort of patterns that we saw in previous charts and regions. Except that, in this particular case, it does look like the ARCO line is much closer to the other fuel prices in the San Diego area, as opposed to the L.A., Sacramento, and Bay Area.

Finishing off with the Central Valley, here you've got a little bit of a mishmash between both the Bay -- or, the more populated centers of Southern California and at the Northern California prices.

That being said, ARCO is once again at the floor, right there, one-for-one almost, with the

Hypermarts. Again, the premium brands are much higher.

That being said, in here Exxon is not so much at the top, it sort of floats in between the two. And this is the one area where Exxon prices didn't seem to rise as drastically as, say, some of the other prices.

But it does make me wonder, since we are talking about such a large area, all the way from Kern up to Stanislaus Counties, that maybe a little bit of a where these particular stations are, are located, is sort of influencing these averages.

That being said, in the rural areas, and I hate to say that for Sacramento but, you know, in the less population dense areas, there does appear to be a much greater average between the Chevron and ARCO stations, as opposed to in the more population dense regions of L.A., Bay Area, and San Diego.

So, here are some of the takeaways that I saw in this particular analysis. That, you know, obviously, the retail prices vary by brand. But even though they vary by brand, these orbits that they have are -- do seem to be maintained throughout the entire price series of the particular analysis.

Like we saw earlier, the price spikes that happened three times in 2015, were mainly Southern California phenomenon. In the Bay Area and Sacramento, there was really only two price spikes and a third hump, if you will, all happening at roughly about the same time. And they all appears to be happening, roughly, in the same sort of trend way that the spikes in the spot market were occurring.

In the price differentials between ARCO, as I mentioned earlier, and Chevron appear similar across regions, but the more densely populated regions did have smaller average differences.

CHAIR BORENSTEIN: Yeah, I have a somewhat different take, looking at these, which Kathleen and I are sort of mumbling to each other about. That we're seeing much larger differentials in 2016, between the major brands and the Hypermarkets, or the ARCOs. And ARCO, now, is affiliated with Chevron. No.

MR. EGGERS: Oh, it's affiliated with Tesoro, I believe.

CHAIR BORENSTEIN: Tesoro. So, there's questions about what its pricing strategy would be. So, it's interesting, I think, to look at both. But they've clearly widened in 2016. And it makes one wonder if, when we look at the average retail price versus spot, if we're sort of combining two different phenomena. One is, perhaps, Hypermarket competitive areas that are tracking more closely with spot, as they have in earlier years. And Hypermarket noncompetitive areas, where we're seeing the major brands able to price up more, and tracking one another very closely, and now charging prices that deviate much more than they did in earlier years.

Because there's no question this differential has gotten larger in every single area.

MR. EGGERS: I would very much agree that, yeah, the location matters quite a bit. And there is quite a bit of work that can be done with the OPIS price series.

I guess, as a cautionary note, there's a lot of geocoding that would need to be done for those sort of areas, and address information within there.

CHAIR BORENSTEIN: Yeah.

MR. EGGERS: And, so, it's not a small task by any stretch of the imagination.

CHAIR BORENSTEIN: Yeah. No, I --

MR. EGGERS: But it does appear to warrant investigation.

CHAIR BORENSTEIN: Yeah, it seems that there would be room for some further data. Even at that point, though, we get to the question of what could be driving that and trying to sort out market power from scarcity, particularly the possibility that we have fewer stations, now, housing -- or land prices going up.

Exit of some stations in some areas, which I'm sure we've been seeing, and probably more so in the population dense areas. Would all be potential explanations before you get to any sort of direct market power explanation. Although, those are related.

MR. EGGERS: Yeah, I do apologize for not running some of the 2016 numbers. All of our discussions have been primarily focused on 2015.

CHAIR BORENSTEIN: Yeah.

MR. EGGERS: So, I did sort of focus on 2015.

CHAIR BORENSTEIN: Yeah, looking at these graphs, though, it does appear that 2016, something additional is going on.

Any other comments, before we move on?

COMMITTEE MEMBER FOOTE: Just looking at the shapes of these various graphs, just to sort of mention the obvious, the spikes -- not only are the spikes sharper, but the drops in L.A., but everything is so much sharper. And the relative prices, nonetheless, remain very tightly together. Everything follows all of those things. And it's just not the same in any of the other -- you see, you know, you don't see that kind of perfect tracking in any of the other graphs.

CHAIR BORENSTEIN: Well, San Diego doesn't look that different, does it?

I would think that that's more reflective of the fact that the L.A. spot price is much more volatile. The Southern California spot price is much more volatile. And, so, we've seen, while there's still the same retail issues that we just discussed, L.A. has a lot more of the wholesale issues, as well.

COMMITTEE MEMBER FOOTE: Right, yeah. Yeah, I mean, it's also striking that the premium ones remain so closely together in everything.

CHAIR BORENSTEIN: Yeah.

COMMITTEE MEMBER FOOTE: Going up, going down, there's almost never a gap of any significance at all.

COMMITTEE MEMBER SWEENEY: I have the advantage of having this on my computer and I can flip quickly back and forth between these different graphs. And what it looks like, to me, in going through that flipping back and forth exercise, is that as of about -- up until about February 2015, Los Angeles versus Bay Area looked just about the same.

Then it diverged. But then, by February or March 2016, they came back together, again. This is not to disagree with the growing gap between the majors and the others, but the Northern California versus Southern California seemed to be a one-year phenomena that didn't exist before, and doesn't seem to have existed afterwards.

MR. EGGERS: Precisely, yeah. The point -- in 2015, the Northern California prices and the Southern California prices did not track. And there wasn't the same sort of response to the Torrance outage in both locations.

CHAIR BORENSTEIN: Okay. Well, we should let you move along. So, yes, we do have other speakers today.

MR. EGGERS: Okay. Now, we've also, during these meetings, heard a lot of information about the refinery margins, that the Energy Commission does post on our website. As sort of a brief, little recap, one of the reasons why it -- well, the Energy Commission posts margins using a rack price differential, and not necessarily a spot price differential.

And the reason for that is the spot market is really meant for trades between different refineries and large trading houses. As a matter of fact, the minimum trade on the spot market is roughly about 25,000 barrels. Actually, I think it is 25,000 barrels. And that's a lot of gasoline to sort of changes hands. Like, retailers wouldn't necessarily get into that particular market.

Instead, gasoline retailers, typically in the

United States, get their gasoline from a rack, a terminal location. There are also a small portion that get it from DTW.

Now, out here in California, DTW, or Dealer Take Wagon, is a much more normal trade. And probably a little bit of that has to do with how the refinery centers sit in California. In California, we have two refinery centers that are very much located in our higher population dense areas, both in Southern California, down in L.A., in Northern California, up in San Francisco.

Thus, the trading, as in the Dealer Take Wagon trade of trading directly with the refinery makes much more sense. You wouldn’t necessarily send that gasoline out to, say, Sacramento, if you’re a station in San Francisco and then go buy it out in Sacramento.

So, we have a little bit of a higher DTW versus rack proportion. That being said, rack is still, roughly, about 43 percent of sales out here, in California. And rack is the price that the Energy Commission has actually access to, to sort of calculate a differential.

And that’s what, actually, you see out here in the California margin tables, that you can find out on the internet and/or on the Energy Almanac.

What I would like to point out here is in both this branded and unbranded differential that's being calculated, crude oil price, taxes, and the final retail price are all the same in both of these tables.

So, if you have a higher branded rack price, you're going to automatically see a higher differential between the crude oil price in the rack price, which would be the refinery cost and profits, as opposed to the unbranded, since they're both being compared to the same crude oil price.

Similarly, since the branded price is typically, or a branded rack price is typically higher than the unbranded rack price, you will typically see a smaller branded distribution cost and marketing price, because they're both being compared to that same retail price. And with the branded rack price being higher, the difference between the two is just straight mathematics.

We'll always have that branded distribution price as smaller than the unbranded, which will have a larger.

And to demonstrate that, I have two graphs here.

CHAIR BORENSTEIN: Can you just go back for just a second?

MR. EGGERS: Yes.

CHAIR BORENSTEIN: Is the retail price column wrong in one of these two? They shouldn't be the same, should they?

MR. EGGERS: They shouldn't be the same, but in this particular calculation they are the same. So, to get into the reason --

CHAIR BORENSTEIN: But, wait, I don't understand that.

MR. EGGERS: Well, in both tables, both branded and unbranded rack prices is being compared to the same EIA retail price. It's just an average retail price in California. Okay.

Now, the reasons for this is we've been doing this calculation since roughly 1999, and we haven't had a way to sort of separate branded and unbranded retail stations here, in California, to do that sort of calculation where we're comparing the retail distribution cost, or the rack price to an actual branded retail prices, and the unbranded retail price to an unbranded rack price, as well. So --

COMMITTEE MEMBER SWEENEY: Before you finish that, your first column, distribution cost margin profits, that must be a subtraction from that number. Because if you can't separate out the retail prices, you couldn't calculate that for the different areas.

MR. EGGERS: But we do have two different rack prices that we get from OPIS. We have an average branded rack price, you know --

CHAIR BORENSTEIN: Oh, okay. Okay.

MR. EGGERS: -- and an average unbranded retail price.

CHAIR BORENSTEIN: Okay.

MR. EGGERS: And to kind of show you, graphically, what I'm --

CHAIR BORENSTEIN: So, the retail price column there, we should just ignore, basically. Everything else is calculated off of the differential from rack.

MR. EGGERS: I wouldn't say ignore, because these tables were sort of -- as I'm going to say later, these sort of margin tables were sort of created -- or created as sort of a comparison of that margin over time. Not necessarily to, you know, comparison one-for-one between, you know, the branded and unbranded columns. So, maybe --

COMMITTEE MEMBER SWEENEY: Okay, I guess in jumping ahead to the graphs --

MR. EGGERS: Yeah.

COMMITTEE MEMBER SWEENEY: -- if you were to do as I'm doing, flipping back and forth between your next slide and that slide, you see that if that top line, we really didn't know, and then what you're seeing the blue, the refinery costs and profits, then the green has to just be a differential based upon something you don’t know the difference between the two. So, that green cannot be a calculation. It has to be a residual that you have there.

MR. EGGERS: Well, let me try to walk you through the graph really quickly, here.

COMMITTEE MEMBER SWEENEY: Okay.

MR. EGGERS: So, in these two graphs, what you’re seeing down there at the very top -- the very bottom, is all the taxes, which are pretty much -- we’re trying to see for both the branded and unbranded margins stacked on an area chart you see here.

Since both tables also use the same crude oil price, which is the wet area down here, you also see those are the same.

Now, when I flip between these two particular charts, you’ll see a difference in the green and the blue area. And, basically, the line in between the green and the blue area, in the case of the branded margin table, that is the average price of branded gasoline at the rack here, in California. Okay.

COMMITTEE MEMBER SWEENEY: That seems okay.

MR. EGGERS: Now, as I flip to the unbranded table, the difference is the difference between the unbranded rack price -- or, basically, what you have here is the difference -- or where those two areas meet is the price of unbranded gasoline at the rack here, in California.

And since those two price series are different, you do see the area shift between the two margins.

COMMITTEE MEMBER SWEENEY: I'm really focusing on the green, which is the distribution -- that has to be just a residual. Because you've used a common price for the two different markets, for the total, and that all of these add up to the total. And, therefore, that green has to just be calculated as a residual and, therefore, not data.

MR. EGGERS: Yes, it is the difference between the unbranded or the branded rack price and a common retail price.

CHAIR BORENSTEIN: Right.

MR. EGGERS: Okay.

CHAIR BORENSTEIN: So, the green is not, probably, very informative because in fact the lower blue line is associated with a lower retail price than the higher blue line on the branded.

MR. EGGERS: In reality, as we were just seeing, yeah, a lot of the branded retail prices are higher than your typical unbranded price.

COMMITTEE MEMBER SWEENEY: Right.

CHAIR BORENSTEIN: Okay.

MR. EGGERS: So, in an absolute sense, I would agree with you, these metrics aren't very useful.

COMMITTEE MEMBER MYERS-JAFFE: Right. And also, for the blue, you're not making a distinction for how much profit's taken at the refinery per kinds of refiners, or for the different kinds of spot markets. So that it doesn't really, even, give us information on that. Is that correct?

MR. EGGERS: Yeah, it -- I believe our Senior Field Analyst would like to answer that particular question.

MR. SCHREMP: This is Gordon Schremp, Energy Commission.

So, Member Myers-Jaffe, the branded rack price, as Ryan stated, we get that data series with no branded, and it's posted by a company. And, so, all of the branded postings are really the major refiners. And, so, it's, I think, a fair representation of what they're offering for that class of trade. It's at the distribution terminal.

But as Ryan pointed out, it's not delivered retail contract prices, which would be Dealer Tank Wagon.

So, if we actually had Dealer Tank Wagon, with the rack, you could say, all right, that's the dominant wholesale transaction in California. Not the dominant wholesale transaction in the United States, but in California.

So, we're using a subset of that wholesale transaction. Spot, really, it has linkage to contracts, but isn't the metric we use to get at that differential with the refiners.

So, I think it's a fair characterization. Branded retail -- branded rack is a reflection of the majors, what they're selling. And you'll see, those majors are also selling unbranded postings, and we do have a scattering of other large jobbers that are also showing unbranded postings, as well. But they've obtained their fuel from the majors, normally, and in rare cases some imports.

I wanted to go back to the point that Ryan's making. This data series goes back to 1999. We did not have access, at that time, to being able to sort out retail from a branded station and retail from a non-branded station, or non-flag. And, so, we've used that consistent dataset in this means -- this, how you say, this differential calculation just to show how the trend is changing over time.

So, what this means is now, post-2010, we do have the data to look at. We can go back and put them into the categories of branded, unbranded, develop new retail averages, and then redo some of these calculations. That's something we can do and provide to the Committee.

So, this array, in these lines mean that the data you're seeing here, the green for branded -- or, excuse me, for unbranded, is probably biased to be too high. Their retail price would be lower.

And, conversely, the branded retail price, if you just took the branded stations, would be higher. So, there's a double bias going on in this data series, if you want to examine branded structure and unbranded structure. You just don't -- you know, we haven't posted that.

But this is certainly, now, since we can do, going all the way back, as Ryan said, to 2010, we have the data. We have the ability to separate out, and develop these averages, and construct some new information for you.

COMMITTEE MEMBER SWEENEY: Yeah, so I believe this graph would be useful, would have been more useful if the green were real data, rather than simply the residual based on that. Because the impression this gives is it's simply a tradeoff between refinery profits and retail profits, and which is not true.

MR. EGGERS: I'm very much glad you asked for that, Jim, because I did try to make that calculation for you today, which is what you're seeing displayed right here.

So, because we do have the data to sort of make a sort of, you know, back-of-the-envelope sort of calculation, what I did look at is the average price of 76, Chevron, Exxon and Shell stations, out here in California. Because as we saw earlier, those were the higher priced, sort of very closely clumped prices.

And I looked at that as a differential to the branded rack price, from 2014 to 2016. And what you see there is the green line is the representation of that calculation.

And from 2014 to 2016, we did see about an average differential of about 50 cents.

CHAIR BORENSTEIN: Can you just -- 50 cents above?

MR. EGGERS: So, a 50-cent difference between the pre-tax average price, retail price, and the branded rack price.

CHAIR BORENSTEIN: The branded rack. Okay, good.

MR. EGGERS: Okay. So, yeah, so that's that differential.

That being said, as you can clearly see here, that green line does appear to grow over time. And that being said, it does appear to be less volatile than the purple line, which is the Hypermart and the other price series, their pre-tax price average to the unbranded rack price.

That particular series, from 2014 to 2016, averaged roughly about 36 cents, which is sort of a direct flip from what we saw on the tables on the Energy Commission's webpage, Almanac.

That being said, you also see a lot more volatile action happening in the purple line, as opposed to the green line, with that line going up and down, sometimes being the same differential as that branded station to branded rack calculation.

And, so, for the most part we do see an early growth. And we have seen sort of an increase in the margin, that you were also getting at, earlier, Member Sweeney. It does seem to have grown here, out into late 2015 and 2016.

Now, a little bit of those really big spikes, that we see in the green line, do appear to correspond with downward turns in the retail price. My first approximation is that, again, there's a little bit of the down-like-a-feather effect as, you know, prices go down. Retail prices don't respond at the same rate as the rack prices and spot prices, and we do see a little bit of a widening.

But, you know, from July into October, that differential fell back into that normal 50-cent sort of range.

COMMITTEE MEMBER SWEENEY: I guess the way I would interpret this is just slightly different words, but very close to what you said.

MR. EGGERS: Okay.

COMMITTEE MEMBER SWEENEY: The average Hypermart and other margins are volatile, but there's no secular trend upwards. It's going up and down, but didn't really move upward. But I detect the major, Chevron, Exxon and Shell margin, it was down in the 40 cents level, and it's then up to the 50-, 55-cent level.

Excuse me, I've got to turn off my phone.

CHAIR BORENSTEIN: Member Sweeney will now share a little musical interlude with us.

COMMITTEE MEMBER SWEENEY: Yeah, okay. Okay, so that you see what, at least over this couple years, which is too short a time period to really tell a trend.

MR. EGGERS: Once again --

COMMITTEE MEMBER SWEENEY: There's an upward trend, with the others no upward trend.

COMMITTEE MEMBER MYERS-JAFFE: And, indeed, if you look at the differential that is above 50 cents, you know, starting with the first spike in 2015, you have a lot of periods that are over 50 cents for the majors, but not so much for the independents.

COMMITTEE MEMBER SWEENEY: Yeah.

CHAIR BORENSTEIN: Okay, we're using up a lot of time, so why don't we let Ryan get through the last section and --

MR. EGGERS: Okay. Well, in the case of the takeaways, we've hit a lot of my takeaways already, in the conversation. So, if you don't mind, I'll skip this. Any last comments on that particular section.

Okay. We are on to the final section. Because we all, also, heard a lot of comments during the PMAC meetings on gasoline imports. And, so, I wanted to look at what were the retail responses to gasoline imports here, in California.,

And just to take a step back, this is a chart that Gordon presented earlier. And all I wanted to demonstrate here is there's really not a lot of connectivity between Northern California and Southern California, as far as pipelines and movements of product between these two ports.

As a matter of fact, all these sort of movements have to happen via barge, or via some sort of vessel movement. And that's really nice because that actually gives us one sort of central place to look, for tracking purposes, to sort of figure out where gasoline is going here, in California.

And as part of the work that Susan does, is tracking those different movements. And what we find, looking at her data, is sort of looking at Northern and Southern California independent of, you know, everything else, is in 2015, Southern California net imports of both gasoline and gasoline blend stocks were a little bit under a million barrels a month. And that sort of trucked along until about March of 2015, when we started to see a noticeable increase of net imports into the Southern California ports.

Now, this net import calculation does take into consideration all foreign imports and exports, all domestic imports and exports, and all transfers between north and south, Southern California.

So, what you're looking at here is all the net imports that went into Southern California and, vice-versa, all the net exports that happened in Northern California.

And what we see here, is starting in February of 2015, there was roughly about -- for that month there was roughly no sort of net imports within Southern California. That rose very quickly into May of 2015, almost equaling 5 million barrels a month of both blend stock and gasoline, actual finished gasoline, going into Southern California. The exact number was 4.7 million barrels in May, of 2015.

That sort of fell off into July, and then increased once again above 4 million barrels, in August of 2015, before slowly coming down.

What we see in Northern California is sort of a response to try to make up that difference. Starting in March of 2015, going all the way into July of 2015, Northern California started exporting both blend stocks and finished product into Southern California, on net, giving roughly about 3 million barrels of gasoline into the Southern California market at the July 2015.

But July 2015 does appear to be the high mark, as suddenly moving into August and into October, it does look like Northern California was sort of tapped out, as far as export potential. Actually, having to import, roughly, about 1 million barrels into Northern California on October of 2015.

And just to see, you know, what sort of possible market, sort of signals were happening, I sort of plotted the San Francisco average gasoline price from the EIA, and the L.A. average gasoline price, minus crude oil, and compared it to these exports. Because what we want to see is sort of when that differential gets high, we would expect to see larger and larger amounts of imports coming into each port.

And what we see is, for the most part, Northern and Southern California prices, in March of 2015, both rose at the same time. And almost one-for-one, the imports rose with them.

That being said, those imports into Southern California continued to rise, even though prices fell in both markets. But then rose, once again, in May of 2015, where we hit the maximum of imports into Southern California.

We also have a late price signal in the Southern California, which probably increased a little bit of that rise in August of 2015.

This was also the time that these two price series sort of diverged was the same time that it looks like Northern California was tapped out on its export capability down to Southern California. And, so, we have sort of a deviation of price at that particular time.

CHAIR BORENSTEIN: So, if I can just ask, so we don't have data past March, at this point?

MR. EGGERS: Oh, yeah, we only have first quarter 2016. Unfortunately, this does take Susan quite a bit of time in order to do this, because we go ship by ship.

CHAIR BORENSTEIN: But it looks like we're now at a point where the State, as a whole, is no longer -- or is just barely a net importer.

MR. EGGERS: Correct.

CHAIR BORENSTEIN: And it would be really interesting. I mean, up until that point the State, since the Torrance fire, has been a clear net importer as a whole. And taking out the arbitrage between North and South.

We still, as of this morning, are 55ish cents above national average, which is much bigger than the cost differential, including taxes. And I've been thinking that is the import premium. But it would be really interesting to know if we're actually even importing anymore.

MR. EGGERS: Yeah, if you look in March 2016, we're actually, if you look at California as a whole, we would actually be a net exporter in 2015. Because the Northern California export number is a little bit bigger than the Southern California import number.

CHAIR BORENSTEIN: Wait, over what period?

MR. EGGERS: In March of 2016. So, now, at the very end of that graph, that red line.

CHAIR BORENSTEIN: Right, right.

MR. EGGERS: Yeah.

CHAIR BORENSTEIN: But, yeah, I’m wondering if that has lasted or if that was a one quarter blip.

MR. EGGERS: Yeah.

CHAIR BORENSTEIN: Because what I do know is even in that quarter our price differential was around 60 cents a gallon, from national average. And, so, I’m surprised, since it’s hard to attribute that, then, to an import premium.

MR. EGGERS: Well, yeah, it looks like it’s about 25 cents above what we were seeing as far as the price margin in 2014.

CHAIR BORENSTEIN: And, so, this price margin is -- oh, that’s the differential between the two.

MR. EGGERS: Yeah, it’s the differential between EIA’s rack price --

CHAIR BORENSTEIN: Minus the price of crude, but it’s not --

MR. EGGERS: -- which is the refinery acquisition cost in the --

CHAIR BORENSTEIN: -- compared to the rest of the U.S. or --

MR. EGGERS: -- in the, yeah, the final retail price.

CHAIR BORENSTEIN: Gordon, you were trying to get a word in here?

MR. SCHREMP: Thank you, Chair Borenstein. So, with regard to imports, we do have EIA West Coast foreign imports data. And EIA's foreign import data for gasoline is predominantly imported into Southern California. So, that number is really, almost all Southern California.

So, through the second week of November, the average gasoline foreign imports has been 31,000 barrels per day. And in 2015, through the same period of most of the year, it was 48,700 barrels per day. So, about 18,000 barrels a day more in 2015.

CHAIR BORENSTEIN: Sorry, this is for year to date or just for the month?

MR. SCHREMP: Year to date, yes.

CHAIR BORENSTEIN: Okay.

MR. SCHREMP: And, so, year to date in 2014, which we consider a normal, non-many-many-refinery-problem year, the number was 16,000 barrels per day. Much lower.

And, so, from a foreign gasoline import perspective, we're a very small, you know, net importer over the water of foreign -- actually, if you include the exports in there, we're probably a push.

CHAIR BORENSTEIN: But do we know the numbers for the most recent month or quarter, since there's clearly a downward trend here?

MR. SCHREMP: I'm looking at just -- and we can provide this graph to the PMAC members. I'm looking at this chart, and in October and November it was less than 18,000 -- 16,000 barrels a day.

CHAIR BORENSTEIN: Okay.

MR. SCHREMP: So, we're getting back into a period where the refiners switched to the winter blend, the first cycle in November. So, they're able to make more gasoline, and demand typically is starting to fall for gasoline demand.

CHAIR BORENSTEIN: Okay, thank you.

COMMITTEE MEMBER FOOTE: Is the Torrance Refinery now back to full production, or not?

MR. SCHREMP: So, the Torrance Refinery, as you know, changed ownership in the summer, I think July 1, to PBF Energy. They did not get the refinery back to sort of a normal state until near the end of July. So, it took them a little while.

Subsequent to that period, they had not one, not two, but three power outages, from loss of electricity feeding the refinery, from SoCal Edison.

So, they were forced to go into emergency shutdown. So, they had -- this causes them to go down, all their units, and then it takes them a little while to come back, usually three, four days, maybe even into seven, or eight, or nine days.

And, so, there were a period in August, and into September, where there was some problems down there that sort of exacerbated their ability to bring the refinery up to a steady state level.

But we have to say, now, that, yeah, the markets are working -- I mean, the refiners are all working pretty well, absent some large turnaround activity that was taking place in October, involving crude units. Which I think Consumer Watchdog will be talking about the drop in crude inputs to the refineries.

COMMITTEE MEMBER SWEENEY: And when there was a change of ownership, do you know if the new owner could then sell, in a non-restricted way, its product to anybody, or did it have with it contracts that has required it to continue supplying the Exxon-branded stations in the same way as the ExxonMobil Station -- Refinery did in the past?

So, do you know anything about those contracts? Is that all pretty secret?

MR. SCHREMP: Member Sweeney, we, I would say, almost never see any contractual information from individual companies. I am aware that PBF Energy's public announcement, that are cc'd, briefings, if you will, press conferences, they do talk about maintaining contractual obligations, similar to what ExxonMobil had.

So, I would say, yeah, there's an obligation still in place. What is the exact structure and nature of those contracts, you know, we're not privy to.

And what PBF Energy was saying they wanted to look at in the, "different fashion", from what maybe ExxonMobil was doing, down in Torrance, is other opportunities to maybe bring in additional imports, maybe make some additional exports, maybe change the nature of how they obtain crude oil into the refinery, looking at opportunities to find discounted crude oil to help improve their margin.

So, I think those are the areas of change in how, say, ExxonMobil was operating, previously. But as far as I know, what they've publicly stated is they're maintaining these contractual obligations. Although, the exact nature of the contracts, themselves, I don't know how that may or may not change.

COMMITTEE MEMBER SWEENEY: But the incentives are entirely different, now, than they were before, presumably. Okay, thank you.

CHAIR BORENSTEIN: Other questions before -- I think we're done. Ryan, are you --

MR. EGGERS: That actually does conclude my presentation.

CHAIR BORENSTEIN: Okay.

MR. EGGERS: I do have some takeaways there, but we pretty much covered it.

At this time, I would like to open up to the public, if there's any comments from the public on my presentation, we can definitely take those right now.

MR. SCHREMP: Well, if the Members had a question about the spot retail differential you were looking at, and trying to see what it kind of looked like. So, I was quickly able to get some differential information for you. So, while we're still on Ryan's presentation.

I don't have all the way back to 2010, but we can certainly get that. This is just what I was able to obtain, readily.

So, for all of calendar year 2014, the difference between California averaged retail price and the Los Angeles spot gasoline price was 108.5 cents, so

108.5.

In 2015, that differential for all of the year goes up to 121 cents per gallon. And in 2016, year to date, and this is through the middle of November, it’s 128.2. And then, post, I’d say, completely successful restart at PBF, Torrance, from August of 2016 through middle of November 2016, that differential’s come down a little bit to 122 cents per gallon.

CHAIR BORENSTEIN: Okay, thank you.

MR. EGGERS: There appears to be no comments from the online or the public. So, we’re going to now move on to our next presenter, I assume?

CHAIR BORENSTEIN: Yeah. Do we have Consumer Watchdog?

MR. EGGERS: Jamie Court is online. We’ll bring up his presentation right now, and unmute him, as well.

So, Jamie, are you ready?

MR. COURT: I am ready. Thank you.

CHAIR BORENSTEIN: Good morning, Jamie.

MR. COURT: Good morning. Thank you, Ryan, for a very complete and thorough presentation. That was awesome.

So, I’m going to just go through what we see here as, you know, an immediate issue, and bring it to the attention of the Committee, and then move right on to this question of retail pricing.

Right now, if you go to our first -- or, our second slide, this was a statement made on an investor call by the CEO of PBF, which now owns the Torrance Refinery. Where he said, you know, we took a distillate problem, meaning an over-supply of distillates, and turned it into a gasoline problem, meaning we have too much gasoline. And he's talking nationally, he says.

So, at the end of the day, we can take those switches, but the bottom line there is too much clean product. And the only way you can solve that problem is reducing the amount of clean product that you make.

If you take a look at the next slide, number three, you can see that PBF as, you know, 20 percent of the Southern California market, and other refiners in California did exactly that in October of 2016. We had less crude being put through California refineries than has ever been recorded. OPIS recorded it and charts it the same way.

So, we have seen a production slowdown in terms of crude going through refineries in October. And as Gordon mentioned, this comes after a series of problems at PBS Refinery, where I believe they were trying to run really flat out. But there is a big problem with the Edison power feed.

And, by the way, I’m told that they need Edison to expedite a better power feed, not from a substation, and there’s all sorts of bureaucratic problems there that, maybe at some point, this Committee can get into.

But if you go to the next slide, what you’ll also see is CARB product, itself, taking a big hit. Both from the planned and unplanned maintenance, dropping to a very slow pace since March. And you’ll also see that, you know, gas production, obviously in the shift, is shifting to now out-of-state use as well, in addition to all the maintenance that may or may not be going on, that we’re not aware of.

But in terms of the market right now, I think you can see that when you have such a consolidated market, and you see prices sort of evening a little bit with the national prices, you can see how production cutbacks could exacerbate that.

So, let’s go right to the slide five, and this issue of where we are with America. We were, when Torrance came back online, 70 cents more than U.S. gasoline prices. And after, and since, Torrance came back online, we’ve been at a 50 cents differential. Which is, really, way too high as a State.

We’re still paying far too much of a premium. Some of it is, no doubt, the impact we have of, you know, four refineries controlling 80 percent of the market, and their ability to cut back on production.

And as Mr. Nimbley said, the problem he has is, you know, unless we cut back on clean product, we're not going to make enough money. That is undoubtedly a problem.

But how it translates, if you go to the next slide, is really in the spot market and the retail market. Now, this is November 23, based on Bloomberg, and we see the difference in the spot market prices for gasoline. In Los Angeles, Chicago, New York, Portland, we are right in the middle. We are not -- you know, our refineries, when they trade with each other, are not paying much more than they're paying for gasoline when they trade with each other in New York. Maybe they're paying less, in fact. They're paying a little more than the Gulf. They're paying about a buck 35.

That's the spot price of gasoline when you have refineries trading on that wholesale market.

CHAIR BORENSTEIN: Jamie?

MR. COURT: If you go to the next slide --

CHAIR BORENSTEIN: Jamie, can I just interrupt you? I watch these differentials every day.

MR. COURT: Yeah.

CHAIR BORENSTEIN: My impression is that there are days like this, but there are also days when L.A. is substantially higher than the rest of the country. Are you suggesting --

MR. COURT: That may be true.

CHAIR BORENSTEIN: Are you suggesting that this is representative of the last few months, that L.A. has been in the middle?

MR. COURT: Yes. In fact, we had, last meeting, as I told you, the lowest spot market price in America and --

CHAIR BORENSTEIN: And I checked that. And I checked that, though, and that was a one-day blip. So, I guess I would like to see a longer run average and not just one day.

MR. COURT: Well, the point is that right now -- I'll tell you, if you go to the next slide, I'll show you why I'm showing this to you. The point is right now we're paying -- Los Angeles is a little over the Gulf and less than New York on the spot price.

But if you look at the retail price differential, the difference between the spot and the retail price is a $1.40. And that's very representative. We have the largest gap between -- excuse me, 80 -- well, if you're looking at the gap between spot and retail price here. But if you're looking at the difference between how much more is paid, than in Chicago, how much more the gap is in the Gulf Coast, even how much more the gap is in New York, it's greater here. And that is representative on a long spectrum.

Historically, the average, if you go back between 2003 and 2014, on EIA data, because we just checked this when we were listening to Ryan, it is 86 cents, the gap between the spot and retail.

But if you go to 2015, 2016, you will see this same type of, you know, 60 cents more than that. Or, you know, 70 cents more than that. And there's years in 2015, I would venture to say, was an awful lot more than that.

And this is the problem we're addressing here, that the refiners, because they have such a control over this market, and market power, are able to, when they price gasoline amongst themselves do it very cheaply. And when they sell it to the public, we see a larger gap than anywhere in America.

And I would ask Ryan, perhaps, or the EIA, and perhaps to prepare that type of historical data. But I can tell you that between 2002 and 2015, this is the pattern. This very significant gap between the spot and retail prices.

And how does that happen? That happens, you know, in two ways, and that's what I wanted to go to.

If you go to the next slide. The first way happens, you know, very sporadically on holidays. It's when refiners, and we don't have great data on this, but we would recommend that the EIA -- excuse me, that the CEC collect more data. There are times when the refiners do corner the market, on the spot market.

One just happened on Labor Day. We're told Tesoro and PBF cornered the market. Spot prices jumped 23 cents. That, actually, did not have a major jump in retail prices. Retail prices didn't reflect it. But it could have been a move on a holiday weekend, either to cover gas or to try to make that market move. But in real time, no one is watching that.

If you go to the next slide, and this is something we've talked about before, another time that two of the big refiners tried to corner that spot market, there was a huge price gap. That was around the July 4th holiday, where Chevron and Tesoro bought every barrel on the spot market. The spot market rose $1.06 overnight. And there was a similar rise in the retail price of gasoline.

There was obviously a lack of imports coming in at the time, and other forces that we have identified as previous points.

But the point is, when you have over a few refiners who are able to corner the market, that can send those retail prices higher, and along with the retail profits.

If you go to the next slide. The second way that we are seeing -- well, where's -- I think we skipped one. Maybe it's a little out of order. We can go this way. Yes, okay.

In fact, if you go past this for a second, it will help me, if you go to the next slide, number 11, this is the second way that we see, you know, refiners exerting power over that retail price. And we've talked about this before. And this actually downplays the phenomenon because this is the rack price.

And as we've discussed, DTW is half the market, the Dealer Tank Wagon, but we have yet to see, you know, consistent DTW pricing. We've shown, over the last, starting really in May of last year, that while the difference between the branded and unbranded prices of gas -- the prices being charged to branded and unbranded stations was, you know, historically 4 or 5 cents. That the difference between the Dealer Tank Wagon price, what's paid in this unseen part of the market, and the super jobber price charged for unbranded stations, that’s not the rack price. But what most of those unbranded stations were paying was 20 to 30 cents, through a lot of 2015. Which was a way of keeping prices artificially high at branded stations.

But this documents what we do know, which is at the rack, which as I said discounts the phenomenon, we’ve seen this 4, or 5, 6 cents differential, historically. And then you see at the end of 2014, it starts to creep up.

And in 2015 and 2016, we’re seeing the difference charged to branded stations is 15 cents more at the rack. Which, again, discounts that phenomenon because what we’ve presented previously is the Dealer Tank Wagon differential to these dark prices charged to the unbranded stations, through the super jobbers, is more like 20 to 30 cents. But this actually charts that phenomenon.

By doing that, the refiners are able to keep these street prices, through the contractual control they have over branded stations, artificially high.

And if you’re looking at a profound difference in L.A., I mean L.A. is literally, if you look at the charts that Ryan’s brought, during 2015 and this crisis in ’16, we have seen L.A. being, really, raped and pillaged by the refiners.

And the way they were able to do it was not just shorting supply. But because they have 80 percent, roughly 80 percent of the stations in Southern California, or L.A. area, are branded stations. So, in 80 percent of the stations, if they are able to jack up the price charged to those station owners, which then gets passed on to the consumer, by somewhere between 30 and 50 cents, those prices remain artificially high.

You didn't see that same profound problem in San Francisco. Sure, there was not a Torrance outage in San Francisco. But as I understand it, there is a much more even differential between branded and unbranded stations in Northern California, in the San Francisco area. I think it's maybe more like 60 percent branded, could even be less.

And, so, when you see the consolidation of the branded stations, that comes at a real price in L.A. And if you go back to -- so, you go down one more, I think. I apologize, 12. Let's try 12. And you'll see, and this is, again, based on the Energy Commission data. But you will see that it makes a lot of sense that you would see, as imperfect as the data may be, that the profits at the unbranded stations are a lot greater. It's only 20 percent of the stations, but you're looking at a huge differential in terms of what they're getting their gas at, through -- you know, either at the rack or at the, you know, at the super jobber dark place that we've, you know, showed you before, and what the branded stations are paying, both at the rack and through the DTW.

COMMITTEE MEMBER SWEENEY: Jamie, before you go on to this, is this --

MR. COURT: I'm almost done, but yeah.

COMMITTEE MEMBER SWEENEY: No, no, no, this is important, this point. Is this -- I see the footnote, data compiled using CEC --

MR. COURT: Right, as I said, this is based on the Energy Commission data.

COMMITTEE MEMBER SWEENEY: Yeah, is it based upon that table that we said that these margins were incorrect because they were calculated as a residual?

MR. COURT: Well, it's based on the -- it's based on the second data set that uses the -- uses the branded and unbranded price and shows, you know, the gap in the --

COMMITTEE MEMBER SWEENEY: But do they publish those? I didn't think those were available. Maybe, Gordon Schremp can comment on whether it could be those.

MR. SCHREMP: Member Sweeney, it's --

MR. COURT: Well, the --

MR. SCHREMP: Yeah, hold on a second, please, Jamie. Yeah, this is from the table that Ryan showed you. And, yes, we use the same retail price to do the calculation for branded and unbranded. And, so, the bias we spoke of earlier is going to be reflective in here, in the unbranded margin, from our own data, published on our website are artificially high because we're using an artificially high retail price, because it's the same retail price for all of California.

COMMITTEE MEMBER SWEENEY: So, this graph is equally uninformative. Thank you.

MR. COURT: Thank you for that clarification.

Well, the next graph, if you go back to 10, is the overall profits and costs. I guess this is based on branded. And, so, it doesn't have that issue.

But I do have to say this, I don't think there's any doubt that when unbranded stations are buying gasoline at 30 cents less, on a super jobber basis, than the branded stations, not that I fault the Costcos, and they're only 20 percent of the market, that they were doing very well last year.

And that the anecdotal evidence we've had from traders, and others in the market, all that, there was a deep frustration on behalf of the branded stations that they weren't getting the benefit of those better prices, even though it was a smaller part of the market.

Now, this is the branded breakdown margins. And if you look at it, what's significant about this is that if we go back, historically, to 1999, you will see that the cost of a gallon of gasoline, when crude oil was $1.51, the vast majority of it, 60 cents, was what refiners and station owners were taking home in terms of their costs and profits.

And if you look at October 2016, allegedly, after this crisis in Torrance is passed, we're talking about double what it used to be.

And, so, when we have a 50-cent gap between our prices and America's prices, and we see that the refiners and the station owners, the branded station owners, are walking away with $1.18 of that gas price, as opposed to, you know, 60 cents -- 60 cents in the past, 62 cents in the past, that shows you that our prices are way too high and these companies have too much market power.

Now, I wouldn't fault, necessarily, the station owners on the distribution costs, even though it's double. It's not clear to me whether that's actually a cost that the station owner's pocketing, or something the refiners pocket. I would question that.

But the point is, on the dollar -- on a gallon of gas, it could be a lot lower. And we know it could be because the take away from the industry used to be a lot lower and now it's, you know, it's doubled. It's double.

So, if we go now to the --

COMMITTEE MEMBER SWEENEY: Now, before you go that -- and I point out that your footnote said, again, this is based upon the same margin break down page.

MR. COURT: Branded. Branded.

COMMITTEE MEMBER SWEENEY: So, the distribution cost and profit, again, is probably not informative. But the other parts may be.

MR. COURT: Why is that?

COMMITTEE MEMBER SWEENEY: Because it's from a common -- it's one common price is what you calculated and paid on.

MR. COURT: Well, my point -- I agree with the fact that the distribution costs and profit may not be appropriately attributed to the station owner walking away with that. But it's certainly attributable to either the refiner or the station owner, one or the other.

CHAIR BORENSTEIN: No. Jamie, the point is that you're -- I believe you are taking a State average gasoline retail price, when you do this calculation, which combines branded and unbranded. I'm not sure which way the bias and the change would go. But you would really want to take an average branded retail price, which apparently is --

MR. COURT: That's right.

CHAIR BORENSTEIN: -- not available off of the CEC website, so you couldn't be getting that from the CEC website.

MR. COURT: Well, regardless, on a historical basis the point is that a -- you know, when a dollar -- when, you know, we're paying 40 cents less for crude oil, per gallon, than we were historically, but our gasoline prices are not more in line with America. We see that the industry is taking what used to be passed on to the consumer. And I don't --

COMMITTEE MEMBER SWEENEY: Yeah, and I --

MR. COURT: Whether we attribute that to a branded or unbranded, whoever's doing better in the branded or unbranded market, the point is the consumer's getting the short end of that stick. And, definitely, a more consolidated industry is profiting from it.

CHAIR BORENSTEIN: And there's no question the industry's more consolidated, and there's no question in my mind they're profiting.

Whether, and this is the more difficult policy question, whether they're doing that through the exercise of market power, or being the lucky recipients of a market that is short and has to import a lot of fuel, is one of the questions.

And although this interesting data, I don't think it really unpacks that.

MR. COURT: Well, go back to Number 11, for a sec. I think what unpacks it -- and if you'd go back to Slide 11 for just one second. We're on that number, Jamie, so one more, or this one.

CHAIR BORENSTEIN: Yeah, Number 11 is the amount extra charged to branded stations, you're referring to?

MR. COURT: That's correct.

CHAIR BORENSTEIN: Yeah, so --

MR. COURT: So, the point here is, based on rack data which, you know, again understates this differential between branded and unbranded. And if you look at the DTW versus that super jobber price that most unbranded stations are really paying, and we don't have that data, it will be an even more exaggerated phenomenon.

The point is this an exertion of market power. Because when refiners are able to bring this gap, it says 15 cents here at the rack, but it's really over 20, and more like 30 in some cases, at some times, and this is an average, you know, at different times of the year. That is a way to, through control over contractual obligations at branded stations which, in Southern California, are totally tilted towards the branded stations, that is a way of artificially raising the price. And that is a way of exerting market power.

Which if we go to Slide 13, and I wrap up here, I would say the one thing in this environment, that having heard everything this morning I think we can all agree on is, we don't know what's happening in half the market. We don't know what's happening with the DTW prices.

Now, we've given some windows into that, in some previous presentations, where we showed a 20- or 30-cent gap, based on information we've gotten about DTW prices, and based on information we've got about what the brandeds are truly paying through these dark deals, these super jobber prices. But we don't know.

And I think one of the most important recommendations that is politically feasible, is since the industry's already sharing this information, the refineries already know, through the Lundberg Survey, the price of every DTW, on every corner, that there should be some type of publication or transparency of DTW prices because that it what's dictating this market.

We are looking through rack prices at, I think, a very imperfect measures, as is OPIS, frankly. And it doesn't show the degree to which the refiners are able, through these contractual obligations at the stations, to keep the prices much higher than what's happening at the unbranded stations.

The second recommendation is greater monitoring of the spot market, and reporting when refiners corner the market, in real time. I think that's something the Attorney General needs to take on. Hopefully, they are. It's something that very doable. Maybe the CEC, as well.

But the point is there needs to be an alert system. When we see a couple of refiners buying up the market, it really should send a signal to the anti-trust regulators, and to others. And I think the fact that we saw this last cornering of the market, on Labor Day, not really translated to anything other than keeping up, maybe, an already propped up price, but it didn't translate to a price spike. Maybe because there are more eyes and there is an Attorney General investigation that, hopefully, is continuing to progress, even though we're going to have a new Attorney General sometime soon.

And then, I'd say the last recommendation we really hope this Committee makes, is the limit -- at least the limiting of further consolidation of the market, particularly at the retail level. And I would really -- I have not seen an analysis of branded versus unbranded consolidation by area, that I would love to see. It may be CIOMA has it. You know, we've seen it being stated that it's about 80 percent branded in Los Angeles.

But I think you are seeing a huge, disproportionate impact in the Los Angeles and Southern California, all the way down to San Diego, when you are also seeing a lopsided balance of power going to the branded stations in Southern California., And that tells me, when I see this new pricing strategy of charging a much higher price to the branded stations, that there is monkey business going on with this big refiners.

But until we have better data, perhaps we can't get passed Member Sweeney improving it. And I don't have that data. But I think the CEC probably is able to get that.

And I also would say that, based on this discussion today, I do know that there are all sorts of crazy branding relationship in Southern California right now. Tesoro does supply ARCO as a brand, at a branded price. But it would be wonderful to have a flow chart, a map of which refineries, and maybe on an ongoing basis, are supplying which branded stations.

Because as I understand it, at one point Exxon was supplying like Shell stations. I mean, it's very hard to really get a grip on even -- other than the overall consolidation of branded stations, which refiners have relationships with whom.

And I don't think that is, necessarily, a proprietary matter. And I don't think it should be a proprietary matter. I think it should be one of the parts of opening the books of these refiners, so we can actually follow the trail a little bit more closely. And, hopefully, it will be a recommendation of this Committee.

COMMITTEE MEMBER SWEENEY: Jamie, could you clarify the meaning of the word "consolidation?" Do you mean consolidation of ownership of the individual stations? Because those that are not owned by --

MR. COURT: I mean, the consolidation of the refineries, in the hands of fewer refiners. So, when --

COMMITTEE MEMBER SWEENEY: Okay.

MR. COURT: And I mean along with that, when Tesoro bought, for instance, you know, BP's assets and picked up not only a refinery, but also the, you know, ARCO brand. They've come hand in hand.

COMMITTEE MEMBER SWEENEY: Okay.

MR. COURT: And supply deals and as well as branding rights, the right to inherit those branded contracts.

So, I'm concerned, because of this conversation, about retail pricing, about the consolidation of branded stations. You know, we've definitely -- when we talked about 80 percent consolidation of the market into branded stations, in the Southern California area, and the disappearance of unbranded and independents, that's clearly given the refiners the ability, whether they exercise it or not, and I believe they do, to overprice, through those branded contracts, their product to their station owners and drive the street price up.

COMMITTEE MEMBER SWEENEY: Okay. Just to clarify behind that, when you say at the retail level, consolidation, you want to have data on how we've consolidated the brand flying in front of the station, rather than consolidation about who actually owns the station, and who makes the pricing decisions in those stations. Because those are quite different concepts.

MR. COURT: I think it's useful to know which are the company stations. But I don't think that's the main driver of the problem here.

I think the main driver of the problem here is when refiners that have, you know, such a tight hold on the supply also have developed a hold through the branded contract, over the price, because of the contractual obligation of a branded station owner to pay whatever the refiner asks, through the DTW.

And, so, yes, I'm talking about branded contracts, as well as supply deals.

CHAIR BORENSTEIN: Other questions of Jamie?

Okay, thank you very much, Jamie.

MR. COURT: Thank you.

CHAIR BORENSTEIN: And we have one more speaker before the break. I'm sorry, I've forgotten your name.

MR. HANRETTY: Ryan Hanretty.

CHAIR BORENSTEIN: Ryan Hanretty, from CIOMA, California Independent Oil Marketers Association. And as I recall, you don't have a slide presentation, just oral comments to make.

MR. HANRETTY: Yes.

CHAIR BORENSTEIN: Okay.

MR. HANRETTY: Yeah, I just want to give you a brief overview of who CIOMA is, introduce myself, and be here for any questions, be a resource now and in the future for you guys.

So, well let me just start off. Good afternoon, now, I believe. Commissioner Scott, Mr. Chair, and PMAC Committee Members, thanks for inviting me to participate in your workshop today.

My name's Ryan Hanretty. I'm the Executive Director of CIOMA. The new Executive Director. I just started in this role about four months ago. So, I'll try to be as helpful as I can to you guys. And if I can't answer questions today, I'll note them and get back to you and your staff, in a reasonable time frame.

CIOMA has over 50 years of industry representation for independent, wholesale, and retail marketers of fuels, lubricants, and other petroleum products here, in California.

We also represent a growing segment of the convenience stores, owners and operators throughout California. We're trying to build that membership up so we can get more information and representation for you guys, on that front.

Our membership consists of approximately 90 percent of all independent marketers in the State, and thousands of retail gas stations and owners.

The members that are serve are our constituents, essentially, our customers are wide-ranged, ultimately. Pretty much everybody in California, including but not limited to, law enforcement, local governments, all of agricultural, school bus fleets, distribution fleets. You name it, we serve it all the way down to individuals buying gas at local corner stores.

We also distribute to your Hypermarkets, your Costcos and Safeways. However, they are not members of CIOMA.

CHAIR BORENSTEIN: Just to clarify, the Hypermarkets are not members, but the company that delivers to the Hypermarkets would be a member.

MR. HANRETTY: Yes, could be a member. Yes, correct.

CHAIR BORENSTEIN: Okay. And if that company is actually a Chevron delivering directly -- well, not Chevron.

MR. HANRETTY: It would not be.

CHAIR BORENSTEIN: A different, a major refiner delivering directly to hypermarkets, they would not -- or does that not happen, either?

MR. HANRETTY: No.

CHAIR BORENSTEIN: So, when a hypermarket buys gasoline --

MR. HANRETTY: They're buying unbranded fuel.

CHAIR BORENSTEIN: They're buying unbranded fuel and it's being delivered by a third party, not by the hypermarket, they don't own their own fleet of trucks, and not by the refiner?

MR. HANRETTY: That would be my understanding.

CHAIR BORENSTEIN: Okay.

MR. HANRETTY: Yeah, I don't believe Costco owns any fuel tank supply fleets, or anything of that nature.

So, and while I mentioned earlier I'm new to the industry, some of our member companies have been around 80 plus years, three, four generations in California.

So, the business model has changed over those generations. We used to be far more vertically integrated, as everybody knows, and noted. Currently, that's changed quite a bit. We've put in more different companies and niches into the supply chain, along the lines.

Also, as laws and regulations have become more complex, and difficult to handle, they've shifted off different portions of their businesses to other entities, such as a distribution chain, or a tank company, so that they don't have to justify those costs to their company bottom line, or shareholders.

And further than that, even expertise along the way. If you become an expert in sort of the distribution line, you spin off and develop the relationships to do that. Which changes the supply chain, makes it very difficult to be vertically integrated anymore in California, completely, in this industry.

While there's numerous factors that go into the costs for fuel that arrives for customers to buy it, everything is publicly posted. And nothing has been tried to be obscured or hidden away. It's very public for everybody, from the spot market prices, to the CEC staff pulls quite a bit of data, as well as on the corner, the retail price for every customer that gets it.

For our members, our gas station owners, a lot of them are individual gas station owners, one or two at most. They have to interpret all of this information and date, prices, if they're going -- depending on how they buy their fuel, to then turn around and sell it, so that they can be able to buy the next load of fuel to fill their tanks, to sell it, to continue to move their business forward, pay their employees, support their family, local community, all that kind of stuff going forward.

And, so, I just wanted to give you a very, very brief snapshot of what the CIOMA membership looks like. But I mostly wanted to have the conversation and answer any questions that you, as Committee, might have for me regarding CIOMA, and our membership's involvement in the supply chain, and the retail price of gasoline in California. On all fuels, for that matter.

So, again, thank you for having me here today. I do apologize, I was unable to get a CIOMA member to join me and give a presentation. But their calendars were kind of packed this time of year. So, I do apologize.

But again, thank you for having me. I'm happy to answer any questions or concerns you guys may have. If not today, if I can't get you an answer today, I'll find it and get it back to you as soon as possible.

CHAIR BORENSTEIN: So, I guess I'd like to delve a little more deeply into the structure here. So, no refiners are members of CIOMA. Correct?

MR. HANRETTY: We do not have direct members, no we have sponsors or associations.

CHAIR BORENSTEIN: And the companies would -- is Rotten Robbie or would Rotten Robbie be a member of CIOMA?

MR. HANRETTY: Yes.

CHAIR BORENSTEIN: Okay. So, the independent retail outlets are members of CIOMA?

MR. HANRETTY: Correct.

CHAIR BORENSTEIN: Mostly are members. And the jobbers who deliver, who may not actually own retail outlets, but who deliver a product, buy at the rack, and deliver are members of CIOMA?

MR. HANRETTY: Correct.

CHAIR BORENSTEIN: Okay.

MR. HANRETTY: Yep.

CHAIR BORENSTEIN: When a Chevron station operates as a branded lessee dealer station, if they are buying at the rack, they might be employing a company, an independent company to pick up at the rack and deliver to them?

MR. HANRETTY: They could, yes. It depends on, yeah, which company it is. If I'm an independent gas station owner, I own one branded station, Chevron, then I'll probably have a common carrier deliver my fuel for me.

CHAIR BORENSTEIN: When you use the term "common carrier," you mean one of your members?

MR. HANRETTY: Another CIOMA member, right.

CHAIR BORENSTEIN: Okay.

MR. HANRETTY: Or a California Trucking Association, but it's just a fuel delivery truck company.

CHAIR BORENSTEIN: But Chevron also has its own trucks that he uses to deliver at --

(Telephone chatter)

Jamie, you're -- that are delivering using Chevron trucks, to Chevron stations, they are not CIOMA members?

MR. HANRETTY: Chevron is not a member of CIOMA, no.

CHAIR BORENSTEIN: And neither is Shell or --

MR. HANRETTY: No, they'd be associate members, at most.

CHAIR BORENSTEIN: Okay, even they have --

MR. HANRETTY: Right.

CHAIR BORENSTEIN: So, I'm trying to get at the idea of what -- how large -- all the DTW deliver is done by the major brands, using their own trucks?

MR. HANRETTY: You'd have to ask the majors. They might employ a common carrier if they -- depending on where the station is they're delivering to. I couldn't tell you that.

CHAIR BORENSTEIN: Okay. Okay. But the -- when we see stations purchasing at the rack, in that graph we saw, 40 percent, those are probably using CIOMA members for the delivery?

MR. HANRETTY: Yes, most likely.

CHAIR BORENSTEIN: Okay, great. That helps to clarify. Thank you very much.

COMMITTEE MEMBER SWEENEY: Now, just to clarify things for which I think I know the answer, but I've been mistaken in the past, when a retail station, lessee owned, not owned by a refinery, is selling gasoline, are they told what price they're allowed to sell, or do they make their own decision as to price? They don't make the decision on the cost of buying it, but is it true that -- is there a limit placed on them by their gasoline -- by the refiners, as to the price they can charge for gasoline?

MR. HANRETTY: That would be an independent business contract that I would have no idea about.

COMMITTEE MEMBER SWEENEY: So, you don't know?

MR. HANRETTY: My understanding is that there is no limit on the price they can charge, but they don't control the price.

COMMITTEE MEMBER SWEENEY: Okay.

MR. HANRETTY: They negotiate a contract to purchase fuel.

COMMITTEE MEMBER SWEENEY: Thank you. I thought that you might have that information.

CHAIR BORENSTEIN: Any other questions?

Okay, thank you very much. Good to meet you.

MR. HANRETTY: Thank you very much.

COMMITTEE MEMBER SWEENEY: Thanks for joining us.

CHAIR BORENSTEIN: Before we break for lunch, I think we're at the public comment stage. So, have we had any requests to speak? No.

MR. EGGERS: We have one individual online, who has raised their hand. John, will you please give your public comments?

CHAIR BORENSTEIN: And please identify yourself?

MR. FOSTICK: Yes, this John Fostick. You may remember me. I actually raised my hand several presentations ago. There's been a lot of discussion about the Exxon and Mobil brands, and I just wanted to bring it to your attention, you may recall that with the 2000 merger of Exxon and Mobil, ExxonMobil had absolutely no interest in any Exxon branded sites in California.

And in 2011, or so, I believe ExxonMobil sold virtually every Mobil branded site in California to Couche-Tard.

So, I think drawing any connection between the Torrance Refinery and those branded sites would be an error.

CHAIR BORENSTEIN: Okay. Actually, I have a question about that. Is it your understanding that the stations that still operate under the Exxon name do not have supply contracts with the Exxon -- well, formerly the Exxon, now the PBF Refinery?

MR. FOSTICK: My understanding, there was for some period. I don’t know the duration. But at the sale to Couche-Tard, there was some supply arrangement on a market-related price, I believe, meaning spot-related price.

CHAIR BORENSTEIN: And can I ask, how do you have this information? Are you a --

MR. FOSTICK: You may recall, I used to work for ExxonMobil.

CHAIR BORENSTEIN: Okay, sorry, I didn’t recall that. Okay.

MR. FOSTICK: But I am retired, now, just to be clear.

CHAIR BORENSTEIN: Okay.

MR. FOSTICK: So, I just wanted to point that out.

CHAIR BORENSTEIN: Thank you. Jim Sweeney has a question.

COMMITTEE MEMBER SWEENEY: I just want to clarify that statement. A company that flies the -- that sells gasoline, branded as Exxon, or Mobil brand of gasoline, to use that branding services, they have to have some contract to use the branding services. Are you saying there’s no agreement that that gasoline comes from ExxonMobil, or are you saying that there's no control by ExxonMobil of those stations?

MR. FOSTICK: I believe, in the current situation, I would say both. You know, let's say it was a site that ExxonMobil had a direct relationship with, say, prior to the sale to Couche-Tard. Well, ExxonMobil would have a responsibility to supply that station. Where it came from, you know, that's up to ExxonMobil.

CHAIR BORENSTEIN: But does that mean that station has a responsibility to buy its gasoline from ExxonMobil?

MR. FOSTICK: Well, yes, to get the ExxonMobil attitude.

CHAIR BORENSTEIN: Okay.

COMMITTEE MEMBER SWEENEY: That's what I wanted to clarify. That you were not saying they can buy it from anybody and call it Exxon gasoline. They have to buy it, having the specifications determined by ExxonMobil for the gasoline, in order to sell it. But ExxonMobil has no control over the station.

I think that's what -- I want to make sure the record's clear here.

MR. FOSTICK: Correct.

COMMITTEE MEMBER SWEENEY: Thank you.

MR. FOSTICK: Unless it was, in fact, a company owned and operated station, of which there were a few.

COMMITTEE MEMBER SWEENEY: Right.

CHAIR BORENSTEIN: Right.

MR. FOSTICK: Yes.

CHAIR BORENSTEIN: Thank you very much.

MR. FOSTICK: Okay.

CHAIR BORENSTEIN: Do we have any other comments?

MR. EGGERS: No, it does not look like we have anymore comments.

CHAIR BORENSTEIN: Okay. Then, in that case, we are going to break for lunch until 1:25. And we will start up at that point and with PMAC Committee discussions regarding the presentation.

And then, regarding future PMAC meetings. Thanks. See you at 1:25.

(Off the record at 12:23 p.m.)

(On the record at 1:32 p.m.)

CHAIR BORENSTEIN: Okay, we're joined by Dave Hackett, who has flown up from Southern California. And after many lucky meetings, we got an unlucky draw, and he got a long delay. And due to the ridiculous Bagley-Keene Law, a subject I will return to, he was not, actually, even allowed to listen in. But he has been briefed on what was aid this morning and he has a few comments.

COMMITTEE MEMBER HACKETT: So, I'm not quite ready to give those.

CHAIR BORENSTEIN: Oh, okay.

COMMITTEE MEMBER HACKETT: Just let me get booted up and get at my notes.

CHAIR BORENSTEIN: Okay, we'll give you a minute.

COMMITTEE MEMBER HACKETT: And please come back to me.

CHAIR BORENSTEIN: We are at the section of the meeting regarding presentations and potential follow-up questions for presenters.

I will say that Gordon Schremp has delivered copies, and I will e-mail, and we will post, of a presentation he gave, oh, a few months ago, on refining margins, and retail margins. And, there you go. That includes, at the back, an answer to Jim Sweeney's earlier request. This is on page 24 of the printout, and I'll just, since this isn't online, yet, or it probably is online, somewhere, that actually shows the branded retail prices versus the low branded or the hypermart, or other. And for both Northern and Southern California. And it verifies what we expected, which is that -- what seemed to be the case, which is that the margins between the high branded and the low branded, or hypermart, seems have been trending upward over time.

Particularly, this only, actually, goes to March of 2016, based on the earlier data. I'm expecting, when this data get --

MR. SCHREMP: Actually, the data -- this is Gordon. The data goes through August 20th.

CHAIR BORENSTEIN: Oh, really.

MR. SCHREMP: Hard to see on the legend, but it goes through August 20th.

CHAIR BORENSTEIN: Okay, so these go through August. And these are the differences. But it's pretty clear that starting at the beginning of 2014, or so, they started trending upward.

And, so, the gap we are seeing between high branded or the low branded, or hypermart, have clearly been increasing. An interesting fact that we, I think, had a pretty good idea, but this does a great job of establishing that.

Before we go today, do we have other comments about the morning's material, and what you have concluded from this?

Okay, then I will say a few things. As always, the Consumer Watchdog folks, Jamie and his crew, have brought us interesting data. And as often is the case, I’m not sure I completely agree with his interpretation of those data.

But I think that they have pointed out that, and Ryan Eggers’ earlier presentation, I think, reinforces this -- I’m not pulling up the -- I had the Consumer Watchdog presentation here, somewhere.

Anyway, that retail margins have been climbing. And, particularly, in the last couple of years we’ve seen an increasing gap between the branded companies and the Hypermarts, on the low end. I’ve noticed this, myself, on the street, that we’re seeing much larger gaps, or savings from -- oh, thank you -- from going to those Hypermarts and off brands. Which are, as we saw this morning in Ryan’s presentation, a very small share of the market relative to the -- or, a small share of the market.

I’m not -- it’s not obvious to me what the mechanism is, or what the solution is, but it does seem that that is an area for further exploration.

That said, when we look at the premium that California’s had over national average, or over the cost differential to the rest of the Nation, I’m still struck that most of that is at the wholesale level. Is at the spot market gasoline level. Though, some of it is clearly at retail.

And, of course, as I think a number of people have pointed out, those are not independent industries. And, so, there are interactions between high concentration in refining and high concentration in distribution that are complex, and I think would require a great deal more analysis, and a great deal of confidential data to really try to unpack.

But I guess I don't come away with a clear conclusion, but I do come away with the view that there is a problem or there is an issue at the retail level that I had not previously appreciated.

Jim, you want to comment?

COMMITTEE MEMBER SWEENEY: Yeah, I think that it's important to notice that there has been a secular trend of increasing retail markets, particularly at branded stations.

What you make of that is really what's the issue. I mean, it's been asserted to us many times in this market, this morning, that it has to do with market power and exercise of market power.

I'm certainly not finding that. I certainly don't find that very compelling, given that the retail stations, for the most part, are independently owned and under the, my understanding, the State law. The refiners cannot set retail prices for the non-owned stations, which is the vast bulk of them. So, they have that competition at the lessee level.

In addition, consumers really are not constrained as to what gasoline stations they go to. They have the free ability to go to one versus the other.

You sort of think about the margins. Let's say you -- let's say we have a 50 cents a gallon difference, and you fill up your tank all the way, it may take 20 gallons. But most people don't get down to the fumes before they do it. So, let's say you take 10 gallons of gasoline, and so it's a $5 difference between a branded and a non-branded.

Consumers can very realistically, rationally decide that there may be something good about the branded thing. They may believe that Techron, or whatever branded things, may make a difference. It's the phenomena that we see of many consumers buy premium gasoline, when their car doesn't require the high octane gasoline at all, and they simply buy that.

So, I'm -- it's not surprising to find that a lot of consumers, including me, are willing to go to whatever gasoline station is convenient, and not -- even though it would have cost $5 less to drive two or three miles out of my way to get a different -- go to a different station.

So, I'm not convinced that there's a market power issue, or a market manipulation, but something's going on. And that's what I think we'd like -- it would be good to understand.

I don't actually think, under the type of processes that we have here -- this is not a venue for actually sorting out that research. But I do think it's an important issue.

COMMITTEE MEMBER MYERS-JAFFE: I just want to add to that, you know, how retail gasoline is studied by the companies and how it gets priced is actually, exactly what you're saying, Jim. People realize that some locations are more convenient than others. Even within the same corners, you can have four stations, and the station that has the easiest way to turn in and turn out can have a much higher price.

So, if you were really going to study it, I think you'd have to look at, you know, the dominance of certain companies, and the branded stations in key locations, where people really, you know, don't have the ability to, necessarily, drive over to a hypermart and fill up with gas, because they're commuting, or they're doing something else and it's not a practical option.

And that would really be because the company's study it that way, and do their pricing on that basis, it really still, in my opinion, could be an element of market power. But it would have to be studied in the way you're suggesting.

COMMITTEE MEMBER FOOTE: Yeah, certainly agree with the rest of you on a lot of that. Discount sellers are -- and I think some of the points made by both our staff, and also by Consumer Watchdog, are well taken. That there has been concentration in the industry, at a lot of different levels. Whether we're talking about contracts, or just simply real estate.

And the result seems to be that the discount sellers are not effective in constraining the prices of the premium -- of premium gasoline and premium is so dominant that it drives the averages.

It does also appear that the majors are extremely effective in constraining each other, because their prices seem to move in lock step, even while other prices, other folks' prices vary, vary somewhat in any given market.

It is, certainly, troubling particular in that -- I mean, that doesn't necessarily imply any violations of law. Although, that's a question, in any event, that's beyond, really, what this Committee is about.

But that said, what is troubling is that it is the production issues that seem to be -- that seem to be surfacing. The fact that production is extremely low right now, or last month, the most recent data. And even with the Torrance Refinery getting back online, all of those things. The fact that there haven't been any really significant efforts by anyone to ramp up production, even though there are -- you know, there are major increases in population, more people on the roads, and so on.

So, all of that continues to be bothersome. And the lack of any real incentive, apparently, on the part of any of the major players to move aggressively into what you would consider to be an opportunity -- there have been, in the course of the last year, year and a half, would be a real opportunity to increase market share, sell more, do things of that kind. And nobody seemed to step up to the plate to do that.

That's got some -- you know, that has some pretty negative implications for any kind of remedial effort that might be undertaken, that I can think of.

Anyway, those are my comments for now.

CHAIR BORENSTEIN: Dave?

COMMITTEE MEMBER HACKETT: Yeah, I do have a couple of comments. I think, number one, is -- I'm going to address Kathleen's issue about why nobody has moved into this space. It seems like an obvious solution, right, that somebody would take market share from somebody else.

And, so, I get my gas at Costco. And I'm willing to sit in line for 10 minutes to save, what, you know, 50 cents a gallon, and it works out to be, I figured, about $60 an hour. And I charge more than that. But $60 an hour is not insignificant, right.

And, so, what I know is that these Costco stations, for example, and I think the other big boxes are in the same point, run at capacity. The only way they could sell more gasoline is if they were open more hours.

And in the case of the one that I go to, actually, it's capacity is constrained by the South Coast Air Quality Management District. They sell so much gas that they get shut down at the end of the month because they've exceeded whatever their license is, their allowances are. Yeah. And so --

CHAIR BORENSTEIN: There are restrictions on how many gallons of gasoline they can sell?

COMMITTEE MEMBER HACKETT: Yes, and it comes back -- I don't understand it completely, but it comes back to the -- a big station like that, which sells, five loads a day of, call it a thousand barrels a day, makes it one of the biggest stations in the United States.

And, so, it puts it in a different pollution category than regular stations. And, so, that one and some others will run out of capacity before they run out of the end of the month.

COMMITTEE MEMBER SWEENEY: It's the emissions --

CHAIR BORENSTEIN: It's the emissions, yeah.

COMMITTEE MEMBER SWEENEY: It's the emissions link to it that the Air Quality District controls.

COMMITTEE MEMBER HACKETT: Well, and actually, it's they link the emissions to total gallons.

COMMITTEE MEMBER SWEENEY: Yeah.

COMMITTEE MEMBER HACKETT: But it's not an emissions measurement thing, it's a gallons thing.

COMMITTEE MEMBER SWEENEY: No, but it's an inference. It's an inference kind of --

COMMITTEE MEMBER HACKETT: Yes.

COMMITTEE MEMBER SWEENEY: It's an inference on emissions.

COMMITTEE MEMBER HACKETT: Thank you.

CHAIR BORENSTEIN: Yeah.

COMMITTEE MEMBER HACKETT: And, so, I think that's one of the reasons you don't see -- they're taking as much market share as they can get.

Another thing that I wonder about is the measurement of retail prices, these averages. The averages are not volume weighted. And, so, the Costco that I'm talking about is 50 cents a gallon under all of the Shell, Chevron, Mobils around.

But it counts as one in the denominator when, indeed, it probably ought to count as five, for example, or six, something like that.

I don't think I can explain it. And, so, what I would think is there would be a loss of market share. But you look at -- I'll go to Ryan's presentation, and on page 8, that's the one with, basically, it's market share, right. I think there's something wrong with these numbers. And, you know, I'd like to get into that. We don't have to do it at this meeting.

But I think that that would be something that staff ought to take a look at, because I don't think these are right. I don't think that ARCO's lost 6 or 7 percent market share to the hypermarkets. Maybe they have. ARCO used to be the biggest market share in the State, a little bit bigger than ARCO -- or, ARCO used to be bigger than Chevron, slightly bigger than Chevron. But they've lost a lot of market share.

Whereas Chevron, according to the way this is calculated, has not lost much. They've always been in the 19, 20 percent range.

And there, as well, I wonder about the hypermart percentage. I personally, back-of-the-envelope, think it's more than 20 percent.

So, I think there are market share things that are going on, but it would be worth taking a look at that, if we thought that was useful. I'm not saying the Committee do that. I think that's something for staff to go back through, if the management decides that that's a useful thing.

And, so, I don't think -- I think that you're exactly right. Something should happen with market share and I don't think we can see it. That's my point on that.

And then, there's no question that the retail differentials have opened up. And I'm holding, in my hand, Gordon's presentation at the Pacific Oil Conference, that he made back in September, w here you can see that pretty clearly. And some of that probably goes back to the why of that is. I think if you did this same kind of calculation in other markets, let's say east of the Rockies, or on a nationwide basis, you wouldn't see this trend.

COMMITTEE MEMBER SWEENEY: You would not?

COMMITTEE MEMBER HACKETT: You would not see this trend. And, so, this is -- I don't know if it's unique to California, but there may be other states that have -- in the west, that have sort of a similar pattern. But if you looked at this in the Midwest or the East Coast, I don't think you'd see it.

So, another clue that you get here, and I'm going to go back to Ryan's presentation, and I'm flipping to find -- here we go. The slide, U.S. Gasoline Sales Breakdown. There you go, 17.

And, so, the key, I think here, is that these are the number of stations and this is how they get -- who's setting their prices, right? And, so, you guys probably all went through this, but you see the rack is 78 percent.

And, so, basically, that's a whole sale price at the point where the gasoline truck gets loaded. All right.

And then, you also have DTW and company outlets. And if you add those together, the red and the blue, you get about 15 percent. All right.

So, then let's change pages and let's go to 18. At 18, you see that the red and the blue, the Dealer Tank Wagon, plus company outlets, is 52 percent.

And, so, what happens is that the gasoline suppliers here, as they report to the Department of

Energy, the Managed Information Administration, have much more control over the whole sale price that a service stations pays, in California, than the nationwide piece. And, so, hopefully, Ryan pointed that out to you.

But it's not a degree of control that --

CHAIR BORENSTEIN: Dave, I think you might want to clarify why DTW gives you more control.

COMMITTEE MEMBER HACKETT: Yes. So, the Dealer Tank Wagon is the price that the dealer pays, the EC dealer pays. And it's set by the supplying company. And it's a number that they determine, they the supplier determine, by looking at the marketplace. Looking at how other people price, other competitors price in the area, and estimating some kind of a margin that other people are doing, and then setting their prices in order to give the dealer a wholesale price that will allow him to complete in the marketplace. But at the same time, trying to -- it used to be, but since there's some changes, it used to be the Dealer Tank Wagon was set relatively low in order to encourage more volume.

And, so, one of the -- of the dealer rep, the company guy, who talked to all the dealers, was to try to get the DTW up to where he could, and get the retail prices down as far as he could, in order to encourage more volume. And, essentially, shift the margin into the supplier's category.

You don't see that behavior with -- anymore. What you see is something that's different.

If you look at Gordon's chart from 2010 until, oh, about -- well, kind of all along here maybe you can arguably -- you see a gradual trend up.

And, so, the philosophy that these folks are using in how they're setting the prices has changed, it's different, now. And it's different here than it is back east.

COMMITTEE MEMBER SWEENEY: Oh, no, go ahead.

COMMITTEE MEMBER FOOTE: I was just going to ask, I'm presuming that what the companies do on a lot of this, depending on what their objective is, they've developed more sophistication at tracking things, kind of in real time. Just like the airline, you know, airline tickets change by the hour, virtually, depending on all of that. Hotel prices, all that kind of thing.

COMMITTEE MEMBER HACKETT: It would be some of the --

COMMITTEE MEMBER FOOTE: I assume that --

COMMITTEE MEMBER HACKETT: Pardon me. And some of them are using the airline model of constant input and then constant adjustment.

COMMITTEE MEMBER FOOTE: Right. And, so, that would be adjusting -- it wouldn't be adjusting retail price, but it would be adjusting the Dealer Tank Wagon price. Is that right?

COMMITTEE MEMBER HACKETT: Yes.

COMMITTEE MEMBER FOOTE: You could use it to affect Dealer Tank Wagon price --

COMMITTEE MEMBER HACKETT: Right.

COMMITTEE MEMBER FOOTE: -- more easily than you could use it on rack price?

COMMITTEE MEMBER HACKETT: Presumably, you would use some kind of a sophisticated model on rack price, too, but it's a bigger problem.

COMMITTEE MEMBER FOOTE: It's not as pinpointed.

COMMITTEE MEMBER HACKETT: It's not as pinpointed, right. The DTW, some of the DTW and the company-operated stations, they set the retail price. That's all targeted for a very small market around the gas station.

Whereas, doing that at the rack is a much broader thing and probably has many more competitor -- it's a bigger problem, but I think they probably approach it similarly.

COMMITTEE MEMBER FOOTE: Uh-hum.

COMMITTEE MEMBER SWEENEY: And let me, actually, in expanding on that, just tell a little story. Which I'll have to limit it because it came from a litigation and, you know, there's some confidentiality issues here.

But the first thing is that in the Dealer Tank Wagon, you'll find they have to charge the same price for each one of the locations they're sending it. They've traditionally used a small geographic region, and choose the prices here. And this was an example that illustrates some of the complexity.

It was one retail lessor, independently owned station, in a fairly isolated area, was complaining that the price that the refinery that they deal with was significantly higher than prices that were being sold in a different area. Which turned out to, in fact, be the case. And he was suing them on some price discrimination theory.

On looking at it more carefully, it became clear that that same individual owned every gasoline station in the region. You know, he owned, I think it was, a Shell station, and a Mobil station. And he owned all of them and he set all the prices, and he was setting prices high. And the refiners observing that, and knowing that, were able to take the monopoly profit from him take it themselves by having a regional pricing to grab that.

So, there's a lot of these very localized things when you get a set of isolated markets, or when you get enough of a geographic dispersion, that people are, at the retail levels, can make some strategic decisions, which then the refiners can respond to in order to optimize.

So, when we look at it, that's some of the dynamics that I think really make the conversation as to who's exercising what market power much more complicated than you can get from just looking at some of these data that are out there.

COMMITTEE MEMBER FOOTE: If I can just follow up with another question, Dave, thinking about the airline model. What you're saying is that sometime around 2010, or sometime, the goal of optimization shifted. And optimization, perhaps, used to be maximizing volume, and now, maybe more maximizing profit in a way that doesn't necessarily focus on volume in quite the same way.

COMMITTEE MEMBER HACKETT: And we've had that same discussion internally, within my firm, and what is going on here. And I think, in general, we think that they're going for profit, rather than volume.

In the case of the firms who are -- what Gordon has here as the high branded premiums.

COMMITTEE MEMBER FOOTE: Uh-hum. And, I mean, any ideas about what the characteristics of the market or the mini-markets are, at this point, that allows them to be able to do that without -- I mean, to be able to maximize -- okay, let me put it this way. The constraints are, presumably, traffic congestion, real estate, a lot of the air pollution control standards, whatever. There's a whole set of things that make this market less elastic than it might have been in the past. So, the switching cost for people to actually go find a lower price is higher?

COMMITTEE MEMBER HACKETT: I don't know about the consumer switching costs. I think there are, in general, plenty of gas stations.

And, so, the fundamental question is why isn't there more shifting of volume from the high-priced brands to the low-priced brands?

And at least in the case of my personal experience, which certainly isn't probably representative, is that there's no more capacity at the low-priced brands. They're tapped out. They'd have to build more stores. So, potentially, they can do that.

And the example I have is, personally, with this Tustin Costco, they expanded the station. They added more pumps so that they could cycle more consumers through the place.

CHAIR BORENSTEIN: Yeah, I guess there are a couple issues that come to mind here. One is why there isn't shifting. And maybe that is that capacity is tapped out.

The other is we have seen this downward trend in total number of gas stations in California and the United States, generally. And while there are these Hypermarts, certainly on my daily routine, which is driving through three different cities, I don't pass one. And, in fact, I don't come near one. I come near one Arco.

But I think that the fact that these stations are out there and could discipline, doesn't mean that firms don't have market power, there isn't something to worry about.

I think, actually, the fact that they're far away mean that the branded firms do have more market power because of those switching costs. I wonder how much worse that's gotten, as stations have closed.

Something is clearly happening. And maybe it's a strategy shift. But it may also be a change in the retail landscape. I suspect traffic congestion also has something to do with it, that it's just harder to go out of one's way. At least in the Bay Area. As the economy gets better, people sort of maybe feel like they have more money and it’s just not worth it to take the time. And, also, just getting to those stations may be a bigger headache, and it may be worse in L.A.

So, I definitely am very open to the possibility that a significant share of what we’re seeing in the retail, that is in these high brand/low brand differentials, is market power. Is a growth in the exercise of market power. It might be that they had that market power all along.

It’s not obvious to me what the right -- what a remedy of that is. I’m not in agreement with Consumer Watchdog on the -- on transparency.

I also think that Lundberg would not sell their DTW data for public release, since that would completely negate the value of selling it privately. And, so, unless you’re going to take over Lundberg, and buy them out, and even then the companies that willingly contribute those data would not be willing to.

So, I don’t know what the solution is. It does seem like that’s a continuing problem.

That said, back to my earlier point, and I can’t do these numbers in my head, but I suspect that when we break this down from crude to spot, or unbranded rack, versus from unbranded rack to retail, how does the increase in California prices, above national average, break down.

My impression, from the data we have seen, is that more of it is between crude and unbranded rack. That those margins have gone up. While some of it is between unbranded rack and retail.

But if you look at, for instance, the graphs that -- I apologize to everybody who's out there -- that we've seen that -- have been given to us by Gordon, we are seeing something on the order of a 15- to 20-cent differential. I'm sorry, something on the order of 10- or 15-cent higher differential than we saw back in 2010. So, that's part of it. But I think that's not most of what we're seeing here. And given that the Hypermarts are a small share of the market.

So, I guess I think that both of these are real issues, the retail side of it and the wholesale side of it. And, unfortunately, I don't feel that we have, in either case, resolved the breakdown of market power versus other logistical, or sand in the wheels.

COMMITTEE MEMBER SWEENEY: I -- no, go ahead.

COMMITTEE MEMBER FOOTE: Okay. Yeah, one thing I'm wondering is -- that was a very nice kind of summary of all the possible ways in which the sort of market power has accrued, recently, just simply through shutdowns of stations, and all these different constraints that we've talked about.

But what we haven't kind of gone back to is the -- the triple spike that we looked at, at the beginning of the meeting, and the big gap between Northern California and Southern California that opened up during those time periods. And whether the things that you just summarized actually might explain those, or whether there's some other thing out there that would have to have been a factor, in addition to those things.

Those things might explain the broad, the widening, the widening gap over the longer period of time. But do they explain the activity in that sort of triple spike period?

COMMITTEE MEMBER MYERS-JAFFE: Yeah, and I would add to that, because it's the combination of this dramatic market trend in the branded retail prices, and refinery profits over the same period. So, you're having this confluence of both. And I think that goes beyond just, you know, gasoline retail prices in a particular location because of real estate or other kinds of factors.

COMMITTEE MEMBER SWEENEY: And just to slightly reinterpret the graphs we were shown, which I found very, very helpful. On slide 4, which Ryan showed, there was California retail gasoline versus spot. I would agree that in 2015, from about February to maybe September or October, the biggest increase was felt at the spot level.

But since that time we've gotten down to something that's closer to historical average from spot to the crude oil prices, and we've still had the retail prices higher. And, so, it's now is something happening from spot to retail?

So, I think as we've got to -- there's two different phenomena, both of which are giving you higher prices. And when it happens that you get the same answer from two different time periods, in the aggregate, you'll start wondering if there's actually something deeper that's linking the two. And that's what I don't know, but you start wondering about that.

COMMITTEE MEMBER MYERS-JAFFE: Well, and what I would say in, you know, to speak as an economists to other economists, but for the public I'll put it down, afterwards, in plain language. You know, you have the problem parallelism. Which is that someone exercises their market power, then all the other participants in the market can see that, and it signals them that they, too, can assert whatever market power they have.

And, so, you know, I think you have to look at the sort of transference of the first assertion of market power and then how it influences other players in the market, over time, when they see that they also can profit from the structure of the market.

COMMITTEE MEMBER HACKETT: What I think is that the volatility of the spot market, these, you know, un-forecasted problems with refining, create these spikes and that drags retail prices up. And then, there's insufficient competition to force them down quickly.

And, so, there's two issues here. One is how the competitors view one another at retail. But I think probably the more important one, and the harder one to kind of get your arms around, is the lack of liquidity in the spot market.

That is to say, there aren't anywhere near as market participants as there have been in the past.

And, so, when something happens, a Torrance Refinery goes down, again, then that -- you can see it in these -- you know, the spot market going up a buck in a day, because the Torrance Refinery went down, somebody's misbehaving. I'm sorry, that's what's going on.

And, so, that's caused by the fact that there's nobody out there to discipline them. So, I'm going to take that guy to the woodshed because he got too exposed and you've got a way to fix that.

So, my view is that this -- there are a lot of factors behind this. But some of it is that the State doesn't provide a sort of a welcome mat for folks who want to compete in this marketplace.

And, so, they limit the number of market participants, create barriers to supply, and you wind up with, you know, this kind of activity.

CHAIR BORENSTEIN: Can I just ask you, Dave, when you say market participants, are you talking about refiners or are you also -- does that include traders and the potential importers, the --

COMMITTEE MEMBER HACKETT: That includes the people who trade at the spot level. And, so, that list includes refiners and traders. And a trader is an arbitrage, or somebody who wants to buy low and sell high. And they make the -- they may or not be an importer. It sort of depends on what's going on with the market.

But I think, kind of for a long time, that the spot market here had a lot more depth to it. That is to say, there were more participants and, therefore, the bid/ask spreads were lower. You know, that's a measure of how -- of how liquid the market is. You know, the spread between the bid and the ask in an activity.

And, so, you can see, for example, last summer, in June, the bid/ask spread's got to be enormous. You know, and the prices made huge jumps during the day. It's very easy to see. Publicly -- not publicly available, you have to subscribe to OPIS, which the CEC does. And, so, you can see when this kind of activity is happening and it's reflected in those reports about each deal. Those deals are all reported. And you can see it here.

And, so, some of it is long-term trends. Right, if the market is long for a long time, and it's been this way, it's long, the activity of the traders goes down because there's no arbitrage. They're not in a position to buy in California and sell in Mexico, or something like that. It's only they really get going when it's an import market, and it's time to bring stuff -- you can, you know, buy it in Finland, and ship it halfway around the world, and get it here and make some money.

So, there are market dynamics that go with that. I don't mean to say that government --

COMMITTEE MEMBER MYERS-JAFFE: Can I just cut in here for a second?

COMMITTEE MEMBER HACKETT: Go ahead.

COMMITTEE MEMBER MYERS-JAFFE: You know, having spent a lot of time, when I was a journalist, writing about traders and what happens in markets. So, one of the big problems, when you have a market that somebody has market power, if you're a trader, is that you have to worry about -- you're going to bring this cargo from a distance, or you're going to truck in material from someplace else, and you have to worry about the person, or the players, or the multiple players that have market power, are moving the market against you to punish you for intervening in the market. Right?

And, so, and what happens to that over time is then the market becomes more and more illiquid. Right? And we saw that historically, to make a California story, we all remember what happened with the Alaska oil, that used to come to the California market, and then there was an oil company that was actually indicted for manipulating the market. And it did it, it would drive that market up because the other traders couldn't move against this one oil company. And it just completely removed the liquidity from the market, and the traders existed the market because of that market power.

So, there's been a precedent of that happening in California, historically. And I think you have to look at that because that's one of the things -- that's one of the mechanisms under which you don't get these new entrants to the market, and you don’t get competition into the market because you’re kind of like, you could lose a lot of money one time because the player decides that they don’t like you coming into the market. And then, it discourages people because there’s many places in the world, or in the United States, you can make money doing an arbitrage. So, why go to this market where you -- you know, where someone could move the market against you.

COMMITTEE MEMBER HACKETT: I think that’s exactly right. And when I’ve seen this happen last summer, or was it the summer of ’15? It’s starting to drift away from me, now. The summer of ’15, right, where ships showed up and didn’t unload. And what I think is the market went against them, and they couldn’t bring it ashore without a profit, and they sent it someplace else. And then, the market roared up afterwards.

But, you know, all of that is, as Amy says, is a liquidity issue. Right? So, maybe there’s some thinking that needs to go on here, as what can be done to improve the liquidity in this market so that you don’t get this kind of misbehavior.

CHAIR BORENSTEIN: Jim.

COMMITTEE MEMBER SWEENEY: And I wanted to bring us back to some of the discussions in earlier meetings, that are related to this. And this is the imperfect information that the various actors have to deal with. And the particularly imperfect information is when the Torrance Refinery was going to be coming back online, I suspect, but certainly don't know, that Exxon Mobil did not know when it's going to come in, because did not know when the Air Control Board was going to approve their ability to come back in. And that there was good reasons for them not preannouncing when it may come online, when they didn't know. Because had they preannounced and they were proved to be wrong, they would get -- maybe more than criticism, but maybe get some legal actions taken against them.

So, then, with this uncertainty about when they're going to open up, it's quite rational for people wanting to ship gasoline from India, or other refineries, to say, I don't really know what's going to happen in a month because I don't know if this is going to be online. So, am I willing to take that risk or not.

So, I think that there is a part of this story having to do with a rational reaction, not necessarily manipulated, rational reaction against risk. I don't see a way to go forward because you wouldn't want to force Exxon to disclose information that they didn't actually have, because it's out of their hands. So, I think that's going to lengthen, and I think they lengthened the length of the gap between the spot price and the crude price. But I don't know if that's the whole story.

CHAIR BORENSTEIN: Other comments?

COMMITTEE MEMBER FOOTE: The remedies are, of course, the biggest issue of all. One remedy is to find out more about all of this, to the extent it's even possible. And one question would be, is there anything that -- is there any source of information that we don't have access to, that we ought to get access to?

Dealer Tank Wagon info would be, I guess, question number one?

CHAIR BORENSTEIN: Well, there are Dealer Tank Wagon prices collected, and they certainly are not public. You can buy them from proprietary information organizations.

There are always questions about how accurate they are. They are voluntarily collected. But -- yeah, there's some concern about how accurate they are.

And DTW contracts are not just a price. They are -- these are lessee dealers, and so there are other payments going between the refiner and the lessee dealer, including rental of the property, and other potential payments, and quantity discounts.

So, it’s not something that a single price summarizes very well. So, even when I have gotten the Lundberg data for DTW, I’ve been warned that you’ve got to be careful what you can really infer from that.

Dave, you probably have more experience dealing with all of this?

COMMITTEE MEMBER HACKETT: No, Severin, you’re exactly right. There’s more than just the DTW going on in all that.

But I would say, let me come back to liquidity just for a second. You know, I think I’m here because I wrote that Strategic Fuel Reserve paper years ago, after Severin said -- was on the committee that said, well, the committee said, maybe we ought to look at this.

And, so, coming out of that was this gasoline bank of California. And if you believe that improving liquidity is useful, but the market participants don’t want to take the risk of bringing more barrels in here, that’s something that ought to be looked at one more time.

CHAIR BORENSTEIN: So, if there aren’t further comments, I think we’re going to transition to the last part, which is regarding future meetings.

And I will share a discussion that I had with Commissioner Scott. And I have, without violating Bagley-Keene, I'm pretty sure, informed, but not discussed with my fellow Committee members, my thoughts on this.

And that is that while I think the PMAC has done a fine job of uncovering a lot of information, and potential issues, and discussions of remedies, and sort of surfaced a lot of issues, I don't really see a good path forward for the PMAC to continue to try to dig deeper into this. And I'll explain why.

We've sort of gotten all the information I think we can get through public voluntary interactions. The PMAC has no authority to compel anyone to come and talk to us, and we have been refused on a number of occasions, where people have declined to come and publicly speak.

We don't have a -- although this is in no way a criticism of the CEC staff, we don't have, I think, the large staff that one would need to really do the data work that -- I have done work, for instance, with the U.S. Department of Justice, and with the U.S. Federal Trade Commission, and they have -- each of them employ 80 PhD economists, plus, who are doing complex empirical work with confidential data. And that's just not something that the PMAC has access to. But I think it is where the next is to really understand these.

We've had, I think, very useful discussions of remedies, and I have become more aware that my pet remedy may create its own set of problems.

But, ultimately, I think we're going to need much more resources, much more concerted efforts to really make progress on this. And I just don't see the PMAC as the vehicle to do that. Not the least of which is all of us have full time jobs. One of us lives in Southern California and has to really on the schedule, the certainty of air travel, which is never certain.

But, also, and I would say more importantly, because of the Bagley-Keene law, which makes it extremely difficult to meet in any but a very formal physical setting. It makes it extremely difficult to make progress in discussing these issues.

And as, I think, so massively dysfunctional, it really needs to be revised by the State Legislature. I think that there's some pretty straight forward improvements that could be made, including allowing public meetings over the internet, that would in no way take away from transparency, but would allow a committee of individuals, who are not government employees, who don't work in the same building, to still manage to contribute, usefully, in an ongoing way. We could have much more frequent meetings if we could do it by phone, for instance.

That would not solve the whole problem. I think we would still have the problem of what we face to make the next step, which we've just been discussing, of how do we actually fight through all of these weeds to figure out what the picture really looks like is going to require a real infusion of resources, of people who are working on this full time, who have, you know, strong backgrounds in economics, and the industry, access to confidential data, econometric -- deep understanding of econometrics and data methods, and so forth. And, at the same time, access to people who understand all the institutions.

I don't see that happening with the PMAC. And, so, I went to Commissioner Scott and said that. She has discussed this with Chair Weisenmiller, and I will let her summarize that.

I will say that if you do the simple, back-of-the-envelope calculation, if we are paying 20 cents a gallon too much for gasoline, which, I think over the life of this Committee is probably a lower bound on what, on average, we paid. That amounts to $8 million a day in California overpayments, or $3 billion a year.

Or, put differently, about $80 per person, per year.

I would think, given that that's the sort of money that's on the table, it would be rational for the Legislature and the Governor's Office to consider a budget far smaller than $3 billion, that would allow an office to operate with the expertise, with the access to data, and unencumbered by Bagley-Keene, as a -- because this would not be a policy office. This would be an investigatory office that could actually look into these issues. Which we, I think, have done a good job of mapping out. And write serious reports about what they found from a deep level of economic analysis.

But that is not something that the CEC has the budget or personnel to do, at this point, and it would require an infusion of real financial resources. A billion dollars sounds like a lot of money, until you realize that we are probably spending that much in excess payments for gasoline, every three or four months.

I would say that we could pretty easily afford to do that. And if we do that, and a billion dollars ends up not fundamentally coming to remedies that help us, we would have lost on the order of $20 or $30 per person in California, one time. And if we do it, and it actually does make a difference, we would have saved many times that on a going forward basis.

So, my view is that, at this point, the PMAC should summarize what we've done, and make sure there is a record of that, and hope that the State will now pick up the ball and move forward with that.

Commissioner Scott.

COMMISSIONER SCOTT: So, I just want to say thank you very much. I appreciate you reaching out to me, and the conversation that we had. I really do want to say how much I appreciate all of you lending your expertise, and taking your time, and resources to come and really help us, here at the Energy Commission, kind of come up with a much more robust, I think, foundation for what the-- you know, the terrific work that Gordon, and Ryan, and the team carry out every day.

I think we spend a lot of time looking at all the key components of the system. We talked to refiners, we talked to pipeline folks, we talked to shippers. We've done a really nice -- you guys have done a really nice assessment, I think, of the different components of the system and how they fit together. What the key concerns are. What the potential solutions could be. What are other things that might require additional resources. What might require more research.

And it did seem kind of like we might be at a nice kind of wrapping -- maybe wrapping up is to strong. But a nice point to do a summary and then, you know, wait until there's a point in time where there's, you know -- I don't know, I don't want there to be an incident. But there's something to look at. Another something specific to kind of dig down into.

And, so, I did talk with the Chair about what you said. He and I thought getting a summary form the members would be fantastic. And that we are okay if that's what you'd like to do, kind of pull together all of the terrific information. We're not looking for like a 100-page report, or anything. I mean, you're welcome to write one, if you want to.

But, you know, just something that includes your best thoughts on what we've learned over the last little bit. And we think that would be a really helpful set of data and information for the Commission to continue to build our foundation on.

So, those are my thoughts. I would love to hear what the rest of the Committee is thinking.

CHAIR BORENSTEIN: So, although you had some warning that I was going to say something like this, I certainly -- I didn't give you that much detail. And I would be very interested in hearing from other Committee Members on how you feel about this?

COMMITTEE MEMBER MYERS-JAFFE: So, I think it's a very -- a good path forward. I would add, because I don't know what the prospects are of the CEC adding a whole office, and monitoring this regularly.

But the CEC does have a practice of commissioning universities to study things in more depth, and contracting with universities.

and I would say, since you had three professors from universities sitting on this Committee, that you might find gainfully, given the work that we've done and the data that came to light, that it might be possible to just appoint a staff member, inside the CEC, who would be responsible for this topic, and have them commission external studies.

That might get you to the same exact result. I don't think it probably would be -- I agree with Dr. Borenstein, that it would be an excellent thing to have someone whose, you know, actual day job was compliance, and not just analysis. Right? Was to really try and oversee some of the things we've talked about, maybe in coordination with the Attorney General, where appropriate. If that turned out to be appropriate.

But I think, you know, given the sums of money involved and the persistence of the problem, and the fact that whatever is creating the problem is persisting to such an extent that people, now, must have experienced the fact that they don't think anybody will be done about it. It probably is worth having some responsibility, specifically on this topic, within the organization. And that could liaise with external studies, but also, you know, create a specialized knowledge base, and not just the excellent market knowledge base that you already have. But someone that would literally specialize on the question of market power.

CHAIR BORENSTEIN: Kathleen?

COMMITTEE MEMBER FOOTE: I think there is a lot to be said in favor of both the report and the recommendation for -- any recommendation for follow-on studies in greater detail, for a couple of reasons.

First, with regard to the follow-on studies, the better these things are understood, the better a lot of different policy makers are going to be able to make decisions. That includes the Energy Commission, the Air Resources Board, Federal agencies, and so on.

I think even the report, itself, and what's been elicited, not just today, but in several meetings when we've had some very interesting conversations about some of the market phenomena. Just laying those out, even in summary form, could be very important.

For example, the example that comes most immediately to mind is the assumption that was out there, among the enforcement agencies, with regard to competition. My own, as well the Federal agencies. The assumption that there would be a -- that there was a kind of a loosening up of the market, and more opportunities for competition, and greater availability of supply, kind of at will, coming in to take care of outages.

It's pretty clear, from a number of the conversations that we've had over the last -- ever since the beginning, really, that that's not the case. And, yet, everyone really thought at one point that was the case. But evidence has proven that it isn't.

Just having that, and other things like it, in a summary report, I think would be extremely helpful to those enforcement agencies going forward, to -- not necessarily to know the exact answer, but at least to be able to be more skeptical, and more deeply analytic with regard to a number of those things as they consider further changes, and possible further concentration in these markets.

CHAIR BORENSTEIN: Thanks. Jim?

COMMITTEE MEMBER SWEENEY: Yeah, I found this is to be one of the most frustrating Committees that I've been part of. And for a large number of reasons, a lot of the reasons are the ones that our Chairman discussed. I view that we've got a pretty difficult factual, and analytical, and empirical problem. And working it out on a podium, where you don't have the time to dive in for five days in a row, and talking it over with a few good people, it just doesn't seem to be the way to address the problem. So, I've found it very, very, very frustrating.

I do agree for two things. That the amount of additional progress we're apt to make, in comparison to the time cost of getting there, is probably low. And, so, I agree with the recommendation of doing something that truncates what we're doing.

I think that we ended up with more questions, than answers. And times when there are more questions, still, as to what's really going on underneath, that I don't think the investigation should stop.

Amy has suggested one method to do it, and there's been several suggestions. I don't think the investigation should stop because there are more questions. And it's a big ticket item. I'm not sure that it's going to be billions of dollars potentially saved for the State of California, because you may conclude that it was because of refinery accidents, and the market forces were doing it. But I don't know.

So, yes, I think we should go forward. Somebody should go forward. But this Committee, as is functioning, has its hands tied in too m any ways, so I think it should be stopped.

I have just a small technical question that the legal staff should -- has to answer. Do we have to entirely disband the Committee or put it on hold?

And the reason it's not so obvious to me, if it's on hold, does the Bagley-Keene restriction still hold, so I could never talk with these wonderful other people here, about gasoline prices in California, without violating Bagley-Keene Opening Meeting law, if the Committee is still on pause?

I presume if it's killed, and there's no longer a Committee going -- there's not anything going on, then I'm free to talk with other people. But if we pause it, I suspect that Bagley-Keene will rear its ugly head, again, and tell us, well, we can't do that.

So, I think the way forward for our Committee is not obvious. I'd like to report, I'd like somebody else to continue on. But the mechanics of how we move forward as a Committee aren't so obvious for me.

COMMISSIONER SCOTT: Let me have Samantha and I talk about that, and we'll follow back with you on that.

That's a really good question. I'm probably not wanting to answer that on the spot. So, let us circle back with you on that question.

My original thought was to be on hold, and when there's a new topic, or something new of interest, to band back together, again, and think about these things and talk about them. But I hadn't considered it from the Bagley-Keene issue. So, let me talk with Sam and we'll circle back with you all.

CHAIR BORENSTEIN: Dave, did you have comments?

COMMITTEE MEMBER HACKETT: I support Jim's position on it. You know, let's find out what Bagley-Keene is up to, because I certainly would like to have side conversations with these very interesting people, about this issue. And I'd worry about, you know, creating a misdemeanor.

And then, further, I fully support Severin's position that the Legislature needs to fix this. Because this, the Bagley-Keene stuff completely got in the way of trying to figure out what's going on. We would have been probably much more efficient, and much farther along faster, if we'd been able to have a WebEx. You know, even subcommittees, the rest of that.

So, the restrictions of Bagley-Keene make this more or less unworkable, in my view. And, so, I fully support what Severin's saying about, you know, it's time to -- let's have one more meeting and wrap it up.

And then, from there, I would like to be done with the restrictions of Bagley-Keene.

COMMITTEE MEMBER SWEENEY: And I'd like to just -- I don't think Bagley-Keene law, as a whole, is bad. Because there's a lot of things that I would like to have an opening meeting, when it is attitudes, and beliefs, and values, and whose ox is being gored, that all should be public.

When it is the process of trying to analyze, and going in a deep -- I'll call it academic, but an investigative research project, it's in those things that Bagley-Keene is just terrible. And, so, I think if the Legislature were thinking about Bagley-Keene, I wouldn't want to suggest throwing out the whole thing, but modifying it to limit its scope a bit.

CHAIR BORENSTEIN: Yeah, and just to clarify my views. I'm also not arguing for getting rid of Bagley-Keene or the Brown Act. I'm just arguing that the way they are being written and interpreted these days is so restrictive that it is making it impossible.

And it is definitely difficult for just Commissioners in the California Energy Commission to do it. But you guys at least come to work in the same building. And, whereas, we're bringing in five people, at our own expense, and on our own time, and we are being required to physically bring people in here.

And, so -- and when the flight is late, we aren't even allowed to have Dave go home and participate from home, by phone. Because that would violate Bagley-Keene.

So, I just want to argue that we really need to send the message that -- not to repeal it, but that Bagley-Keene needs to be updated or altered, for Committees like these, so that we can functional way.

Samantha, you are at the --

MS. ARENS: Yeah, I just wanted to make two points of clarification. And this may be ex post facto so I don't know how helpful it will be to you. But some things that we've discussed, Committee Member Jaffe just mentioned subcommittees. And we did discuss, previously, that we can do working groups.

CHAIR BORENSTEIN: Two.

MS. ARENS: Yep. Or, depending on the combination, it could be -- depending on the combination, we could do working groups.

And then, the other thing is a few people have mentioned, just now, WebEx, and there is a provision for teleconference meetings in the statute. I don't know that anybody had asked me about that, previously. But one of the burdens of it is that the meeting location for each member has to be noticed and publicly accessible. So, it is possible to do a teleconference meeting. There's just some -- there's just some catches to it. I just wanted to make that --

CHAIR BORENSTEIN: Yeah. No, I'm aware of both of those.

MS. ARENS: Okay, great. Thank you.

CHAIR BORENSTEIN: It doesn't not change my view on how horrid Bagley-Keene has been to us, but --

COMMITTEE MEMBER SWEENEY: David had predicted that the flight was going to be late. And if he had predicted it, and noticed the public, and let them in your living room, I guess it would have been okay.

COMMITTEE MEMBER HACKETT: Or they could have joined me in the -- you know, in the waiting room at the airport.

CHAIR BORENSTEIN: There we go.

COMMITTEE MEMBER MYERS-JAFFE: Well, and also, because you have academics on the Committee, you know, we could share a graduate student and do some of the work. Right? But then that becomes difficult because then we can't review it and continue to move forward without having a public meeting.

CHAIR BORENSTEIN: Yeah. And it's not that Bagley-Keene makes every committee operation impossible. It's just that I think it was particularly onerous for this Committee. And I think there are ways it could be altered to make it much more -- and I've discussed this with legal experts on Bagley-Keene, that some of the legal interpretations that have occurred over the last 15 years have made it much more difficult to comply.

So, my proposal is that I will work with staff to put together a summary. I'm not going to call it a summary report. I don't like the word "report," because report suggests analysis. And, frankly, I think that if we go down the road of analysis at this point, we're going to have many more meetings.

I propose we summarize what we've done, so that there is a good record. And, obviously, that requires some discretion in deciding what goes in that, but it will be fairly broad.

And we meet one more time. I think it is allowable, under Bagley-Keene, for that to be circulated to the Committee Members in advance, so they can read it, but not that they -- we can't discuss it before the meeting. And then, at that meeting, we will try to finalize our summary.

COMMITTEE MEMBER HACKETT: Sounds good to me.

COMMITTEE MEMBER SWEENEY: Yeah.

COMMITTEE MEMBER FOOTE: Sounds like a plan.

CHAIR BORENSTEIN: Okay. I think we still have to see if there's more public comment. Is that right?

There is no public comment. Okay, we have won them out.

Then, we are going to adjourn and we will set up a meeting that will probably -- I will work with the staff to work on the summary, and then we'll set up a meeting to finalize that, and to move on from there.

And, meanwhile, we'll continue to say bad things about Bagley-Keene.

(Laughter)

CHAIR BORENSTEIN: Thank you very much.

(Thereupon, the Workshop was adjourned at 2:49 p.m.)

--oOo--

REPORTER'S CERTIFICATE

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 10th day of January, 2017.

Kent Odell
CER**00548

TRANSCRIBER'S CERTIFICATE

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 10 of January, 2017.

Barbara Little

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