

From: Nick Janusch
To: Diana Schwyzer; Jim Boyd; Karen Douglas; Kelly Birkinshaw; Panama Ba...
CC: Charles Mizutani; Gordon Schremp; Jennifer Williams; Jim Page; Mike ...
Date: 5/30/2008 4:11 PM
Subject: June 5th: AB 868 Fuel Delivery Temperature Study Workshop
Attachments: CEC 70 - AB 868 6-5-08.pdf; June 868 Staff Workshop Agenda.doc

Transportation Committee Commissioners and Advisors-

I wanted to let you know that we are having our second AB 868 Fuel Delivery Temperature Study staff workshop this Thursday, June 5th. I have attached the meeting notice and agenda and in case you might want to follow the workshop on the commission's webcast or come down in person we are currently preparing binders for you with all the materials that will be used in the workshop. Our next workshops will be committee workshops and are scheduled for September 17th and October 27th.

Please let me know if you have any questions.

-Nick

Nicholas R. Janusch
Energy Analyst, Fossil Fuels
1516 9th Street, MS 41
Sacramento, CA 95814
(916) 651-0483
njanusch@energy.state.ca.us

From: Susan Brown
To: Nick Janusch
Date: 6/2/2008 6:16 AM
Subject: Re: June 5th: AB 868 Fuel Delivery Temperature Study Workshop
Attachments: Susan Brown.vcf

Keep up the good work, Nick. Thank you for letting us know. I will try to stop by the workshop on Thursday.---Susan

Susan J. Brown
Special Advisor to Commissioner Boyd
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814-5512
E-mail: sbrown@energy.state.ca.us
Tel. (916) 654-4741
Fax (916) 653-1279

>>> Nick Janusch 5/30/2008 4:11 PM >>>
Transportation Committee Commissioners and Advisors-

I wanted to let you know that we are having our second AB 868 Fuel Delivery Temperature Study staff workshop this Thursday, June 5th. I have attached the meeting notice and agenda and in case you might want to follow the workshop on the commission's webcast or come down in person we are currently preparing binders for you with all the materials that will be used in the workshop. Our next workshops will be committee workshops and are scheduled for September 17th and October 27th.

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Sacramento, CA 95814
(916) 651-0483
njanusch@energy.state.ca.us

From: Kelly Birkinshaw
To: Gordon Schremp; Susan Brown
CC: Jim Page; Mike Smith; Nick Janusch; Paul Deaver
Date: 8/12/2008 4:35 PM
Subject: Re: WSPA Economist Background - AB 868

quite impressive...

Kelly Birkinshaw
Advisor to Commissioner Boyd
California Energy Commission
1516 9th Street
Sacramento, CA. 95818
916 654-4542
Email: kbirkins@energy.state.ca.us

>>> Gordon Schremp 8/12/2008 4:03 PM >>>
Susan and Kelly:

Please see the attached file for some background information concerning Mr. Robert Topel, the economist mentioned by Don Craven at this morning's meeting with Valero. He will be the person expressing WSPA's econometric interpretation of the ATC issue for the California market.

Regards,

Gordon

From: Marlena Elliott
To: Gordon Schremp; Jim Boyd; Jim Page; Nick Janusch
CC: Kelly Birkinshaw; Marlena Elliott; Susan Brown
Date: 8/12/2008
Time: 9:30 AM - 10:00 AM
Subject: Meeting to Discuss AB 868 - Valero Representatives Attending
Place: Commissioner Boyd's Office

Meeting requested by Gordon Schremp. Mtg. moved up to 9:30 a.m. at the request of Valero.

From: Gordon Schremp
To: Mike Smith
CC: Jim Page; Nick Janusch
Date: 8/18/2008
Time: 10:00 AM - 11:00 AM
Subject: Mtg W/Gordon Schremp -Hot Gas-Delegated
Place: Comm Boyd's Office-Delegated

Mike:

I know Jim already sent you a note this morning, just wanted to forward you the appointment for the 10 AM meeting as well.

Thanks,

Gordon

>>> Marlena Elliott 8/18/2008 8:06 AM >>>

From: Kelly Birkinshaw
To: Gordon Schremp; Jim Page
CC: Jim Boyd; Mike Smith; Susan Brown
Date: 8/19/2008 9:42 AM
Subject: Follow-up to the WSPA meeting on hot gas

Jim, Gordon--

I found the presentation by Dr Topel quite compelling. I know economics is a black art however, and I'm no economist. A couple of questions: do you have the data and analysis from this study? and, do you plan to do a critical review of this study and independently assess its conclusions?

Kelly Birkinshaw
Advisor to Commissioner Boyd
California Energy Commission
1516 9th Street
Sacramento, CA. 95818
916 654-4542
Email: kbirkins@energy.state.ca.us

From: Mike Smith
To: Gordon Schremp; Jim Page
Date: 11/25/2008 3:16 PM
Subject: Fwd: Re: Fw: AB 868 report

Did not include you in this e-mail. Sorry.

>>> Mike Smith 11/25/2008 3:14 PM >>>

The committee workshop is on December 9. To meet the 10-working-day posting requirement, the report should have been posted on Monday (Thursday is the holiday for all, Friday is a working day for non-state employees). If we wait until next week, we have completely blown the posting requirement and stakeholders will complain loudly about not being given enough time. An option is to post the document as written, take the inevitable comments from the oilies, and respond in the draft final document.

Mike.

>>> Susan Brown 11/25/2008 2:20 PM >>>

Hi, all. I say hold the presses until Karen and Jim have had a chance to discuss this early next week. Diana and I both found the CIOMA and oil companies' economic arguments quite compelling....Let's find time to caucus on Monday before we post anything. Susan

Susan J. Brown
Special Advisor to Commissioner Boyd
California Energy Commission
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E-mail: sbrown@energy.state.ca.us
Tel. (916) 654-4741
Fax (916) 653-1279

>>> Karen Douglas 11/25/2008 2:16 PM >>>

Mike, is this going to be posted this Weds? Diana raises an important concern. The report does make a recommendation, and if in fact it doesn't address the core concern about that recommendation, we should look into whether we can in fact support it. As you may remember, I sat in on one hot fuels mtg with the oilies. It did not seem to me that we had compelling answers to their criticisms at the time. What is the timeline for this?

From: Jim Boyd
To: Karen Douglas; Mike Smith
CC: Claudia Chandler; Diana Schwyzer; Gordon Schremp; Jim Page; Susan Br...
Date: 11/26/2008 5:08 PM
Subject: Re: Fwd: AB 868 - Version 11 - Draft Staff Report

Thanks Mike, and all!! Tough on all to have to do this in front of a holiday and I know staff is jammed on other things too so much thanks.
Happy Thanksgiving to all...enjoy the next 4 days!!

Jim

JAMES D. BOYD, Commissioner
Vice-Chairman
California Energy Commission
1516 9th Street, MS 34
Sacramento, CA 95814
916-654-3787 / FAX 916-653-1279
jboyd@energy.state.ca.us
www.energy.ca.gov

>>> Mike Smith 11/26/2008 4:40 PM >>>
Jim/Karen

Attached is a copy of the report that I am sending to Bob Aldrich to post this evening.

Please note that we adjusted the Executive Summary and the body of the report to address Jim's concerns. The Executive Summary now reflects all options (i.e., mandatory ATC, permissive ATC and mandatory reference temperature change). The question and answer regarding the willingness of consumers to pay the added expense has been deleted from the Executive Summary and the body of the report.

Also, regarding process, this document will be posted as a "Staff Report." Following the committee workshop, the report will be revised as needed and labeled as a "Committee Report" that will then be taken to the full commission for approval. This is in keeping with our normal process. We are not planning a second committee.

Please let me know if you have any questions.

Mike.

>>> Jim Boyd 11/26/2008 3:46 PM >>>
Claudia/Mike -- Good news, it's labeled a draft staff report; Bad news, the Executive Summary is totally slanted to one conclusion but there's no way to fix now BUT the last bullet question on page 3 and the response thereto on page 4 HAVE GOT TO GO. You cannot speak for the consuming public in a way that leaves no other conclusion than go with ATC, it's so cheap..... without us hearing testimony and a record being developed to support that conclusion.

>>> Jim Page 11/26/2008 1:04 PM >>>
Edited report attached. Changes discussed this morning are highlighted in yellow on pp. 3, 4, & 88-90. Permissive ATC is now a new chapter. We have also eliminated the final conclusion (including similar language in the Abstract), and all references that we could find that characterize costs as "insignificant", "extremely small", etc.

From: Mike Smith
To: Jim Boyd; Karen Douglas
CC: Claudia Chandler; Diana Schwyzer; Gordon Schremp; Jim Page; Susan Br...
Date: 11/26/2008 4:40 PM
Subject: Re: Fwd: AB 868 - Version 11 - Draft Staff Report
Attachments: AB 868 - Final Staff Report 11-26-08 ver2.doc

Jim/Karen

Attached is a copy of the report that I am sending to Bob Aldrich to post this evening.

Please note that we adjusted the Executive Summary and the body of the report to address Jim's concerns. The Executive Summary now reflects all options (i.e., mandatory ATC, permissive ATC and mandatory reference temperature change). The question and answer regarding the willingness of consumers to pay the added expense has been deleted from the Executive Summary and the body of the report.

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From: Mike Smith
To: Diana Schwyzer; Jim Boyd; Karen Douglas; Susan Brown
CC: Claudia Chandler; Gordon Schremp; Jim Page; Susanne Garfield
Date: 11/26/2008 2:54 PM
Subject: Re: Fwd: AB 868 - Version 11 - Draft Staff Report

Just want to let you know that Bob Aldrich is standing by to post the document today. He's willing to stay late, if need be. Please let us know if you have any comments or questions on the report that Jim Page sent around 1 pm.

Thanks, Mike.

>>> Jim Page 11/26/2008 1:04 PM >>>

Edited report attached. Changes discussed this morning are highlighted in yellow on pp. 3, 4, & 88-90. Permissive ATC is now a new chapter. We have also eliminated the final conclusion (including similar language in the Abstract), and all references that we could find that characterize costs as "insignificant", "extremely small", etc.

From: Mike Smith
To: Jim Boyd, Diana Schwyzer, Jim Page, Kelly Birkinshaw, Karen Douglas, Sus...
CC: Claudia Chandler, Susanne Garfield
Date: 11/26/2008 11:11 AM
Subject: Re: Alternative Primary Conclusion

Based on our conversation this morning we are not going to include the conclusionary paragraph in the Executive Summary and will adjust the text in the body of the report accordingly.

-----Original Message-----

From: Jim Boyd
To: Diana Schwyzer <Dschwyz@energy.state.ca.us>
To: Jim Page <Jpage@energy.state.ca.us>
To: Kelly Birkinshaw <Kbirkins@energy.state.ca.us>
To: Karen Douglas <KLdougla@energy.state.ca.us>
To: Susan Brown <Sbrown@energy.state.ca.us>
Cc: Claudia Chandler <Cchandle@energy.state.ca.us>
Cc: Mike Smith <Msmith@energy.state.ca.us>
Cc: Susanne Garfield <Sgarfiel@energy.state.ca.us>

Sent: 11/26/2008 10:50:03 AM
Subject: Re: Alternative Primary Conclusion

Apparently we are not communicating..... This statement, despite the opening sentences ends up in the same place, advocating the staff's position

JAMES D. BOYD, Commissioner
Vice-Chairman
California Energy Commission
1516 9th Street, MS 34
Sacramento, CA 95814
916-654-3787 / FAX 916-653-1279
jboyd@energy.state.ca.us
www.energy.ca.gov

>>> Jim Page 11/26/2008 8:58 AM >>>

I suggest the following Primary Conclusion. I think it ties up some loose ends and presents policy makers with the appropriate choice without a veiled staff recommendation. We can discuss shortly. Thanks

Jim

From: Susan Brown
To: Jim Page
CC: Diana Schwyzer; Marlena Elliott
Date: 12/4/2008 9:15 AM
Subject: AB 868 Hot Gas Study
Attachments: Susan Brown.vcf

Hi, Jim. Will you or your Staff be circulating a briefing binder to the Transportation Committee and their advisors, so that we'll have the latest version of the Staff report and any written comments filed? I've only seen one comment from the Consumer Watch Dog.

It would be most helpful if we could get these materials by Friday (tomorrow) at noon.
Thanks!---Susan

Susan J. Brown
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Sacramento, CA 95814-5512
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Tel. (916) 654-4741
Fax (916) 653-1279

From: Susan Brown
To: Jim Page
Date: 12/4/2008 1:13 PM
Subject: Re: AB 868 Hot Gas Study
Attachments: Susan Brown.vcf

Thank you, Jim.

Susan J. Brown
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Tel. (916) 654-4741
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>>> Jim Page 12/4/2008 12:02 PM >>>

Hi Susan: We'll have the binders possibly COB today, if Repro comes through, certainly by tomorrow noon. This will include the notice, preliminary agenda, final staff report, and any written comments received by then (only the one so far). The staff presentation will not be finished until Monday a.m., as Gordon was asked to respond to a Resources request yesterday. We will also summarize our expectations on which stakeholders want to make presentations or comments as a supplement in the binder, and provide copies to you of any presentations to add as soon as they become available.

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From: Jim Page
To: Susan Brown
CC: Diana Schwyzer; Gordon Schremp; Marlena Elliott; Mike Smith; Nick Ja...
Date: 12/4/2008 12:02 PM
Subject: Re: AB 868 Hot Gas Study

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Fax (916) 653-1279

From: Jim Page
To: Gordon Schremp; Nick Janusch; Susan Fleming
Date: 12/4/2008 9:49 AM
Subject: Fwd: AB 868 Hot Gas Study
Attachments: AB 868 Hot Gas Study

When can I say they will get these? Including summary of comments expected, requests for speaking time, etc. Can it happen COB today if we're not including Gordon's presentation? Thanks

From: Susan Brown
To: Jim Page
CC: Diana Schwyzer; Marlana Elliott
Date: 12/4/2008 9:15 AM
Subject: AB 868 Hot Gas Study
Attachments: Susan Brown.vcf

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Tel. (916) 654-4741
Fax (916) 653-1279

From: Gordon Schremp
To: Jim Page; Mike Smith
CC: Bob Aldrich; Claudia Chandler; Diana Schwyzer; Jim Boyd; Karen Dougl...
Date: 12/8/2008 5:48 PM
Subject: AB 868 - Committee Workshop Presentation
Attachments: AB 868 Committee Workshop - Final 12-8-08.ppt; 868 Detailed Committee Works
hop Agenda December 2008.doc; AB 868 Staff Report Corrections 12-7-08.doc

Mike and Jim:

Please see the attached file for a revised copy of the Final Version for tomorrow's Committee Workshop on AB 868. I have also attached a revised agenda that contains names of the other presenters, along with a brief errata sheet denoting a couple of slightly revised numbers. All of these materials should be in the binders. In the meantime, please let me know if you have any additional questions.

Regards,

Gordon

**CALIFORNIA ENERGY COMMISSION
Fuel Delivery Temperature Study
Committee Workshop Agenda**

TUESDAY, December 9, 2008
9 a.m. Pacific Standard Time
CALIFORNIA ENERGY COMMISSION
1516 Ninth Street
Sacramento, California 95814
First Floor, Hearing Room A

9:00 a.m. Opening Remarks

**9:10 a.m. Workshop Protocol – Gordon Schremp, California Energy
Commission’s AB 868 Project Manager (Workshop Facilitator)**

- Housekeeping
- Introductions
- Procedures for questions – WebEx & audience
- Today’s format

9:20 a.m. AB 868 – Summary of Report – Gordon Schremp

- Brief background
- Summary of cost-benefit analysis results and conclusions
- Questions and Answers

10:30 p.m. Presentations from Stakeholders (20 minutes each)

- Michael A. Flynn, Principal, LECG
- John Siebert, Owner Operator Independent Driver Association
- Kevin Murphy, University of Chicago

11:45 a.m. Lunch Break

12:45 p.m. Public Comment and Discussion

3:45 p.m. Closing Remarks – Commissioner Boyd and Commissioner Douglas

From: Gordon Schremp
To: Jim Page; Mike Smith
CC: Bob Aldrich; Claudia Chandler; Diana Schwyzer; Jim Boyd; Karen Dougl...
Date: 12/8/2008 5:48 PM
Subject: AB 868 - Committee Workshop Presentation
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Regards,

Gordon

From: Susan Brown
To: Gordon Schremp
CC: Marlena Elliott
Date: 12/9/2008 8:06 AM
Subject: Re: AB 868 - Committee Workshop Presentation

Can you please provide hard copies to the Committee and their Advisors before today's workshop?
Susan

-----Original Message-----

From: Gordon Schremp
Cc: Diana Schwyzer <Dschwyz@energy.state.ca.us>
To: Jim Page <Jpage@energy.state.ca.us>
Cc: Kelly Birkinshaw <Kbirkins@energy.state.ca.us>
Cc: Karen Douglas <KLDougl@energy.state.ca.us>
Cc: Nick Janusch <Njanusch@energy.state.ca.us>
Cc: Susan Brown <Sbrown@energy.state.ca.us>
Cc: Bob Aldrich <Baldrich@energy.state.ca.us>
Cc: Claudia Chandler <Cchandle@energy.state.ca.us>
Cc: Jim Boyd <Jboyd@energy.state.ca.us>
Cc: Kathleen McDonnell <Kmcdonne@energy.state.ca.us>
Cc: Marlena Elliott <Melliott@energy.state.ca.us>
To: Mike Smith <Msmith@energy.state.ca.us>
Cc: Panama Bartholomy <Pbarthol@energy.state.ca.us>
Cc: Susanne Garfield <Sgarfiel@energy.state.ca.us>

Sent: 12/8/2008 5:48:31 PM
Subject: AB 868 - Committee Workshop Presentation

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Regards,

Gordon

From: Gordon Schremp.
To: Susan Brown
Date: 12/9/2008 8:11 AM
Subject: Re: AB 868 - Committee Workshop Presentation

Susan:

Sherry Stoner will be delivering some hard copies to you in a few minutes.

See you soon,

Gordon

>>> Susan Brown 12/9/2008 8:06 AM >>>

Can you please provide hard copies to the Committee and their Advisors before today's workshop? Susan

-----Original Message-----

From: Gordon Schremp
Cc: Diana Schwyzer <Dschwyze@energy.state.ca.us>
To: Jim Page <Jpage@energy.state.ca.us>
Cc: Kelly Birkinshaw <Kbirkins@energy.state.ca.us>
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To: Mike Smith <Msmith@energy.state.ca.us>
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Gordon

From: Susan Brown
To: Gordon Schremp
CC: Jim Page
Date: 12/9/2008 1:33 PM
Subject: Fw: Hot Fuel Workshop
Attachments: Hot Fuel Workshop

This comment was e-mailed to me today. Please docket and respond appropriately. Thanks! Susan

From: Nick Janusch
To: Jim Page
Date: 12/17/2008
Time: 9:00 AM - 9:30 AM
Subject: AB 868 Workshop Debriefing-Delegated
Place: Comm. Boyd's Office-Delegated

>>> Marlena Elliott 12/12/2008 9:16 AM >>>

Memorandum

To: Docket Office

Date: January 8, 2008

Telephone: 1-0483

From: **California Energy Commission**
1516 Ninth Street
Sacramento CA 95814-5512

Subject: NEW DOCKET FILE

Please open a new docket file for the California Energy Commission's Hot Fuels Cost Benefit Study required by AB 868 which was signed by the Governor on October 10, 2007. An appropriate file name might be 07-HFS-01. For your information, the Transportation Committee agreed to designate a docket number for this project. Please open the new docket effective immediately with the following distribution list:

2 copies	Vice Chair Boyd, MS-34
1 copy	Commissioner Byron, MS-32
1 copy	Fernando De Leon, MS-14
1 copy	Susan Brown, MS-34
1 copy	Laurie ten Hope, MS-32
1 copy	Gordon Schremp, MS-41
1 copy	Charles Mizutani, MS-41
1 copy	Paul Deaver, MS-41
1 copy	Nick Janusch, MS-41

Thank you very much.

JAMES D. BOYD
Vice Chair and Presiding Member
Transportation Committee

Gordon Schremp - Notes from committee meeting

From: Nick Janusch
To: Gordon Schremp; Jim Page
Date: 1/7/2009 3:47 PM
Subject: Notes from committee meeting
CC: Gene Strecker

Here is what I got:

Gordon Schremp, Senior Fuels Specialists, briefed the commissioners on the current status of AB 868 Fuel Delivery Temperature Study and the finalization of the report for the February 11 business meeting. His status report mentioned that there have been modifications to the report including editorial changes and changes in cost estimates. These modifications did not change the empirical results of a net cost to society for all options. Gordon provided handouts summarizing the options for the commissioners and the submitted comments from the workshop. Citing the legislation, Gordon asked the commissioners for a recommendation for automatic temperature compensation. Commissioner Boyd asked that we have a meeting on this topic Friday morning with AB 868 staff, Mike Smith, both Commissioners, et al.

From: Gordon Schremp
To: Sherry Stoner
Date: 1/7/2009 4:14 PM
Subject: Fw: Hot Gas Issue
Attachments: Hot Gas Issue

This message was sent from a Blackberry.

Gordon Schremp - Hot Gas Issue

From: Marlena Elliott
To: 3rdFloor Conf Rm Fishbowl; Gordon Schremp; Jim Boyd; Kathleen McDonnell;
Kelly Birkinshaw; Mike Smith; Susan Brown
Date: 1/9/2009
Time: 10:00 AM - 11:00 AM
Subject: Hot Gas Issue
Place: 3rdFloor Conf Rm Fishbowl
CC: Marlena Elliott; Patty Rinaldi

Meeting at the request of Commissioner Boyd.

From: Gordon Schremp
To: Jim Boyd; Karen Douglas
CC: Diana Schwyzer; Jim Page; Mike Smith; Susan Brown; Susanne Garfield
Date: 1/15/2009 7:31 PM
Subject: AB 868 - Final Committee Report
Attachments: AB 868 - Final Committee Report 01-15-09.doc

Commissioners Boyd and Douglas:

At long last, we have a revised AB 868 document ready for your review (see attached file). All changes and new material are highlighted in yellow. Let me know if you have any immediate questions or concerns. If not, I look forward to your feedback and modifications.

Regards,

Gordon

From: Gordon Schremp
To: Jim Boyd; Karen Douglas
CC: Diana Schwyzer; Jim Page; Mike Smith; Susan Brown; Susanne Garfield
Date: 1/15/2009 7:31 PM
Subject: AB 868 - Final Committee Report
Attachments: AB 868 - Final Committee Report 01-15-09.doc

Commissioners Boyd and Douglas:

At long last, we have a revised AB 868 document ready for your review (see attached file). All changes and new material are highlighted in yellow. Let me know if you have any immediate questions or concerns. If not, I look forward to your feedback and modifications.

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Gordon

From: Nick Janusch
To: Gabriel Taylor; Jeff Byron; Jim Boyd; Laurie ten Hope; Peter Ward; ...
CC: Charles Mizutani; Gordon Schremp; Jennifer Williams; Paul Deaver; Ro...
Date: 1/22/2008 2:21 PM
Subject: January 24: AB 868 Fuel Delivery Temperature Study Workshop
Attachments: 868 Staff Workshop Agenda Jan 2008 1-18-08.doc; CEC 70 - AB 868 1-8-08.FIN
AL.doc

Transportation Committee Commissioners and Advisors-

I wanted to let you know that we are having our first AB 868 Fuel Delivery Temperature Study staff workshop this Thursday, January 24th. I have attached the meeting notice and agenda and in case you might want to follow the workshop on the commission's webcast or come down in person we are currently preparing binders for you with all the materials that will be used in the workshop. Our next workshop is scheduled March 4th.

Please let me know if you have any questions.

-Nick

Nicholas R. Janusch
Energy Analyst, Fossil Fuels
1516 9th Street, MS 41
Sacramento, CA 95814
(916) 651-0483

From: Karen Douglas
To: Brown, Susan; Schwyzer, Diana
Date: 1/23/2009 3:48 PM
Subject: Re: Hot fuels language

Good job, Diana. I have a few minor tweaks. I re-wrote the first recommendation a bit for clarity. You may want to check that I didn't introduce any mistakes. In the second blurb, I replaced the word "refine" with the word "supplement" since I'm not sure whether the survey results would be plugged into the cost benefit calculation or just used as an additional point of information. I'm ok with reverting to refine if you all think that is what would likely happen with the info.

The Legislature may want to consider requiring station owners to install pumps with ATC capacity at new and refurbished retail stations. Such a phase-in approach would result in approximately X percent of pumps being ATC compliant within a decade, and would significantly reduce the cost of a transition to mandatory ATC in the future, though still resulting in a net cost to society.

Areas for Further Research

Research in the following areas is recommended to supplement the cost-benefit analysis presented in this report.

>>> Susan Brown 1/23/2009 2:38 PM >>>

Works for me. This addresses my concerns. Thanks, Diana. I'll show these to Commissioner Boyd, before we give them back to Staff.---Susan

Susan J. Brown
Special Advisor to Commissioner Boyd
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814-5512
E-mail: sbrown@energy.state.ca.us
Tel. (916) 654-4741
Fax (916) 653-1279

>>> Diana Schwyzer 1/23/2009 12:59 PM >>>

Karen and Susan,

Here is my cut at the Hot Fuels executive summary. Most of my changes are to the bulleted list of recommendations at the end of the document, though I have made a few additional comments elsewhere. Let me know what you think and if you have further suggestions to refine the wording.

Diana

From: Susan Brown
To: Diana Schwyzer; Karen Douglas
Date: 1/23/2009 2:38 PM
Subject: Re: Hot fuels language
Attachments: Susan Brown.vcf

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Diana

From: Susan Brown
To: Diana Schwyzer
Date: 1/23/2009 10:17 AM
Subject: Re: Hot Gas Study
Attachments: Susan Brown.vcf

Yes--I'm available now and until 11:30 when the Leg Committee meetings....Otherwise, we'll meet early next week. We still have time, since the Report has not reached us through channels.

Susan

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>>> Diana Schwyzer 1/23/2009 8:58 AM >>>

I can't do this afternoon, since I'm going to the forest biomass meeting at UC Davis. Do you have any time this morning? Otherwise, I can send you my/Karen's thoughts by email and see what you think.

>>> Susan Brown 1/23/2009 7:36 AM >>>

Can we get together this afternoon to discuss? Anytime after 2:00 works for me. Susan

From: Diana Schwyzer
To: Susan Brown
Date: 1/23/2009 8:58 AM
Subject: Re: Hot Gas Study

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From: Susan Brown
To: Diana Schwyzer
CC: Kelly Birkinshaw
Date: 1/23/2009 10:27 AM
Subject: Re: Hot Gas Study
Attachments: Susan Brown.vcf

On second thought, send me your/Karen's thoughts and I will do the same. Here are my initial reactions: Overall, I found the Draft Committee Report to be balanced and comprehensive and responds to the technical comments (especially those regarding the cost-benefit analysis) that we received in the public workshop. I assume the workshop comments led to the many changes in the cost and benefit calculations in the Final Committee Draft Report, but I did not do a point-by-point comparison. Your input would be appreciated here.

Focusing on the Recommendations on page 4:

1. The Primary Recommendations should include a finding on each of the options studied.

For example, there is no mention of the voluntary ATC option in the Executive Summary (although it would appear that it may not be possible under existing law). Also, how strongly does Karen feel about including the "phase in" option for mandatory ATC, which is not mentioned in the Summary, but covered in the report on page 109.

2. The second bullet should include a statement, when discussing the recommendation that the Legislature include the benefits of fairness, accuracy and consistency: "Valuing such benefits was not attempted as part of this study or this proceeding, and it would be highly subjective and difficult to quantify." Something to that effect.

Chapter 6 Findings, page 111:

1. The statement that permissive or voluntary ATC is currently in dispute. Isn't the real issue that it may not be permissible under existing law and would require legislation to clarify this option.

With a few changes and revisions, I think this Report could be ready for release as a Committee Draft. ---Susan

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To: Diana Schwyzer
Date: 1/23/2009 7:36 AM
Subject: Hot Gas Study

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From: Susanne Garfield
To: Susan Brown
Date: 1/26/2009 12:22 PM
Subject: Re: AB 868 Status

Just want to make certain as I don't think it's the tech analysis that is at issue, just the recommendations.

S

Susanne Garfield
Assistant Executive Director
Media and Communications
916-654-4989

-----Original Message-----

From: Susan Brown
Cc: Diana Schwyzer <Dschwyz@energy.state.ca.us>
Cc: Gordon Schremp <Gschremp@energy.state.ca.us>
To: Susanne Garfield <Sgarfiel@energy.state.ca.us>

Sent: 1/26/2009 12:20:45 PM
Subject: Re: AB 868 Status

Yes---from my perspective, there has been adequate outside exposure in public workshops (both staff led and Committee led) and input from an advisory committee formed by Staff under the legislation.---Susan

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>>> Susanne Garfield 1/26/2009 12:18 PM >>>

Susan,

Does the Committee feel that there will be adequate outside review if it doesn't get posted until Monday?

Are they holding firm for Feb 11 biz meeting? Thanks, s

Susanne Garfield

Assistant Executive Director
Media and Communications
916-654-4989

-----Original Message-----

From: Gordon Schremp
Cc: Diana Schwyzer <Dschwyz@energy.state.ca.us >
Cc: Jim Page <Jpage@energy.state.ca.us >
Cc: Nick Janusch <Njanusch@energy.state.ca.us >
To: Susan Brown <Sbrown@energy.state.ca.us >
Cc: Claudia Chandler <Cchandle@energy.state.ca.us >
Cc: Mike Smith <Msmith@energy.state.ca.us >
Cc: Susanne Garfield <Sgarfiel@energy.state.ca.us >

Sent: 1/26/2009 12:13:05 PM
Subject: Re: AB 868 Status

Susan:

AOK. We will wait to hear back from you guys some time on Wednesday. Look forward to the comments

and completing the document.

Thanks,

Gordon

>>> Susan Brown 1/26/2009 12:02 PM >>>

Yes--we will have comments---I have been coordinating with Karen Douglas' Office but will need until Wednesday to get back to you. We are very busy here, since Jim is acting Chair, and I need to talk with him first.---Susan

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Susan and Diana:

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Attachments: Susan Brown.vcf

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To: Diana Schwyzer; Susan Brown
CC: Jim Page; Marlena Elliott; Nick Janusch; Susanne Garfield
Date: 1/26/2009 11:03 AM
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To: Gordon Schremp; Jim Page; Mike Smith
CC: Susan Brown
Date: 1/27/2009 3:48 PM
Subject: AB 868 report
Attachments: AB 868 Executive Summary 01-27-09.doc

Gordon, Jim, Mike,
Commissioners Boyd and Douglas are pleased with the AB 868 report but would like to see the attached changes made to the Executive Summary. We have a meeting scheduled at 8:30 tomorrow to discuss these changes if necessary; please let us know if you feel that the meeting won't be needed.
Thanks,
Diana

EXECUTIVE SUMMARY

The issue of reduced volumes of gasoline or diesel when distributed at high temperature, or "hot fuel," is not new. It is, however, a controversial subject that has created strong and divergent opinions. Some stakeholders believe that if temperature compensation was practiced at retail stations, motorists that purchase fuel at retail stations would realize significant monetary benefits in the warmer areas of the United States. Other stakeholders representing business interests believe that the costs to retail station owners will be significant.

This national debate has continued for several years but without any analysis being performed to determine if automatic temperature compensation (ATC) at retail stations would be a net benefit to retail motorists. As a result of these activities and the lack of analysis, in October 2007 the California Legislature passed and the Governor signed Assembly Bill 868 (Davis), which directed the Energy Commission to conduct a cost-benefit analysis.

This report quantifies the benefits and costs associated with temperature compensation for retail sales of gasoline and diesel fuels in California. The cost-benefit analysis results are negative (net cost to society) under all options examined, but when quantified in terms of cents per gallon the results are small. Further, it is unlikely that there are any plausible circumstances whereby some consumers could realize a small net benefit of ATC at retail in California. The estimated annual recurring net costs to society, if completely passed through to consumers, could amount to between two hundredths (2/100) and 18 hundredths (18/100) of a cent per gallon.

The primary issues associated with the ATC debate can best be characterized in a series of questions that follow in a summary of this report.

- *If temperature compensation has been instituted for most wholesale transactions for purposes of removing the inequity of temperature variations from financial transaction, why has that practice not extended all the way to the California retail consumer?*

Hawaii is the only state in the nation that has adopted a form of temperature compensation at retail outlets. This occurred when the state increased the size of their gallon from the U.S. standard of 231 cubic inches to a larger Hawaiian gallon of about 233 cubic inches. Canada, too, has adopted regulations and standards for ATC at retail. Even though ATC at retail is voluntary in Canada, more than 90 percent of the retail stations have converted to using the equipment. Most of the time in Canada, the temperature of the fuel is colder than the reference standard of 60 degrees Fahrenheit. The ATC dispensers compensate for colder fuel temperatures by decreasing the average size of the liter dispensed to motorists in that country.

No retail station operator has elected to install ATC-ready dispensers in California, and it is unclear whether the voluntary use of Permissive (voluntary) use of automatic temperature

~~compensation (ATC) devices at California retail stations is already permitted under California law as it is not specifically prohibited. Although no retail station operator has elected to install ATC-ready dispensers in California, if such a decision was made, there would be business costs similar to the ones discussed below for the mandated ATC option. Also, there could be some difficulties due to lack of operational and enforcement standards, inspection procedures, and labeling provisions.~~

Comment [DS1]: I revised this paragraph to be consistent with our position on this issue as stated later in the paper.

- *Is the temperature of gasoline and diesel fuel sold to California consumers warmer, on average, than the 60 degree Fahrenheit reference standard?*

California is considered a warmer state regarding fuel temperature at retail stations. Based on the results of a recent survey of retail stations, the average temperature of regular grade gasoline during the base period from April 2007 through March 2008 was about 71 degrees Fahrenheit. Diesel fuel was a little warmer with an average temperature of nearly 73 degrees Fahrenheit.

- *If ATC was mandated at retail stations in California, how would businesses and consumers be affected?*

California retail station owners would experience additional expenses for the ATC retrofit equipment and slightly higher inspection fees. California retail motorists are expected to receive slightly larger gallons (as measured in cubic inches) that vary in size with changes in temperature. ~~The perceived benefit to some stakeholders would be the value of the reduced number of gallons purchased each year, assuming retail station owners do not increase prices in response to selling fewer units.~~ California retail motorists are also expected to receive an additional benefit due to increased price transparency, estimated at approximately \$258,000 per year.

Comment [DS2]: I recommend dropping this sentence since we are NOT assuming that station owners wouldn't increase prices.

California businesses would be required to have new electronic components installed in their fuel dispensers at a total initial cost of between \$103.8 million and \$127.4 million, or between \$10,704 and \$13,136 per retail outlet. Recurring costs for more expensive ATC-ready dispensers, maintenance, and higher inspection fees would amount to between \$7.4 million and \$20.6 million per year. The initial ATC retrofit costs in combination with the recurring annual expenses would average between eight hundredths (8/100) and 18 hundredths (18/100) of a cent per gallon, assuming retail station owners pass along all of the retrofit expenses by raising retail fuel prices alone over a period of 10 to 15 years.

Unlike the colder fuel temperature dynamic in Canada, ATC devices would adjust for warmer fuel temperatures by slightly increasing the size of the gallon dispensed to California consumers (in cubic inches). The adjustment for the motorist would be approximately 1 percent for every 15 degree Fahrenheit increase in the temperature of gasoline greater than the reference standard of 60 degrees Fahrenheit. The slightly larger and variable sized gallons (in cubic inches) would

not have changed the total amount of fuel consumed in the state as measured in cubic inches, but would have reduced the actual number of net or adjusted gallons purchased by motorists.

If ATC had been in effect at retail gasoline stations during the study period, the quantity of net gasoline gallons sold would have been approximately 15.508 billion or about 117 million gallons less compared to status quo (no ATC at retail outlets) because the fuel was warmer (71.1 degrees Fahrenheit) than the 60 degree Fahrenheit reference standard.

Under the ATC scenario, the quantity of net diesel fuel gallons sold would have been approximately 3.037 billion or about 19 million gallons less compared to the status quo (no ATC at retail) of 3.056 billion because the fuel was also warmer (72.9 degrees Fahrenheit) than the 60 degree Fahrenheit reference standard.

The representative value of the reduced quantity of gallons that consumers would not have purchased if ATC had been in place at retail stations in California during the study period was calculated at about \$437.5 million (\$376.4 million for gasoline and about \$61.1 million for diesel fuel).

- *Would retail station owners charge the same price after ATC equipment began to dispense slightly larger sized gallons when fuel is warmer than the 60 degree Fahrenheit standard? If so, what would be the impact on the expected benefits of retail motorists?*

Owners of retail stations that sell fuel and non-fuel commodities (such as convenience stores) have increased flexibility to attempt incremental expense recovery by increasing prices for multiple goods (gasoline and foodstuffs) and/or services (car washes). But an owner of a retail station that only sells transportation fuels has less flexibility and can only attempt to pass along increased expenses by raising the price of fuel they sell. These types of retail stations are estimated to account for less than 20 percent of the gasoline and diesel fuel sales.

Comment [DS3]: Not clear how this paragraph is relevant to the question, especially given the paragraph that follows.

If one assumes that the industry of retail station owners and operators will continue to grow and remain profitable, the conclusion is that retail station owners will in fact raise their fuel prices to compensate for selling fewer units, all other things being equal. As such, expected benefits for retail motorists resulting from a conversion from gross to net gallon retail fuel transactions will be essentially zero.

- *If ATC was mandated, would the overall costs to businesses and governmental agencies to implement and oversee the program outweigh any potential benefits?*

The results of the ATC retrofit cost-benefit analysis (CBA) show net costs of between \$205 million to \$530 million over 20 years. If measured in terms of retail gallons of gasoline and diesel fuels, the CBA net costs would average between five hundredths (5/100) and 14 hundredths (14/100) of a cent per gallon over the same period.

- *If a new reference temperature was mandated, would the overall costs to businesses and governmental agencies to implement and oversee the program outweigh any potential benefits?*

The estimated costs of a new reference temperature and associated larger gallon size (in cubic inches) could amount to between \$9.0 million and \$27.9 million or from \$925 to \$2,879 per retail station. On a per-gallon basis these additional expenses incurred by retail station owners would equate to between five hundredths (5/100) and 15 hundredths (15/100) of a cent per gallon for only one year. After the modifications were completed, there would be no additional recurring costs for businesses or consumers.

Primary Recommendations

—Mandatory use of ATC at California retail stations should not be required if the *sole criteria* is that the net result of the cost-benefit analysis be positive (a net benefit to society).

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- The Legislature should consider whether the value of the public perception. Since the annual net costs to society are so low, less than two tenths (2/10) of a cent per gallon at most, it is recommended that the State's Legislature consider the value of increased fairness, accuracy, and consistency of fuel measurement, in addition to the benefits quantified in the cost-benefit analysis, justify mandating the when making a final determination regarding mandated use of ATC at California retail stations.

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- If the Legislature chooses to mandate the use of ATC at retail stations, two options are available: (1) require the simultaneous installation and activation of ATC devices at all retail stations, or (2) a phase-in approach, in which new and refurbished stations are required to install, but not activate, ATC devices over a five-year period. The remainder of retail stations would be required to install ATC devices during the fifth year, and all stations would activate their devices at the end of that year. Such a phase-in approach is the least-cost option for mandatory ATC, though it would still result in a net cost to society.

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- If the Legislature chooses to allow voluntary ATC, it should consider legislation requiring the California Division of Measurement Standards to develop standards addressing equipment approval, certification testing, compliance enforcement, consumer labeling, and timing provisions for voluntary ATC at retail stations. Until that process has been completed, it is recommended that the Legislature prohibit the use of ATC on a voluntary basis.

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- Establishing a new statewide reference temperature, or different regional reference temperatures for the state, would not successfully address temperature compensation at the

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retail level and is not recommended. The option of a new reference temperature not be pursued as a potential remedy to address temperature compensation at the retail level.

Areas for Further Research

Research in the following areas is recommended to supplement the cost-benefit analysis presented in this report.

- The value of the perceived fairness, accuracy, and consistency benefits of ATC to consumers, which was not included in this analysis, should be estimated through focus groups and survey methods that assess consumers' willingness to pay for such benefits.
- The value of increased price transparency associated with ATC, as calculated in this report, should be refined through further research on the fuel temperature variation between adjacent retail stations.

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From: Jim Page
To: Diana Schwyzer; Gordon Schremp; Mike Smith
CC: Susan Brown
Date: 1/27/2009 4:32 PM
Subject: Re: AB 868 report

I think we should still meet, at least briefly, so that any lingering concerns or uncertainties (if any) can be discussed. Thanks.

>>> Diana Schwyzer 1/27/2009 3:48 PM >>>

Gordon, Jim, Mike,

Commissioners Boyd and Douglas are pleased with the AB 868 report but would like to see the attached changes made to the Executive Summary. We have a meeting scheduled at 8:30 tomorrow to discuss these changes if necessary; please let us know if you feel that the meeting won't be needed.

Thanks,

Diana

From: Susan Brown
To: Diana Schwyzer
Date: 1/27/2009 11:48 AM
Subject: Re: Hot fuels
Attachments: Susan Brown.vcf

Commissioner Boyd approves this version of the recommendations in the Executive Summary. If Karen agrees, I would propose we share these comments with Staff by COB today. Could negate the need for our 8:30 meeting tomorrow (Wednesday).

Thank you, Diana, for responding to our concerns.--Susan

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>>> Diana Schwyzer 1/27/2009 9:42 AM >>>

OK, here it is again. Does this address your concerns? After I hear from you I will run it past Karen again.

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Diana

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From: Susan Brown
To: Diana Schwyzer
Date: 1/27/2009 3:39 PM
Subject: Re: Hot fuels

Just remove the reference to "highly speculative". Fine with us. Then send these changes as Committee changes to Jim Page, Gordon and Mike Smith. Okay with you? Susan

P.S. Meeting with Darren Bouton isn't happening. He's here with us at Cal EPA. Didn't have the meeting on his calendar. Better tell Karen

-----Original Message-----

From: Diana Schwyzer
To: Susan Brown <Sbrown@energy.state.ca.us>

Sent: 1/27/2009 2:20:09 PM
Subject: Re: Hot fuels

Thanks, Susan. Karen is fine with the changes except for one small detail: she feels that the "highly subjective" statement in the first bullet under "Areas for Further Research" sounds too negative, especially since we're recommending this as a useful line of inquiry. Can you think of a way to re-phrase this? I came up with a couple of options (see below) - let me know if you like either of these or have another suggestion.

· The value of the perceived fairness, accuracy, and consistency benefits of ATC to consumers has not yet been quantified and was not included in the cost-benefit analysis. Focus groups and survey methods should be used to estimate consumers' willingness to pay for such benefits.

· The value of the perceived fairness, accuracy, and consistency benefits of ATC to consumers, which was not included in this analysis, should be estimated through focus groups and survey methods that assess consumers' willingness to pay for such benefits.

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CC: Claudia Chandler
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To: Susan Brown <Sbrown@energy.state.ca.us>

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Mike.

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Related question: can you remind me when we promised to deliver the report to the legislature? Is the Feb 11 business meeting our last chance to meet the (extended) deadline?

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From: Diana Schwyzer
To: Karen Douglas
Date: 1/27/2009 11:57 AM
Subject: Hot fuels
Attachments: AB 868 Executive Summary DS2.doc

Commissioner Boyd had a few comments on our hot fuels language, and I made a few changes (see attached). He is satisfied with this version - what do you think?

EXECUTIVE SUMMARY

The issue of reduced volumes of gasoline or diesel when distributed at high temperature, or "hot fuel," is not new. It is, however, a controversial subject that has created strong and divergent opinions. Some stakeholders believe that if temperature compensation was practiced at retail stations, motorists that purchase fuel at retail stations would realize significant monetary benefits in the warmer areas of the United States. Other stakeholders representing business interests believe that the costs to retail station owners will be significant.

This national debate has continued for several years but without any analysis being performed to determine if automatic temperature compensation (ATC) at retail stations would be a net benefit to retail motorists. As a result of these activities and the lack of analysis, in October 2007 the California Legislature passed and the Governor signed Assembly Bill 868 (Davis), which directed the Energy Commission to conduct a cost-benefit analysis.

This report quantifies the benefits and costs associated with temperature compensation for retail sales of gasoline and diesel fuels in California. The cost-benefit analysis results are negative (net cost to society) under all options examined, but when quantified in terms of cents per gallon the results are small. Further, it is unlikely that there are any plausible circumstances whereby some consumers could realize a small net benefit of ATC at retail in California. The estimated annual recurring net costs to society, if completely passed through to consumers, could amount to between two-hundredths (2/100) and 18 hundredths (18/100) of a cent per gallon.

The primary issues associated with the ATC debate can best be characterized in a series of questions that follow in a summary of this report.

- *If temperature compensation has been instituted for most wholesale transactions for purposes of removing the inequity of temperature variations from financial transaction, why has that practice not extended all the way to the California retail consumer?*

Hawaii is the only state in the nation that has adopted a form of temperature compensation at retail outlets. This occurred when the state increased the size of their gallon from the U.S. standard of 231 cubic inches to a larger Hawaiian gallon of about 233 cubic inches. Canada, too, has adopted regulations and standards for ATC at retail. Even though ATC at retail is voluntary in Canada, more than 90 percent of the retail stations have converted to using the equipment. Most of the time in Canada, the temperature of the fuel is colder than the reference standard of 60 degrees Fahrenheit. The ATC dispensers compensate for colder fuel temperatures by decreasing the average size of the liter dispensed to motorists in that country.

No retail station operator has elected to install ATC-ready dispensers in California, and it is unclear whether the voluntary use of Permissive (voluntary) use of automatic temperature

compensation (ATC) devices at California retail stations is already permitted under California law as it is not specifically prohibited. Although no retail station operator has elected to install ATC-ready dispensers in California, if such a decision was made, there would be business costs similar to the ones discussed below for the mandated ATC option. Also, there could be some difficulties due to lack of operational and enforcement standards, inspection procedures, and labeling provisions.

- *Is the temperature of gasoline and diesel fuel sold to California consumers warmer, on average, than the 60 degree Fahrenheit reference standard?*

California is considered a warmer state regarding fuel temperature at retail stations. Based on the results of a recent survey of retail stations, the average temperature of regular grade gasoline during the base period from April 2007 through March 2008 was about 71 degrees Fahrenheit. Diesel fuel was a little warmer with an average temperature of nearly 73 degrees Fahrenheit.

- *If ATC was mandated at retail stations in California, how would businesses and consumers be affected?*

California retail station owners would experience additional expenses for the ATC retrofit equipment and slightly higher inspection fees. California retail motorists are expected to receive slightly larger gallons (as measured in cubic inches) that vary in size with changes in temperature. The perceived benefit to some stakeholders would be the value of the reduced number of gallons purchased each year, assuming retail station owners do not increase prices in response to selling fewer units. California retail motorists are also expected to receive an additional benefit due to increased price transparency, estimated at approximately \$258,000 per year.

California businesses would be required to have new electronic components installed in their fuel dispensers at a total initial cost of between \$103.8 million and \$127.4 million, or between \$10,704 and \$13,136 per retail outlet. Recurring costs for more expensive ATC-ready dispensers, maintenance, and higher inspection fees would amount to between \$7.4 million and \$20.6 million per year. The initial ATC retrofit costs in combination with the recurring annual expenses would average between eight hundredths (8/100) and 18 hundredths (18/100) of a cent per gallon, assuming retail station owners pass along all of the retrofit expenses by raising retail fuel prices alone over a period of 10 to 15 years.

Unlike the colder fuel temperature dynamic in Canada, ATC devices would adjust for warmer fuel temperatures by slightly increasing the size of the gallon dispensed to California consumers (in cubic inches). The adjustment for the motorist would be approximately 1 percent for every 15 degree Fahrenheit increase in the temperature of gasoline greater than the reference standard of 60 degrees Fahrenheit. The slightly larger and variable sized gallons (in cubic inches) would

EXECUTIVE SUMMARY

Executive Summary

Comment [DS1] All revised this paragraph to be consistent with our position on this issue as stated later in the paper.

Executive Summary

Executive Summary

Comment [DS2] I recommend dropping this sentence since we are NOT assuming that station owners wouldn't increase prices.

not have changed the total amount of fuel consumed in the state as measured in cubic inches, but would have reduced the actual number of net or adjusted gallons purchased by motorists.

If ATC had been in effect at retail gasoline stations during the study period, the quantity of net gasoline gallons sold would have been approximately 15.508 billion or about 117 million gallons less compared to status quo (no ATC at retail outlets) because the fuel was warmer (71.1 degrees Fahrenheit) than the 60 degree Fahrenheit reference standard.

Under the ATC scenario, the quantity of net diesel fuel gallons sold would have been approximately 3.037 billion or about 19 million gallons less compared to the status quo (no ATC at retail) of 3.056 billion because the fuel was also warmer (72.9 degrees Fahrenheit) than the 60 degree Fahrenheit reference standard.

The representative value of the reduced quantity of gallons that consumers would not have purchased if ATC had been in place at retail stations in California during the study period was calculated at about \$437.5 million (\$376.4 million for gasoline and about \$61.1 million for diesel fuel).

- *Would retail station owners charge the same price after ATC equipment began to dispense slightly larger sized gallons when fuel is warmer than the 60 degree Fahrenheit standard? If so, what would be the impact on the expected benefits of retail motorists?*

Owners of retail stations that sell fuel and non-fuel commodities (such as convenience stores) have increased flexibility to attempt incremental expense recovery by increasing prices for multiple goods (gasoline and foodstuffs) and/or services (car washes). But an owner of a retail station that only sells transportation fuels has less flexibility and can only attempt to pass along increased expenses by raising the price of fuel they sell. These types of retail stations are estimated to account for less than 20 percent of the gasoline and diesel fuel sales.

If one assumes that the industry of retail station owners and operators will continue to grow and remain profitable, the conclusion is that retail station owners will in fact raise their fuel prices to compensate for selling fewer units, all other things being equal. As such, expected benefits for retail motorists resulting from a conversion from gross to net gallon retail fuel transactions will be essentially zero.

- *If ATC was mandated, would the overall costs to businesses and governmental agencies to implement and oversee the program outweigh any potential benefits?*

The results of the ATC retrofit cost-benefit analysis (CBA) show net costs of between \$205 million to \$530 million over 20 years. If measured in terms of retail gallons of gasoline and diesel fuels, the CBA net costs would average between five hundredths (5/100) and 14 hundredths (14/100) of a cent per gallon over the same period.

Comment [DS3]: Not clear how this paragraph is relevant to the question, especially given the paragraph that follows.

- *If a new reference temperature was mandated, would the overall costs to businesses and governmental agencies to implement and oversee the program outweigh any potential benefits?*

The estimated costs of a new reference temperature and associated larger gallon size (in cubic inches) could amount to between \$9.0 million and \$27.9 million or from \$925 to \$2,879 per retail station. On a per-gallon basis these additional expenses incurred by retail station owners would equate to between five hundredths (5/100) and 15 hundredths (15/100) of a cent per gallon for only one year. After the modifications were completed, there would be no additional recurring costs for businesses or consumers.

Primary Recommendations

—Mandatory use of ATC at California retail stations should not be required if the *sole criteria* is that the net result of the cost-benefit analysis be positive (a net benefit to society).

- The Legislature should consider whether the value of the public perception. Since the annual net costs to society are so low, less than two tenths (2/10) of a cent per gallon at most, it is recommended that the State's Legislature consider the value of increased fairness, accuracy, and consistency of fuel measurement, in addition to the benefits quantified in the cost-benefit analysis, justify mandating the when making a final determination regarding mandated use of ATC at California retail stations.
- If the Legislature chooses to mandate the use of ATC at retail stations, two options are available: (1) require the simultaneous installation and activation of ATC devices at all retail stations; or (2) a phase-in approach, in which new and refurbished stations are required to install, but not activate, ATC devices over a five-year period. The remainder of retail stations would be required to install ATC devices during the fifth year, and all stations would activate their devices at the end of that year. Such a phase-in approach is the least-cost option for mandatory ATC, though it would still result in a net cost to society.
- If the Legislature chooses to allow voluntary ATC, it should consider legislation requiring the California Division of Measurement Standards to develop standards addressing equipment approval, certification testing, compliance enforcement, consumer labeling, and timing provisions for voluntary ATC at retail stations. Until that process has been completed, it is recommended that the Legislature prohibit the use of ATC on a voluntary basis.
- Establishing a new statewide reference temperature, or different regional reference temperatures for the state, would not successfully address temperature compensation at the

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retail level and is not recommended. The option of a new reference temperature not be pursued as a potential remedy to address temperature compensation at the retail level.

Areas for Further Research

Research in the following areas is recommended to supplement the cost-benefit analysis presented in this report.

- The value of the perceived fairness, accuracy, and consistency benefits of ATC to consumers, which is highly subjective and was not included in this analysis, should be estimated through focus groups and survey methods that assess consumers' willingness to pay for such benefits.
- The value of increased price transparency associated with ATC, as calculated in this report, should be refined through further research on the fuel temperature variation between adjacent retail stations.

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From: Diana Schwyzer
To: Susan Brown
Date: 1/27/2009 2:20 PM
Subject: Re: Hot fuels

Thanks, Susan. Karen is fine with the changes except for one small detail: she feels that the "highly subjective" statement in the first bullet under "Areas for Further Research" sounds too negative, especially since we're recommending this as a useful line of inquiry. Can you think of a way to re-phrase this? I came up with a couple of options (see below) - let me know if you like either of these or have another suggestion.

- The value of the perceived fairness, accuracy, and consistency benefits of ATC to consumers has not yet been quantified and was not included in the cost-benefit analysis. Focus groups and survey methods should be used to estimate consumers' willingness to pay for such benefits.

- The value of the perceived fairness, accuracy, and consistency benefits of ATC to consumers, which was not included in this analysis, should be estimated through focus groups and survey methods that assess consumers' willingness to pay for such benefits.

>>> Susan Brown 1/27/2009 11:48 AM >>>

Commissioner Boyd approves this version of the recommendations in the Executive Summary. If Karen agrees, I would propose we share these comments with Staff by COB today. Could negate the need for our 8:30 meeting tomorrow (Wednesday).

Thank you, Diana, for responding to our concerns.--Susan

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>>> Diana Schwyzer 1/27/2009 9:42 AM >>>

OK, here it is again. Does this address your concerns? After I hear from you I will run it past Karen again.

Thanks,
Diana

From: Susan Brown
To: Diana Schwyzer
Date: 1/27/2009 2:00 AM
Subject: Re: Hot fuels again
Attachments: Susan Brown.vcf

Hi, Diana. I talked with Jim and he wants a slightly different approach to these recommendations in the Executive Summary. His recollection of what he and Karen agreed is different than the ones you present here. I suggest you and I meet with Staff, after we've had a chance to talk. Some of the new recommendations you added under Areas for Further Research aren't supported in the text of the report....

This is unfortunately now on the critical path.
Please stop by when you can.

Susan

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>>> Diana Schwyzer 1/26/2009 9:56 AM >>>

Hi Susan,
Here's the Exec Summary again, with Karen's final comments incorporated (the bullets look weird in track changes, but it's right when you look at final view).
Diana

From: Diana Schwyzer
To: Gordon Schremp; Jim Page; Mike Smith
CC: Susan Brown
Date: 1/27/2009 3:48 PM
Subject: AB 868 report
Attachments: AB 868 Executive Summary 01-27-09.doc

Gordon, Jim, Mike,
Commissioners Boyd and Douglas are pleased with the AB 868 report but would like to see the attached changes made to the Executive Summary. We have a meeting scheduled at 8:30 tomorrow to discuss these changes if necessary; please let us know if you feel that the meeting won't be needed.
Thanks,
Diana

From: Susan Brown
To: Diana Schwyzer, Gordon Schremp, Jim Page
Date: 1/27/2009 8:26 AM
Subject: Meet to Today 4:00

I am available at 4:00 today to discuss comments on Committee Draft of the Hot Gas Study. If you want to meet please send Dian and me an appointment request. If this doesn't work, contact Marlena to find us a time. Susan

From: Gordon Schremp
To: Jim Page
Date: 1/27/2009 8:33 AM
Subject: Fw: AB 868 Status
Attachments: Re: AB 868 Status

Jim:

There will not be any meeting today because both Susanne and I are out of the office. Would be happy to meet with Susan and Diana some time on Wednesday to go over the proposed recommendations and suggested modifications. But any such meeting will have to include Susanne who will ultimately be crafting the media messages and red flag language.

With regard to the "schedule". We covered that ground during yesterday's preliminary agenda review. Claudia, Bill Chamberlan, and Susanne are OK with a Monday COB release and don't see any problem meeting that target if we have revised language from the Commissioners by COB Wednesday. As far as I am concerned, we remain on track to providing a final report to the Legislature as promised on February 12th.

That's all for now,

Gordon
This message was sent from a Blackberry.

From: Susan Brown
To: Diana Schwyzer; Gordon Schremp
CC: Jim Page; Mike Smith; Nick Janusch; Sherry Stoner; Susanne Garfield
Date: 1/28/2009 2:00 PM
Subject: Re: AB 868 - Revised Executive Summary
Attachments: Susan Brown.vcf

I'm fine with Gordon's additional changes and clarifications. If Diana agrees, let the editing begin, Susanne.---Susan

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Thanks,

Gordon

From: Gordon Schremp
To: Diana Schwyzer; Susan Brown
CC: Jim Page; Mike Smith; Nick Janusch; Sherry Stoner; Susanne Garfield
Date: 1/28/2009 6:12 PM
Subject: Re: AB 868 - Revised Executive Summary

Diana, et al:

Incorporated your latest edits into the master document that is now circulating for review. Jim Page and I have signed off and the hard copy is with Mike Smith. Thanks so much for everyone's quick and thorough review. Greatly appreciate your timely efforts to help move the report closer to release.

Regards,

Gordon

>>> Diana Schwyzer 1/28/2009 5:41 PM >>>

I made a couple of very minor grammatical changes to the recommendations; otherwise, it looks good to me!

>>> Susan Brown 1/28/2009 2:00 PM >>>

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Date: 1/28/2009 2:31 PM
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Susan:

Thanks for the quick review, greatly appreciated!

Gordon

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From: Susanne Garfield
To: Diana Schwyzer, Gordon Schremp, Susan Brown
CC: Jim Page, Nick Janusch, Sherry Stoner, Mike Smith, Claudia Chandler
Date: 1/28/2009 5:43 PM
Subject: Re: AB 868 - Revised Executive Summary

Great. Gordon slap that cec 5 on a copy and let's move this through. S

Susanne Garfield
Assistant Executive Director
Media and Communications
916-654-4989

-----Original Message-----

From: Diana Schwyzer
To: Gordon Schremp <Gschremp@energy.state.ca.us>
Cc: Jim Page <Jpage@energy.state.ca.us>
Cc: Nick Janusch <Njanusch@energy.state.ca.us>
To: Susan Brown <Sbrown@energy.state.ca.us>
Cc: Sherry Stoner <Sstoner@energy.state.ca.us>
Cc: Mike Smith <Msmith@energy.state.ca.us>
Cc: Susanne Garfield <Sgarfiel@energy.state.ca.us>

Sent: 1/28/2009 5:41:47 PM
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Subject: Re: AB 868 - Revised Executive Summary

Diana, et al:

Incorporated your latest edits into the master document that is now circulating for review. Jim Page and I have signed off and the hard copy is with Mike Smith. Thanks so much for everyone's quick and thorough review. Greatly appreciate your timely efforts to help move the report closer to release.

Regards,

Gordon

>>> Diana Schwyzer 1/28/2009 5:41 PM >>>

I made a couple of very minor grammatical changes to the recommendations; otherwise, it looks good to me!

>>> Susan Brown 1/28/2009 2:00 PM >>>

I'm fine with Gordon's additional changes and clarifications. If Diana agrees, let the editing begin, Susanne.---Susan

Susan J. Brown
Special Advisor to Commissioner Boyd
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814-5512
E-mail: sbrown@energy.state.ca.us
Tel. (916) 654-4741
Fax (916) 653-1279

>>> Gordon Schremp 1/28/2009 1:54 PM >>>

Susan and Diana:

Please see the attached file for a revised copy of the AB 868 Executive Summary. It would be best to read all four pages since some of the text was reorganized, along with some additional language and deletions. Let me know if you would like to incorporate any additional modifications before we update the master document.

Thanks,

Gordon

From: Gordon Schremp
To: Jim Boyd; Karen Douglas
CC: Arthur Rosenfeld; Chris Marxen; Claudia Chandler; David Hungerford; ...
Date: 1/30/2009 4:56 PM
Subject: AB 868 - Final Report On Line
Attachments: CEC-600-2009-002-CTF rev.pdf

Commissioners Boyd and Douglas:

I would like to thank everyone for their rapid review and closure that allowed us to post the report on line this afternoon. We look forward to the Business Meeting on February 11th. Staff will try and identify the number of stakeholders who would like to make comment on the item and convey that tally prior to the meeting. I have attached a copy of the report. In the meantime, please let me know if you have any questions.

Regards,

Gordon

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Regards,

Gordon

From: Gordon Schremp
To: Karen Douglas
CC: Diana Schwyzer; Galen Lemei; Jim Boyd; Jim Page; Mike Smith; Nick J...
Date: 2/3/2009 3:30 PM
Subject: Re: AB 868 - Final Report On Line

Commissioner Douglas:

So far the feedback we have received via emails and phone calls is positive, mostly compliments on the overall quality of the document. There are at least four stakeholders who plan on making formal comments to the record:

California Independent Oil Marketers Association (CIOMA)
Representative of the oil companies (TBD)
Los Angeles Agriculture Commissioner (Kurt Floren)
Advocation, Inc. (folks behind the ATC class action lawsuits)

The last group has two main issues important to them. The first is permissive use of ATC at retail. They wanted to understand why our earlier documents inferred that permissive use of ATC at retail was OK in California, but is now characterized as being in dispute in the final report. I informed them that the modifications to the document more accurately reflect the current debate based on information provided at the December 9th workshop by two law firms. The main purpose of the report is not for the Energy Commission to render a legal opinion on permissive use of ATC at retail stations for gasoline and diesel fuel. The courts, legislature and DMS are the parties that should be closely involved in addressing that issue.

Second topic of interest was the staff conclusion that the retail market is perfectly competitive and that all costs will be completely recovered. These folks are trying to show in their class action lawsuit that the retail station operators are making excessive profits (in the warmer states) and that they may not be completely successful in recovering expenses. I told them that we did not examine the issue involving current level of profitability by retail station owners. However, we believe the retail industry is operating in a competitive environment and we assume that the industry will remain profitable over the long-term. Therefore, it was assumed that in aggregate the industry is expected to be able to pass through any capital expenditures, completely.

They also raised an interesting hypothetical during this morning's conference call, namely the possibility that a large oil company would announce a "settlement" associated with the current class-action ATC lawsuits that involves the company installing ATC devices at all of their stations in the United States, including California. They asked us how the Commissioners would respond to such information. I told them that staff does not speak for the Commissioners.

Don't know if this was a trail balloon floated by these folks, but thought you should be informed that it is possible that this point might be raised during discussion of the agenda item. Ultimately, however, the Energy Commission does not regulate the sale of gasoline and diesel fuel. Rather, the Division of Measurement Standards (DMS) is the appropriate state agency who develops regulations from legislation for enforcement of ATC at retail, even if necessitated by a hypothetical class action lawsuit settlement.

Please let me know if you have any questions regarding the above information. We will continue to dialogue with various stakeholders and provide you with an updated number of possible speakers for the February 11th business meeting.

Regards,

Gordon

>>> Karen Douglas 2/2/2009 10:23 AM >>>
Thank you and good work on this. any feedback to far?

>>> Gordon Schremp 01/30/09 4:56 PM >>>

Commissioners Boyd and Douglas:

I would like to thank everyone for their rapid review and closure that allowed us to post the report on line this afternoon. We look forward to the Business Meeting on February 11th. Staff will try and identify the number of stakeholders who would like to make comment on the item and convey that tally prior to the meeting. I have attached a copy of the report. In the meantime, please let me know if you have any questions.

Regards,

Gordon

From: Chris Marxen
To: Susan Brown
Date: 2/10/2009 8:18 AM
Subject: Re: Hot Gas Study

I notified them 2 weeks ago. I am now letting them know about the change in dates for the business meeting.

>>> Susan Brown 2/10/2009 8:17 AM >>>

Per Jim, will you please notify the author of SB 868 that our study is essentially complete, is now available in the CEC web page, and will be ratified by the full Commission at our Feb 25 Business Meeting. I believe the deadline for this legislatively mandated study is Feb 12, but you should check this date. Thank you, Chris. Susan

From: Mike Smith
To: Susan Brown, gsmith@ecofor.org, Jim Page
Date: 2/10/2009 2:08 PM
Subject: Re: Request for Information

Jim, Gordon

Do we have this info? How quickly can we provide to Jim?

Mike.

-----Original Message-----

From: Susan Brown
To: Gordon Smith <gsmith@ecofor.org>
To: Jim Page <jpage@energy.state.ca.us>
To: Mike Smith <msmith@energy.state.ca.us>

Sent: 2/10/2009 2:06:31 PM
Subject: Request for Information

Hi, Mike, Jim, and Gordon. Jim is requesting the following information for his use at the February 25 Business Meeting. Can we aim for COB Thursday, February 19? These are Jim's words below.

First, we need data/facts on oil industries' exact ownership of CA stations, and who other owners are as well, e.g., private owner-dealers, independent dealer co's, etc. What costs to each sector would be if ATC were required? In other words, don't major oil companies only control less than 10 percent of the retail service stations in California.

Second, Jim recalls a 2005 study by U.C. Berkeley that indicated the oil industry, at that time, owned between 5 & 10 percent of CA retail stations, closer to 5 percent, and with the trend to dispose, I imagine now its 5 or less. Isn't the trend to shed company ownership of retail stations?

Please let me know if you have any questions.---Susan

Susan J. Brown
Special Advisor to Commissioner Boyd
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1516 Ninth Street
Sacramento, CA 95814-5512
E-mail: sbrown@energy.state.ca.us
Tel. (916) 654-4741
Fax (916) 653-1279

From: Susan Brown
To: Gordon Schremp; Jim Page; Mike Smith
Date: 2/10/2009 3:31 PM
Subject: Request for Information--Resent
Attachments: Susan Brown.vcf

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Please let me know if you have any questions.---Susan

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Tel. (916) 654-4741
Fax (916) 653-1279

From: Gordon Schremp
To: Susan Brown
CC: Alan Mattes; Jim Page; Keith O'Brien; Mike Smith
Date: 2/13/2009 12:56 PM
Subject: Re: Request for Information--Resent
Attachments: Retail Station Overview 02-13-09.doc

Susan:

We are still working on our analysis of the A15 California retail outlet survey information to determine what portion of the major oil companies' branded retail outlets fall under the "company-owned and operated" category. In the meantime, I wanted to provide you and Jim with some retail station ownership factoids for the United States. Jim is correct in his assumption that ownership and operation by big oil is declining, based on data obtained from a couple of different sources. In addition, some of the majors have either completely exited the ownership and operation of retail outlets (such as ConocoPhillips) or have indicated plans to do so over the next couple of years (BP and ExxonMobil). After you have had a chance to review the attached document, please let us know if you have any follow-up questions. With regard to the A15 data analysis, we hope to have something by the end of next week.

Regards,

Gordon

>>> Susan Brown 2/10/2009 3:31 PM >>>

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From: Diana Schwyzer
To: Susan Brown
Date: 2/19/2009 7:16 PM
Subject: Re: SB 868 Hot Gas Study

Thanks, Susan! Does Jim prefer to stick with next week, or push to the next business meeting?

>>> Susan Brown 2/19/2009 3:05 PM >>>

Hi, Diana. Karen asked Jim what the consequence of an additional two-week delay for Commissioner adoption of the Hot Gas Study, required under SB 868 (Davis).

I checked with Gordon, and he reminded me that this legislatively mandated study was originally due on December 31, 2008, but that the Energy Commission asked Assemblyman Davis and was granted a time extension to February 12, 2009, so that the required retail station surveys could be completed. CIOMA is the bill's sponsor, by the way.

We're not convinced that an additional two-week delay will be all that harmful, since Chris Marxen has already notified the author's office that the study is essentially complete, has been web posted and made publicly available.

As a practical matter, Karen and Jim need to decide no later than Monday if they plan to delay the adoption, so that parties would plan to travel from the East Coast to Sacramento, have adequate notice. If we decide to delay, I'll ask Chris Marxen to advise the author's office on Monday.

Susan

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Fax (916) 653-1279

From: Gordon Schremp
To: Jim Boyd
CC: Mike Smith, Jim Page, Nick Janusch, Susan Brown
Date: 2/20/2009 12:57 PM
Subject: ATC Costs

Jim:

Per your question to Mike regarding ATC costs, here is a brief summary.

Total retrofit costs per retail station averaged between \$10,704 and \$13,136. These costs include equipment, labor, financing and incremental inspection fees. Pages 139 and 140 of the final report contain a county-specific breakdown of these average retail station retrofit costs.

Average cost to retrofit an individual fuel dispenser varies by type (mechanical or electronic), number of fuel types, and whether or not mid-grade is blended at the dispenser. The equipment costs for electronic fuel dispensers range between \$1,422 and \$2,426 per dispenser, excluding the cost of labor. Mechanical dispenser retrofit kit costs run between \$3,183 and \$3,997 per dispenser, excluding labor. Those figures are contained in Table 5 on page 60 of the final report.

The estimated labor costs vary in terms of hourly rates, number of hours to perform the work and the number of technicians. The low estimate is about \$925 per typical station assuming \$60 per hour, two technicians and 1.5 hours of labor (about 4 dispensers per retail location).

The higher labor estimate works out to be about \$2,879 per retail station, assuming a wage rate of \$70 per hour, two technicians, and four hours of labor per dispenser. These labor estimates and associated footnotes are described on pages 62 and 63 of the final report.

Let me know if you have any additional questions.

Thanks,

Gordon
This message was sent from a Blackberry.

From: Gordon Schremp
To: Jim Boyd
CC: Jim Page, Mike Smith, Nick Janusch, Susan Brown
Date: 2/20/2009 1:10 PM
Subject: Re: Hot gas study

Jim:

The incremental costs of a new ATC-ready fuel dispenser is assumed to be the cost of a retrofit kit for an electronic dispenser for either 3 (all three grades of gasoline) or 4 (all three grades of gasoline plus diesel fuel) fuel types. The mid-grade gasoline for these new dispensers is assumed to be blended at the nozzle.

As such, the incremental costs for an ATC-ready dispenser is estimated to be between \$1,700 and \$2,426 each. No additional costs for labor would be included since the devices are already assembled at the factory using different components.

Your other question regarding retrofit costs should have been addressed in my earlier email. After you have had a chance to look over this information, please let me know if there are any other questions.

Take Care,

Gordon

This message was sent from a Blackberry.

-----Original Message-----

From: Jim Boyd
To: Gordon Schremp <Gschremp@energy.state.ca.us>
To: Jim Page <Jpage@energy.state.ca.us>

Sent: 2/20/2009 12:47:35 PM
Subject: Hot gas study

Gentlemen - will you please tell me what we estimated the per dispenser cost of adding ATC devices to dispensers to be? And did we have different cost for retrofitting vs incremental cost of a new dispenser with ATC???

From: Jim Boyd
To: Gordon Schrepf
Date: 2/20/2009 1:14 PM
Subject: Fw: 2/25 Business MTV Agenda
Attachments: 2/25 Business MTV Agenda

FYI

From: Jim Boyd
To: Mike Smith, Charles Mizutani, Jim Page
CC: Melissa Jones, Claudia Chandler, Susan Brown, Kelly Birkinshaw
Date: 2/20/2009 12:41 PM
Subject: 2/25 Business MTV Agenda

The "hot gas" report is to be postponed until the next Commission business meeting, 3/11.

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CC: Jim Page, Mike Smith, Nick Janusch, Susan Brown
Date: 2/20/2009 1:10 PM
Subject: Re: Hot gas study

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To: Jim Page <Jpage@energy.state.ca.us>

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Subject: Hot gas study

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From: Claudia Chandler
To: Jim Boyd, Charles Mizutani, Jim Page, Mike Smith
CC: Kelly Birkinshaw, Melissa Jones, Susan Brown
Date: 2/20/2009 5:16 PM
Subject: Re: 2/25 Business MTV Agenda

I have directed Bob to send notices out to the list server.

Claudia Chandler
Chief Deputy Executive Director
California Energy Commission
(Sent via Blackberry)

-----Original Message-----

From: Jim Boyd
To: Charles Mizutani <Cmizutan@energy.state.ca.us>
To: Jim Page <Jpage@energy.state.ca.us>
Cc: Kelly Birkinshaw <Kbirkins@energy.state.ca.us>
Cc: Melissa Jones <Mjones@energy.state.ca.us>
Cc: Susan Brown <Sbrown@energy.state.ca.us>
Cc: Claudia Chandler <Cchandle@energy.state.ca.us>
To: Mike Smith <Msmith@energy.state.ca.us>

Sent: 2/20/2009 12:41:25 PM
Subject: 2/25 Business MTV Agenda

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Thanks,

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From: Jim Boyd
To: Jim Page, Gordon Schremp
Date: 2/20/2009 12:48 PM
Subject: Hot gas study

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From: Jim Page
To: Gordon Schremp, Nick Janusch
CC: Mike Smith
Date: 2/20/2009 11:21 AM
Subject: Fw: Hot gas study
Attachments: Fw: Hot gas study

Gordon, can you respond to this qn from Jim?

From: Mike Smith
To: Jim Page
Date: 2/20/2009 11:16 AM
Subject: Fw: Hot gas study
Attachments: Hot gas study

????

From: Jim Boyd
To: Mike Smith
Date: 2/20/2009 10:01 AM
Subject: Hot gas study

Mike - do you recall what we said the cost (I assume per dispenser) would be to install on existing or have included on new dispensers was?

From: Jim Boyd
To: Jim Page, Gordon Schremp
Date: 2/20/2009 12:48 PM
Subject: Hot gas study

Gentlemen - will you please tell me what we estimated the per dispenser cost of adding ATC devices to dispensers to be? And did we have different cost for retrofitting vs incremental cost of a new dispenser with ATC???

From: Susan Brown
To: Gordon Schremp
CC: Jim Page
Date: 2/22/2009 8:05 AM
Subject: Fw: TRANSPORTATION-LIST: Item On Business Meeting Postponed
Attachments: TRANSPORTATION-LIST: Item On Business Meeting Postponed

Hi, Gordon. Better notify the parties! Jim confirmed he still needs the California retail data. Susan

From: Gordon Schremp
To: Susan Brown
CC: Jim Page, Nick Janusch, Andre Freeman, Keith O'Brien, Alan Mattes
Date: 2/22/2009 10:06 AM
Subject: Re: TRANSPORTATION-LIST: Item On Business Meeting Postponed

Susan:

Thanks, I will notify the various stakeholders that we are on for the March 11 business meeting. Yes, we are working on the A15 data analysis and the preliminary results from the 2007 data suggest a "company owned and operated" percentage higher than the national average (much higher). So we want to re-examine the data to better understand the underlying causes of the difference before finalizing the figures.

Regards,

Gordon

This message was sent from a Blackberry.

-----Original Message-----

From: Susan Brown

To: Gordon Schremp <Gschremp@energy.state.ca.us>

Cc: Jim Page <Jpage@energy.state.ca.us>

Sent: 2/22/2009 8:05:52 AM

Subject: Fw: TRANSPORTATION-LIST: Item On Business Meeting Postponed

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CC: Jim Page, Nick Janusch, Andre Freeman, Keith O'Brien, Alan Mattes
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From: Gordon Schremp
To: Susan Brown
CC: Alan Mattes; Andre Freeman; Jim Page; Keith O'Brien; Nick Janusch
Date: 2/27/2009 2:44 PM
Subject: CA Retail Stations - Company Owned and Operated

Susan:

We have reviewed the data from our Annual Retail Outlet survey forms (A-15) from 2007 and have determined that the percentage of retail stations that are "company owned and operated" is in the range of 5 to 11 percent of total. However, we believe that these figures are too high because an unknown portion of the franchisee/leasee folks were incorrectly reporting that they were a company owned and operated retail outlet. It would probably be safe to say that the company direct ownership and operation is a bit higher in California, but not as high as these raw figures suggest. Let me know if you have any follow-up questions.

Thanks,

Gordon

From: Susan Brown
To: Gordon Schremp
Date: 2/27/2009 2:45 PM
Subject: Re: CA Retail Stations - Company Owned and Operated
Attachments: Susan Brown.vcf

Great, thanks.--Susan

Susan J. Brown
Special Advisor to Commissioner Boyd
California Energy Commission
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Sacramento, CA 95814-5512
E-mail: sbrown@energy.state.ca.us
Tel. (916) 654-4741
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>>> Gordon Schremp 2/27/2009 2:44 PM >>>
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Thanks,

Gordon

From: Susan Brown
To: Gordon Home; Gordon Schremp
CC: Jim Page
Date: 2/27/2009 1:57 AM
Subject: California Retail Station Statistics
Attachments: Susan Brown.vcf

Hi,Gordon. I'm hoping to close the loop with you today or Monday on Jim's request for information. He's looking for the approximate percentage of major oil company owned stations in California, as a percentage of total retail stations in California. Not an exhaustive study, just an estimate. Could we have this information by Monday?

Also, I've asked Bill Chamberlain to review the proposed language changes that the two attorneys (in the meeting with Chuck Cole) requested we consider in our recent meeting. He and Gaylon should be working with Staff to make recommendations back to the Transportation Committee very soon. Melissa is concerned that if we make changes to the hot gas study, the report would need to be reissued at least one week before the March 11 Business Meeting. The Committee awaits your recommendations on any proposed language changes.

Call me or stop by if you want to discuss.---Susan

Susan J. Brown
Special Advisor to Commissioner Boyd
California Energy Commission
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Sacramento, CA 95814-5512
E-mail: sbrown@energy.state.ca.us
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From: Susan Brown
To: Nick Janusch
CC: Peter Ward
Date: 2/28/2008 5:26 PM
Subject: Re: March 4th: AB 868 Fuel Delivery Temperature Study Workshop
Attachments: Susan Brown.vcf

Thank you, Nick. Commissioner Boyd and I are traveling Tuesday...maybe Peter can stop by?
Susan

Susan J. Brown
Special Advisor to Commissioner Boyd
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814-5512
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Fax (916) 653-1279

>>> Nick Janusch 2/28/2008 3:09 PM >>>
Transportation Committee Commissioners and Advisors-

I wanted to let you know that we are having our second AB 868 Fuel Delivery Temperature Study staff workshop this Tuesday, March 4th. I have attached the meeting notice and agenda and in case you might want to follow the workshop on the commission's webcast or come down in person we are currently preparing binders for you with all the materials that will be used in the workshop. Our next workshop is scheduled June 5th.

Please let me know if you have any questions.

-Nick

Nicholas R. Janusch
Energy Analyst, Fossil Fuels
1516 9th Street, MS 41
Sacramento, CA 95814
(916) 651-0483
njanusch@energy.state.ca.us

From: Nick Janusch
To: Jim Boyd; Karen Douglas; Peter Ward; Susan Brown; Suzanne Korosec
CC: Charles Mizutani; Gordon Schremp; Jennifer Williams; Jim Page; Mike ...
Date: 2/28/2008 3:09 PM
Subject: March 4th: AB 868 Fuel Delivery Temperature Study Workshop
Attachments: CEC NOTICE - MARCH AB 868 WORKSHOP.pdf; 868 Staff Workshop Agenda March 2008.doc

Transportation Committee Commissioners and Advisors-

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(916) 651-0483
nianusch@energy.state.ca.us

From: Susan Brown
To: Mike Smith
CC: Gordon Schremp; Jim Page
Date: 3/3/2009 9:59 AM
Subject: Hot Gas Study--Staff Errata?
Attachments: Susan Brown.vcf

Hi, Mike. Gordon and Nick stopped by last week to review with me the proposed language changes presented in a recent meeting with Chuck Cole and Associations and the class action attorneys that were present.

Also, I've asked Bill Chamberlain to work with Gaylon in the Legal Office to review the proposed language changes (relating to the legal issues surrounding voluntary ATC) and to provide input to the Transportation Committee. These two reviews need to be coordinated, and any proposed errata posed by no later than Wednesday, March 4 (one week prior to the March 11 Business Meeting).

What is staff's recommendation: errata or not? Can you please let us know by tomorrow?

Thank you in advance.---Susan

Susan J. Brown
Special Advisor to Commissioner Boyd
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Tel. (916) 654-4741
Fax (916) 653-1279

From: Gordon Schremp
To: Diana Schwyzer; Susan Brown
CC: Galen Lemei; Jim Page; Mike Smith; Nick Janusch; Susanne Garfield
Date: 3/3/2009 6:04 PM
Subject: AB 868 - Draft Errata Language
Attachments: Business Meeting - Draft Errata 3-3-09.doc

Susan and Diana:

Please see the attached file for a copy of the Draft Errata document associated with the AB 868 Committee Report scheduled for the March 11 Business Meeting. The language has completed review within our division and we offer this draft for your consideration. Let me know if you have any questions or if you would like to schedule some time on Wednesday to discuss in greater detail.

Thanks,

Gordon

From: Susan Brown
To: Mike Smith
CC: Gordon Schremp; Jim Page
Date: 3/3/2009 9:59 AM
Subject: Hot Gas Study--Staff Errata?
Attachments: Susan Brown.vcf

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What is staff's recommendation: errata or not? Can you please let us know by tomorrow?

Thank you in advance.---Susan

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From: Gordon Schremp
To: Diana Schwyzer; Susan Brown
CC: Bill Chamberlain; Galen Lemel; Jim Page; Mike Smith; Nick Janusch; ...
Date: 3/4/2009 8:10 PM
Subject: AB 868 - Draft Errata
Attachments: Business Meeting - Draft Errata 3-4-09.doc

Susan and Diana:

Please see the attached document for a revised version of the draft errata for the AB 868 Committee Report. This version includes the additional language provided by Galen, as well as some other modest changes. Let Galen and I know if you would like to meet to discuss any of the proposed language modifications in greater detail.

Regards,

Gordon

Page 2, the second complete paragraph is revised as follows:

Currently, no retail station ~~operator~~ owner has chosen to install and operate ATC-ready dispensers in California, and it is unclear whether the voluntary use of ATC devices is permitted under California law. Whether California law currently permits the voluntary installation and activation of ATC devices by retail station owners for retail sales transactions of gasoline and diesel fuel has been disputed by stakeholders.

Page 3, the third complete paragraph is revised as follows:

If retail station owners and operators continue to grow and remain profitable, then retail station owners will most likely raise their fuel prices to compensate for selling fewer "gallons." If this is the case then expected benefits for retail motorists will be essentially zero. It should be noted, however, that some stakeholders argue that there is a degree of uncertainty regarding the ability of retail station owners to completely and successfully compensate their margins to maintain profitability over the long-term if ATCs are mandated at California retail stations.

Page 3, the second bullet point under the section entitled "Primary Recommendations" is revised as follows:

However, the Committee recommends that the Legislature also consider whether the value of ~~the public perception of~~ increased fairness, accuracy, and consistency of fuel measurement, in addition to the benefits quantified in the cost-benefit analysis, justify mandating ATC at California retail stations.

Page 4, the second bullet point is revised as follows:

If the Legislature chooses not to mandate the use of ATC at retail stations, ~~they should~~ it may wish to clarify if the current intent of the existing statutes is to permit or prohibit voluntary ATC at retail outlets for gasoline and diesel fuel.

Page 4, the first bullet point under the section entitled "Areas for Further Research" is revised as follows:

The value of ~~the perceived~~ increased fairness, accuracy, and consistency benefits of ATC to consumers, which was not included in this analysis, should be estimated through focus groups and survey methods that assess consumers' willingness to pay for such benefits.

Page 8, the final paragraph is revised as follows:

California law stipulates that retail gasoline must abide by the latest standards as recommended by the National Institute of Standards and Technology (NIST) Handbook 44 that states that a gallon is 231 cubic inches and does not mention the temperature of the fuel.⁴ ~~It is unclear whether the voluntary use of ATC devices for retail sales transactions of gasoline and diesel fuel is permitted under California law. California law specifies the following:~~

- Requires retailers to sell motor fuel by the gallon.⁵
- Requires retailers to advertise prices on a per gallon basis on its dispensers.⁶
- Defines a gallon as "231 cubic inches (exactly)."⁷

Whether California law currently permits the voluntary installation of ATC devices by retail station owners for retail sales transactions of gasoline and diesel fuel has been disputed by stakeholders.

Page 57, the third paragraph under the section entitled "Cost-Benefit Analysis Approach and Methodology" is revised as follows:

On the benefit side of the ledger, staff performed analysis to monetize the expected benefits society might realize from the ATC retrofit option. In this context, "society" would include all California consumers who purchase gasoline and diesel fuel at retail

⁴ Handbook 44, Appendix C – General Tables and Units of Measure.

⁵ See California Business and Professions Code §12107 (incorporating Handbook 44 § 3.30 ¶ S.1.2.1 (2007 Ed.) ("[d]eliveries shall be indicated and recorded ... in ...gallons and decimal subdivisions or fractional equivalents thereof []").

⁶ See Title 4 C.C.R. § 4201.

⁷ See Business and Professions Code §12107; Title 4 C.C.R. §§ 4000; 4001 (incorporating Handbook 44, App. C at pp. C-3, C-9 and C-16).

stations within the state and owners of retail stations. The two types of potential benefits that were analyzed as part of this option included expected benefits for retail motorists that might be derived from changes in the method by which retail fuel was sold at the retail station and potential economic benefit to society of improved information regarding transparency of California retail fuel prices. Accuracy and reliability in measurement standards is critical to the maintenance of a fair marketplace and to facilitate value comparison, benefiting consumers and competitors, alike.

Page 74, the first complete paragraph is revised as follows:

The conclusion, therefore, is that retail station owners will in fact raise their fuel prices to compensate for selling fewer units, all other things being equal.⁷⁹ It should be noted, however, that various stakeholders are in disagreement with the report's assumptions of retail fuel price adjustment and the ability of retail owners to completely pass through incremental expenses. These contrary positions are best described in the work of Dr. Jeffrey Leitzinger submitted to the docket on January 5, 2009.⁸⁰ Summarizing the arguments raised by Dr. Leitzinger and others, it is unclear whether, and the degree to which, retail station owners will be able to raise motor fuel prices depending on market conditions and other factors. Further, these stakeholders also argue that it is unclear whether retail station owners will be able to completely recover ATC-related costs, even over the long-term. The implications of these two positions is that consumers could realize a net benefit if ATCs are installed, the size of the net benefit being contingent upon the degree to which costs can be passed through to consumers and retail prices adjusted to compensate for selling fewer gallons of fuel. The quantification of the reduced number of units and a valuation of their worth during the study period are presented in the following paragraphs only to illustrate the magnitude of the anticipated retail price adjustment.

⁷⁹ The outlook for convenience stores (that sell transportation fuels) in the United States appears to be one of growth. According to statistics developed by Willard Bishop, convenience store numbers are forecast to increase from 120,740 in 2007 to 142,026 by 2012. Annual sales of non-fuel goods (groceries and consumables) are also expected to rise from a per-store average of \$1.03 million in 2007 to \$1.18 million by 2012. Bishop, Willard, *The Future of Food Retailing*, June 2008, [<http://www.willardbishop.com/filebin/200806FFR.pdf>].

⁸⁰ California Energy Commission, Docket No. 07-HFS-01, AB 868 Fuel Delivery Temperature Study, Written Comments of Jeffrey J. Leitzinger, Ph.D., Econ One Research, Inc., January 5, 2009. [http://www.energy.ca.gov/transportation/fuel_delivery_temperature_study/documents/2008-12-09_workshop/comments/jeff_leitzinger_econ_one_TN-49602.PDF].

Page 76, the paragraph under the section entitled "Quantification of Fairness" is revised as follows:

The concept of increased fairness for motorists has been raised by some stakeholders as a type of benefit that has not been accounted for in the cost-benefit analysis. Some stakeholders believe that the collective benefits for motorists that would result from a conversion to ATC at retail station stations could amount to hundreds of millions of dollars per year in California. Although no quantification of "fairness" has been attempted as part of these proceedings due to the subjective variable nature of this ~~perceived~~ consumer benefit, there are some research survey techniques and methodologies that could be used to provide some valuable insight into this variable ~~and subjective belief~~ consumer belief benefit.

Page 89, the second paragraph under the section entitled "Permissive vs. Mandatory ATC at Retail Stations," is revised as follows:

Although there are no ATC retrofit kits approved for use in California that could be used by retailers interested in implementing ATC on a voluntary basis, there is one model series ATC-ready fuel dispenser that has been approved for use in commerce in California by the California Department of Food and Agriculture, Division of Measurement and Standards.⁸⁶ Before commencement of this study, it was reported at the NCEM interim meeting in New Mexico that a retailer in California was considering installing new fuel dispensers with ATC capability but would defer that decision until after the Energy Commission had completed its analysis.

Pages 90-91, the fourth full paragraph is revised as follows:

In order to diminish or eliminate any potential disagreements or misinterpretations involving permissive use of ATC at retail stations in California, it is recommended that the California Legislature consider clarifying the use of ATC at retail stations. If the Legislature chooses not to mandate the use of ATC at retail stations, they should it may wish to clarify if the current intent of the existing statutes is to permit or prohibit

⁸⁶ The Gilbarco Model Nxx series was approved with electronic Automatic Temperature Compensation capability that became effective on May 17, 2007. Department of Food and Agriculture, Division of Management Standards, California Type Evaluation Program, "Certificate of Approval for Weighing and Measuring Devices," Certificate Number 5510(a)-07; [<http://www.cdffa.ca.gov/dms/programs/ctep/CTEPAApprovals/PDF2007/5510a-07.pdf>].

March 11, 2009 errata to *Fuel-Delivery Temperature Study, Committee Report*, CEC-600-2009-002-CTF, January 2009.

voluntary ATC at retail outlets for gasoline and diesel fuel. If the Legislature chooses to permit or mandate ATC at retail, they should direct the California Division of Measurement Standards to develop standards addressing equipment approval, certification testing, compliance enforcement, and consumer labeling provisions for ATC at retail stations.

Page 105, the seventh bullet point is revised as follows:

Currently, there are no retail ATC devices installed and operating no retail station owner has chosen to install and operate ATC-ready dispensers in California. It is unclear whether the voluntary use of ATC devices for retail sales transactions of gasoline and diesel fuel is permitted under California law. Whether California law currently permits the voluntary installation and activation of ATC devices by retail station owners for retail sales transactions of gasoline and diesel fuel has been disputed by stakeholders.

Page 112, a new bullet point is inserted prior to section entitled "Quantification of Increased Price Transparency Benefits for Society" that reads as follows:

Summarizing the arguments raised by Dr. Leitzinger and others, it is unclear whether, and the degree to which, retail station owners will be able to raise motor fuel prices depending on market conditions and other factors. Further, these stakeholders also argue that it is unclear whether retail station owners will be able to completely recover ATC-related costs, even over the long-term. The implications of these two positions is that consumers could realize a net benefit if ATCs are installed, the size of the net benefit being contingent upon the extent to which costs can be passed through to consumers and retail prices adjusted to compensate for selling fewer gallons of fuel.

Page 112, the third bullet point under the section entitled "Quantification of Fairness" is revised as follows:

Although no quantification of "fairness" has been attempted as part of these proceedings due to the subjective variable nature of this perceived consumer benefit, there are some research survey techniques and methodologies that could be used to provide some valuable insight into this variable and subjective consumer belief benefit.

Page 116, the third bullet point is revised as follows:

However, the Committee recommends that the Legislature also consider whether the value of ~~the public perception~~ of increased fairness, accuracy, and consistency of fuel measurement, in addition to the benefits quantified in the cost-benefit analysis, justify mandating ATC at California retail stations.

Page 118, the second bullet point under the section entitled "Permissive v. Mandatory ATC at Retail Stations" is revised as follows:

If the Legislature chooses not to mandate the use of ATC at retail stations, they should it may wish to clarify if the current intent of the existing statutes is to permit or prohibit voluntary ATC at retail outlets for gasoline and diesel fuel.

Nick Janusch
provided following
document at

12/17/09

Workshop debriefing

note: No recommendations
from CBA were made.

Public Comments
AB 868 Fuel Delivery Temperature Study Committee Workshop
December 9, 2008

Costs

- Jay McKeeman – Underestimated costs? (extra travel time (\$/hr) for rural areas)
- Jay McKeeman – Permitting Costs (AQMD)
 - None
- Loss of revenue due to retrofit installation
 - Staff argues it is negligible
- **(3) Recurring costs (increase number of new dispensers)**
- Break even value
 - What would equipment costs and lowered incremental costs need to be in order to achieve a net benefit of zero?

Cost-Benefit Analysis

- Kevin Murphy – How fixed/capital costs are spread over the time period
 - Provide a more complete information for tables 7 and 8
- Judy Dugan – See the results of eliminating 15% “at risk” stations to see results
 - Staff argues that the mandating of ATC is a zero-sum game
- **(2) Deadweight loss**
 - Kevin Murphy will provide a white paper on December 19th and staff plans a conference call on December 22nd.
 - Define the elimination of asymmetric information as a societal benefit rather than a consumer benefit. Staff will include arguments why both consumers and sellers will collectively benefit.
 - Appendix R will be expanded and will include numbers

Report

- Unanswered question in Executive Summary (1st question, p.9)
 - *If temperature compensation has been instituted for most wholesale transactions for purposes of removing the inequity of temperature variations from financial transaction, why has that practice not extended all the way to the California retail consumer?*

Other

- **(1) Permissive ATC – DMS Legal**
- UL approval (DMS)

RECOMMENDATIONS

Nick Janusch
distributed these
documents at

1-7-09

committee meeting

Summary of Received Comments from December 9th AB 868 Fuel Delivery Temperature Study Committee Workshop

Opponents of ATC

- Jay McKeeman – California Independent Oil Marketers Association
 - Commends the CEC for providing an objective and independent view
 - Concur that ATC will not benefit fuel consumers, or society in general.
 - Has serious concerns about some of the assumptions in the study
- Kevin Murphy and Robert Topel -University of Chicago
 - The white paper provided by the University of Chicago economists provides feedback to staff in order to assist them in finalizing the Fuel Delivery Temperature Study report. Similar to Mr. Murphy's workshop presentation, the authors break down the "hot fuel" issue into three sections: changing the unit of measure, the information effect of ATC, and who pays the costs and how and when do they pay? Each section is discussed independent of the others, and their information effect of ATC discussion is heavily technical in economics and expands on Appendix R.
 - Kevin Murphy made a presentation at the December 9th workshop
- Michael A. Flynn – On behalf of California Independent oil Marketers Association; National Association of Convenience Stores; NATSO, inc; Petroleum Marketers Association of America; and Society of Independent Gasoline Marketers of America.
 - Argues that competition already leads to the adjustment of temperature meaning that no benefit exists from ATC for consumers
 - Made a long presentation at the December 9th workshop
- Ross J Andersen - State of New York, Director of Weights and Measures
 - Noted some technical errors in the report
 - States the CEC has done a thorough job in the evaluation of the costs and benefits
- Tristan L. Duncan – Counsel for 7-eleven, Inc.; Circle K Stores, Inc; Pilot Travel Centers, LLC.
 - Argues that the installation of ATC at retail is unlawful
- Valero
 - Argues that the installation of ATC at retail is unlawful

Proponents of ATC

- Bryan Davis – GasolineMeter®
 - Provides an alternative to ATC

- Measuring device installed in the vehicle that measures fuel and records measurement with device using Bluetooth technology.
 - The technology will have the ability to credit the difference between money paid and the value of the fuel dispensed.
- George Mattimoe – Former Director of Hawaii Department of Weights and Measures
 - Expect a 60 page report by 1/9/08
- Guy D. Calladine – Carlson, Calladine & Peterson LLP
 - Is the counsel for the putative classes of consumers of motor fuel in the lawsuits: State of California (*Klein et. al v. Chevron USA Inc. et. Al, Los Angeles County Superior Court, No. BC367812*) and United States District Court in Kansas (*In re: Motor Fuel Temperature Sales Practices Litigation, USDC, Kansas, MDI No. 1840, Case no. 07-MD-1840-KHV*).
 - Urges CEC to reject Oil Companies' arguments as without basis in law or fact
 - Permissive use of ATC should still *continue* to be permitted
 - Price transparency is the heart of all transactions
- Jeffrey J. Leitzinger, Ph.D. – Econ One Research, Inc.
 - Has been asked by counsel representing the putative classes of California motor fuel purchasers in litigation in Federal and California state court regarding the "hot fuels" controversy to address comments and conclusions contained in the CEC Staff Report, the Flynn submission, and the Murphy submission.
 - Classifies Mr. Flynn and Mr. Murphy as the "No Benefit Proponents"
 - Argues against 100 percent ATC cost pass-through assumption
 - Assuming a 76.23, 50, 25 percent margin recapture of ATC Costs over a ten years the net consumer benefits he calculated would be \$844.5 million, \$2.06 billion, and \$3.22 billion.
- John Siebert – A US Truck Driver Advocate – OOIDA
 - Report leaves some questions unanswered
 - The report raises new questions about the study's final methodology.
 - Conclusions contradict other sections of the report
 - The accepted assumptions are not supported by real world practice or experience.
- Judy Dugan – Consumer Watchdog
 - Concurs with Public Citizen's Comments
 - Commends CEC staff for thorough profession work
 - States that the report has no recommendations and objects to the report's denial that consumers would benefit from any remedy
 - Objects to the report's call for banning ATC for voluntary use.
 - Lists other objections

- Kurt E. Floren - County of Los Angeles, Director of Weights and Measures, Agricultural Commissioner
 - The reports supports the conclusion that ATC is both feasible and beneficial
 - Has been "a weights and measures regulatory official with twenty-four years of experience overseeing the nation's largest county in which nearly two-thousand retail fuel stations operate over 56,000 dispensers and conduct nearly 25% of the state"
 - Accuracy and reliability in measurement standards is critical to the maintenance of a fair marketplace.
 - ATC will fulfill a longstanding practice of embracing new and improved technologies to ensure appropriate consumer protection and fair competition
 - Urges the CEC to recommend to the Legislature that a law requiring mandatory ATC implementation be pursued.

- Mike Boitano – President, California Agricultural Commissioners & Sealers Association
 - Commends the CEC efforts on this issue
 - Supports the conclusion of the negligible costs of implementation and the benefits that would be recognized.
 - ATC would improve the accuracy of fuel measurement and improve consumer's value comparison when shopping for fuel

- Public Citizen
 - ATC will provide a more accurate measurement of fuel transactions.
 - Two false assumptions in report: that 100% of all costs associated with conversion to ATC will be borne by consumers in the first year of ATC implementation; and that retailers will recoup 100% of the per gallon revenue lost through ATC simply by increasing their fuel prices.
 - If retailers recover 50% or 75% of the lost revenue through price increases then the present value of the total savings over ten years is \$2 billion and \$1 billion respectively.

- Robert G. Atkins – County of San Diego, Agricultural Commissioner/Sealer of Weights and Measures
 - Commends excellent work in study
 - ATC would benefit by improving retail price transparency.
 - The negligible cost is very acceptable in implementing mandatory ATC.
 - Urges the CEC to recommend the Legislature to adopt a mandatory ATC law and to prohibit voluntary use and advertising of ATC before that date.
 - States that ATC is not cost-beneficial

Annotated Bibliography

Murphy, Kevin M., Topel, Robert H. White Paper: "Comments on the California Energy Commission's Fuel Delivery Temperature Study." University of Chicago.

The white paper provided by the University of Chicago economists provides feedback to staff in order to assist them in finalizing the Fuel Delivery Temperature Study report. Similar to Mr. Murphy's workshop presentation, the authors break down the "hot fuel" issue into three sections: changing the unit of measure, the information effect of ATC, and who pays the costs and how and when do they pay? Each section is discussed independent of the others, and their information effect of ATC discussion is heavily technical in economics and expands on Appendix R.

Average Temperature and the Impact of ATC: Changing the Unit of Measure

The economists argue that a switch to ATC is a unit conversion where there no "revenue shift occurs" since retailers do not need to "recapture" any revenue because there is no "potential benefit" for consumers from a change in the unit of measure. By changing the unit of measure no "potential benefit" exists since the retailer's cost of filling the tank does not and will not change. Independent of their other two sections, their point is well taken and this issue was discussed during the December Committee workshop along with previous workshops.

Variation in Fuel Temperature Over Time and Between Retailers: The information Effect of ATC

This section addresses the cost to society when there are differences in temperature of dispensed fuel for different transactions. Their calculations looked at the social costs from differences in fuel temperature over time and across regions. The authors made it clear that ATC would have a potential benefit of price transparency if it allowed consumers make better decisions on the quantity of fuel purchase or purchasing location of their fuel. The authors describe the information asymmetry problem by stating that consumers may overvalue fuel in warmer climates and that consumers may overvalue the fuel sold by retailers offering warmer fuel (purchasing more than the efficient amount from them), and undervalue the fuel sold in colder climates and by those retailers offering cooler fuel (purchasing less than the efficient amount from them):

They agree with the reports approach of using a deadweight loss calculation to measure the overall social cost from purchasing decisions that are "distorted" by incomplete information. They present a figure similar to the figure presented in Appendix R along with deadweight loss formulas that have more economic components unlike the more geometric approach presented in Appendix R. Extra components included in the formulas were: own price elasticity of demand, pass-thru rate, and the variability of both information effects of ATC. Their approach differs from the staff reports calculations that measured the social costs from the average temperature differential from the reference temperature.

Their upper bound total calculation of \$300,000 for the deadweight loss is substantially lower than the \$3.2 million dollar value presented in the report. The primary cause for their lower value is the inclusion of an own price elasticity of demand of 0.2. Using their formula, the more inelastic a good is or the less responsive consumers are to price changes then the smaller the deadweight loss.

Who Pays the Costs of ATC? How and When Do They Pay?

They also argue that it does no matter where the retailer raises prices to recapture costs, consumers will still pay. The authors point out that by having "fixed" costs occurring all in the initial year in Tables 7 & 8 is economically incorrect, and that spreading fixed costs over the entire time period is more accurate approach. They provide a formula to assist staff in calculating annual costs.

Committee Meeting 1-7-09 (AB 868 Agenda)

Gordon

- making modification - for Feb 11

- editorial: Δ in cost estimates

Net Cost despite Δ 's

States Legislation that we have recommendation
need separate meeting

Mike, Douglas, Boyd et al.

scored by Feb 11

Friday morning meeting

Provided handouts: discussed handouts

13 instead ~~by~~ ^{not} ~~by~~ by 2

9/80
8-12-08

1 of 2

Value - AB 868 Me

Don ... Monty Lohr, Scott Zuberka - Value - Sara Rawn, Kelly Roberts

- Selling gallon in summer w. lower energy costs Jim Cogg, Ned Jensen
- No consumer fraud
- Selling fuel according to the law

- Standard set by NCWM
- Buckle converted to regulation by each state
- dictionary definition of "gallon" is how they sell gasoline retail
- NCWM has deferred any decision for now

- Stand w. the cost benefit analysis that is being studied by CER
 - will be comfortable w. outcome
 - but don't believe that detailed CB will

- ^{ATC} Will not yield an energy-equivalent

- Economic benefit - who is gaining/losing

Retailer Perspective

Post ATC - will have a higher per-unit cost for inventory

Don

It seems to have assumed retailers are purchasing wholesale fuel @ gross basis.

- Robert Tapel
Chicago Partner

GORDON SCHREMP NOTES

AP 858 MTS

11/07
11-12-08

DIANA SWEEP, SUSAN BROWN, PAUL DEAYDA, TOM PAGE, NICK JAVAZZI lot

SH

MIKE FLYNN - LECG, HOLLY

JOHN

* any issue associated with the report

- clar. or addressed

- Jay as single pt of contact

* No. "BONAFID" TO CONSUMERS - Jay

Mike Flynn / "Will be no revenue shift at all in a post ATC retail environment."

MF / Why would integrated oil companies be getting away with retail business? - Because it is less profitable.

- Allegations of extreme profits are not demonstrated by industry data.

MF / Same as going to metric system - just changes the unit of measure

MF / Are retailers hanging on to additional profit? - due to hot fuels

GORDON SCHREMP NOTES

AB 868

9AM
12-17-08

Jim Boyd, Kelly Burtin
Dean Switzer, Kam Douglas

1/2

CBA

8438 MM

Judy Dege

Kam D

. Cost

Timing - how long

EVR

- what is involved *

- how much on average

- well it goes up beyond change out?

UST AGT - *

low @ AIS data

GORDON SCHREMP NOTES

AB 868 MTC

1-9-09

Com Royal & Com Douglas

1 of 1

Mike Smith, Alan Mattes, Sheryl Stokes, Jim Page, Bryan Garfield
Kelly Burkman, ~~Bill~~ Dean Schweyger

Cost up - recurring

Benefit down - ~~per~~ transparency

clerk

choice plan - is need to clerk

not soc. cost not matter

but capture ~~less~~ soc

perce

there is a release to fair

knowin

improved transparency

Plan is optio

- reduce cost

- have to not allow voluntas

How much

We have contracts

\$ 250K

SUMMARY OF TRANSPORTATION COMMITTEE ACTIONS February 13, 2008

1. Review of Minutes – Rosella Shapiro

The Committee approved the minutes from the January 2, 2007, Transportation Committee Meeting.

2. Legislative Update – Mike Smith

Nothing to report.

3. Tire Efficiency – Ray Tuvell

The staff informed the committee that following the passage of the Federal energy legislation on December 19, 2007 that includes a provision directing the National Highway Traffic Safety Administration to develop a Federal tire efficiency program, the tire industry appears to be taking an adversarial position relative to the California tire program. The staff advised that a lack of cooperation by the tire industry could result in significant delays to the program. The committee requested that staff schedule a special committee meeting to discuss this matter. This meeting has been scheduled for March 7 at 2:00pm in the 2nd Floor conference room.

4. Advanced Natural Gas Tank Project Briefing – McKinley Addy

Nothing submitted.

5. Status Update on AB 868 Fuel Delivery Temperature Study – Gordon Schremp

Gordon Schremp provided the Committee members with a status report on activities associated with AB 868. The recent Interim Meeting of the National Conference of Weights and Measures included a presentation by CEC on their study. The attendees at the meeting decided to delay any national findings or decisions concerning Automatic Temperature Compensation (ATC) at retail stations until after the CEC has completed their study. More recently, the CEC has also been informed that a retail chain has decided to defer their decision to voluntarily install ATC devices at some locations in Southern California until after the CEC report has been completed.

The Committee was requested to consider the staff's suggestion that a Committee Workshop be conducted in early September and a Committee Hearing in late October as the preferred sequence of public proceedings. The staff will work with the Committee members to obtain their agreement and identify exact dates that will work best for everyone's schedule.

SUMMARY OF TRANSPORTATION COMMITTEE ACTIONS

August 13, 2008

1. Review of Minutes – Mike Smith

The Committee approved the minutes from the July 16, 2008, Transportation Committee Meeting.

2. Legislative Update – Marni Weber

AB 109 (Núñez) was amended again on August 8, 2008. The latest amendments provide that the Advisory Board for the Alternative and Renewable Fuel and Vehicle Technology Program may be consulted for the annual investment plan update rather than being required to meet annually. Commissioner Douglas noted that the environmental community may object to this change and the bill may be amended again.

SB 1240, Senator Kehoe's low carbon fuel bill, has been gutted and now contains language by Senator Machado related to real estate brokers and salespersons. The Energy Commission will no longer track this bill.

Mike Smith, Peter Ward, and Marni Weber met with Assembly member Guy Houston and some of his constituents to discuss biofuels. The constituents wanted information on programs that may assist them in a venture to produce and purchase feedstocks for biofuels, as well as issues related to transportation and infrastructure for biofuels.

3. Follow up on DynaSim Project Status Update -- Mike Smith

Staff provided the Transportation Committee with an updated status on DynaSim, highlighting activities performed in July including the kick-off meeting, requirements gathering, review of the development schedule, and evaluation of equations representing the public transit demand sector. Additionally, staff requested approval to bring the first amendment to the software development contract to the September 10, 2008 Business Meeting. The amendment separates the project's early single design document into five separate documents delivered throughout the project and does not result in a change to overall project cost, schedule, or scope. The Committee approved the item to proceed to the Business Meeting and the Committee agreed the amendment could be a consent item with further Executive Office discussion. Staff, Malachi Weng-Gutierrez, was present to answer any questions Committee might have.

4. Follow up on AB 118 – Mike Smith

Staff, Peter Ward, presented an update of the AB 118 Program to the Committee. Staff is completing a revised Schedule for both the Investment Plan completion and adoption by the Commission, and for the Regulations for AB 118, both on a single schedule for the next four months. The Draft Analytical Framework for AB118 Allocation will be discussed with Commissioners and Advisors next week (August 19 at 1:00 p.m.); and then further refined. Staff is now working with several alternative fuel stakeholder working groups to update the "Storylines" information used in the AB 1007 Alternative Fuels Plan development, and this updated information will be provided to Gerry Bemis for his 'back casting effort', and for the Gap Analysis that will be prepared by TIAX by August 29. The September 2, 2008, Advisory Committee Conference Call will be noticed, with a proposed agenda addressing the components of the Draft Investment Plan, including an outline for the Investment Plan and revised schedule for its completion. The Call will be held in Hearing Room A at 10:00 a.m., since it is already reserved, and Advisory Committee members, stakeholders, and the public may attend in that room.

Jim McKinney reported that the first Sustainability Working Group meeting would be held August 15. The multi-stakeholder working group was created to provide an additional forum for stakeholders to discuss sustainability proposals from staff, and to enable staff to learn directly from producers how current production and distribution practices would be affected by the sustainability proposals. The working group will be an on-going forum for sustainability discussions that will continue past the regulatory phase, through the Implementation Plan and initial Solicitation. The group was formed at the direction of the Transportation Committee. Commissioner Douglas encouraged staff to consider sustainability goals as a starting point both for project screening criteria and for the allocation of some AB 118 funds to benefit California's natural environment. Staff and Commissioners discussed establishing a sustainability funding category for the purpose of funding projects that would promote sustainable practices and a better understanding of sustainability.

5. Proposed Co-Sponsorships – Mike Smith

A. Southern California Clean Vehicle Technology & Expo, October 2008 in Ontario, California -- \$4,950 – Pilar Magana

Staff briefed the Committee to inform them of an upcoming conference in Ontario, called the *Southern California Clean Vehicle Technology Expo* (Expo). The Energy Commission will sponsor the event for \$4,950, and will be grand exhibitors at the conference. The Expo will bring fleet owners, government officials, and original equipment manufacturers (OEMs) under one roof to discuss current and future projects and opportunities to help California make the transition to cleaner vehicle technologies. Pilar Magana was present to

answer any questions Committee might have. The Committee has approved this item.

- B. Lake Arrowhead Transportation/Land Use/Environmental Symposium, October 2008, Lake Arrowhead -- \$2,000 – Bill Pfanner

Staff recommended to the Committee that the Energy Commission co-sponsor the Lake Arrowhead Transportation/Land Use/Environmental Symposium again this year, for a total of \$2,000. The symposium will be held in October 2008. The conference will explore the links between transportation systems, local land use issues, and global climate change considerations. Bill Pfanner was present to answer any questions Committee might have. Committee approved this item.

- C. Border Energy Forum Conference, October 23-24, 2008, Monterrey, Nuevo Leon, Mexico -- \$3,000 – Alan Argentine

Staff recommended to the Committee that the Energy Commission co-sponsor the Border Energy Forum in the amount of \$3,000. This annual conference will be held on October 23-24, 2008, and will feature energy policy and business development topics in the 10 border states of the United States and Mexico. The Committee approved this item.

6. Follow up on AB 868 – Mike Smith (Jim Page)

Staff briefed the Committee on the progress of the AB 868 Fuel Delivery Temperature study and requested an extension of the deadline for completing the final report. The extension became necessary when staff encountered difficulties obtaining fuel dispenser make and model data for a sufficient number of service stations to extrapolate the costs of implementing a program of automatic temperature compensation for the whole state. Staff has proposed a remedy that requires more time spent obtaining sufficient data, which results in a delay of six weeks beyond the legislated deadline for delivery of the final report but will ensure more accurate findings. Some discussion followed on how information from the study might be used in legislative proceedings. With staff's proposed revised schedule, the draft report for the Committee hearing would still be available to legislators and the Governor's office prior to the new year. The Committee approved taking the matter to Assemblyman Davis to provide him with a status report on the work and determine whether he would accept a delay in the completion of an approved final report. Jim Page was present to answer any questions Committee might have.

SUMMARY OF TRANSPORTATION COMMITTEE ACTIONS

January 7, 2009

1. Review of Minutes – November 18, 2008, minutes have already been reviewed and posted.
2. Legislative Update – Chris Marxen – No report given.

3. AB 868 Fuel Delivery Temperature Workshop and Report - Gordon Schremp

Gordon Schremp, Senior Fuels Specialist, briefed the commissioners on the current status of AB 868 Fuel Delivery Temperature Study and the finalization of the report for the February 11 business meeting. His status report mentioned that there have been modifications to the report including editorial changes and changes in cost estimates. These modifications did not change the empirical results of a net cost to society for all options. Gordon provided handouts summarizing the options for the commissioners and the submitted comments from the workshop. Citing the legislation, Gordon asked the commissioners for a recommendation for automatic temperature compensation. Commissioner Boyd asked that we have a meeting on this topic Friday morning with AB 868 staff, Mike Smith, both Commissioners, et al.

4. Advisory Committee Meeting on January 8, 2009 – Peter Ward

Mike Smith presented the item on the AB 118 Investment Plan and the Advisory Committee Meeting the following day. Items that were discussed were the scheduling of staff workshops on the Investment Plan in four locations within the state: San Jose, Fresno, and two different areas in the eastern and western parts of the Los Angeles basin. A February Business Meeting will be scheduled for Energy Commission approval of the Investment Plan.