

MINUTE ITEM

This Calendar Item No. 10
was approved as Minute Item
No. 10 by the State Lands
Commission by a vote of 2-0
to 0 at its 3/30/78
meeting.

MINUTE ITEM

3/30/78
Willard

10. REVIEW OF STATUS OF DETERMINATION OF REASONABLE MARKET
VALUE OF NATURAL GAS - W 9738.

During consideration of Calendar Item 10 attached, Acting Chairman Sid McCausland stated that the Office of the Attorney General had advised the Commission that it would be appropriate to reconsider this matter after the arbitration proceedings between Pacific Gas and Electric Company, Aminoil, Texaco, and Superior are concluded and final arbitrated natural gas prices are established. In addition, Mr. McCausland clarified the Commission's action of the January 26, 1978, meeting with regard to Minute Item 55. He stated that the intent of that resolution was to have this matter returned to the Commission, upon conclusion of the arbitration proceedings, for its review and approval of the application of the arbitrated prices to the specific state leases. He further stated it had not been the Commission's intent to delegate its rule-making authority to the arbitration panel, but rather to have the arbitration decision provide the Commission with guidelines and parameters for a later decision on this matter. Ms. Betty Jo Smith voiced her concurrence with Mr. McCausland.

Mr. Leonard Snaider, Deputy City Attorney, City and County of San Francisco, appeared and expressed concern that the public notice sent out regarding this meeting was not adequate.

Mr. McCausland read into the record a statement by Chairman Kenneth Cory, included in a memorandum dated March 30, 1978, to Mervyn M. Dymally and Roy Bell, advising that if he were present at this meeting, he would vote to approve the staff's recommendation.

Upon motion duly made and carried, the Commission adopted the resolution as presented in Calendar Item 10 by a vote of 2-0.

Attachment: Calendar Item 10 (1 page)

CALENDAR ITEM

10.

REVIEW OF STATUS OF DETERMINATION OF
REASONABLE MARKET VALUE OF NATURAL GAS

3/78
W 9738
Willard

At its last meeting the Commission requested that the Attorney General review the legal status of its previous decision with respect to natural gas pricing. Our Attorney General's office has given the following informal advice:

"At its meeting of January 26, 1978, the State Lands Commission adopted a resolution providing that it will use in its determination of the reasonable market value or current market price of the gas produced from the state leases in the Rio Vista, Isleton, River Island and Ryer Island fields, the prices that are the result of the pending arbitration between Pacific Gas and Electric Company and Texaco, Amintail and Superior, provided that should the Public Utilities Commission regulate and impose a ceiling on the price of gas produced and sold in California, then the State Lands Commission would use that price ceiling as its determination.

That resolution involved the fundamental policy decision of the Commission to use the arbitrated prices in its determination of reasonable market value or current market price. However, that resolution was not a final disposition of the matter. After the arbitration is concluded and final arbitrated prices become available, the matter must come before the Commission for the purpose of applying those arbitrated prices to the specific state leases. This will include application of those arbitrated prices to the three 6-month periods that are subject to the Commission's determination, adjustment of the prices for the peaking value of the gas from the particular leases and an indication that adjustments to the prices will be made for the heat content of the gas actually delivered. At that time, the Commission would be free to reject the arbitrated price and make another determination of the reasonable market value or current market price that it believes is appropriate and is supported by the factual record before it."

IT IS RECOMMENDED THAT THE COMMISSION RESERVE THE RIGHT TO TAKE SUCH FURTHER ACTION AS IT DEEMS NECESSARY, AS SET FORTH ABOVE, AFTER THE ARBITRATION IS COMPLETED.

A 5, 9, 10, 12

S 4, 6, 7

(added 3/28/78)

370

MINUTE ITEM

3/78
Horn

11. GENERAL LEASE - INDUSTRIAL USE; PACIFIC GAS AND ELECTRIC COMPANY - W 20861.

During consideration of Calendar Item 11 attached, Mr. James F. Trout, Manager, Land Operations, summarized the item. Mr. Jan Stevens, Assistant Attorney General pointed out that the Final Environmental Impact Report contained statements made by the Attorney General's Office which were inadvertently included in the Final EIR. These comments were submitted by the Office of the Attorney General only as legal advice in response to questions which could be raised and do not represent an opinion of the Attorney General's Office.

The following appearances were made in opposition to the staff's recommendation. In general, they mainly objected to the inadequacy of the Final EIR.

Mr. Norbert Dall, representing the Sierra Club.
He asked that the applicant and staff supply the Sierra Club with written answers to questions they had previously raised in comments submitted to the Commission in connection with the EIR. He also requested a copy of the proposed lease. Mr. Dall's statement is on file in the Office of the Commission.

Acting Chairman Sid McCausland stated that a decision has to be made when the EIR process is over. He stated that Mr. Dall apparently had thoroughly analyzed the EIR and had provided 12 pages of questions which would probably generate another EIR. He expressed his appreciation to Mr. Dall for raising these concerns, but stated that he has a responsibility to all applicants in determining at what point the EIR process should be closed. Ms. Betty Jo Smith asked to what extent is the State obligated to meet the objections raised since the Commission is lead agency. Mr. Rick Frank, Deputy Attorney General, stated that the staff had adequately met all the procedural requirements according to the California Environmental Quality Act; however, he stated there was nothing to prevent the Commission from deferring action on this item.

Mr. Rod Holmgren, Chairman, Moss Landing Task Force of Northern California Regional Conservation Committee, and Chairman of the Ventana Chapter, Sierra Club.
In summary, Mr. Holmgren stated that due to the inadequacies of the Final EIR, it was their recommendation that the Commission deny the lease. His comments are on file in the Office of the State Lands Commission.

A 28

S 17

Mr. Judson Vandevere, representing the Audubon Society and Friends of the Sea Otter.

On behalf of the Audubon Society, Mr. Vandevere resubmitted for consideration their comments dated September 14, 1977 because he contended they had been previously ignored by the staff of the Commission. These comments mainly dealt with the inadequacies of the Final EIR with regard to the care of oiled animals in the event of a spill.

On behalf of the Friends of the Sea Otter, Mr. Vandevere requested that the lease be denied because the subject had not been dealt with adequately in the Final EIR.

Both statements are on file in the Office of the Commission.

Ms. Betty Jo Smith asked if the Final EIR addressed these objections. Mr. Trout stated that it had, but it is a matter of interpretation when enough is enough.

Mr. McCausland submitted for the record a letter dated March 24, 1978 from the League of Women Voters of the Monterey Peninsula, to Mr. William F. Northrop, advising that the league had not taken a position on this issue but had listed some of their concerns.

Mr. Peter Baumgartner, attorney representing Pacific Gas and Electric Company, appeared. Ms. Smith stated it was her understanding that the Coast Guard had recently called a practice oil spill drill and issued an unfavorable report resulting from that drill. Mr. Roy Hawes of the Moss Landing Harbor District appeared. He stated that it was his impression the drill was successful. Mr. Dwight E. Sanders, Chief, Planning and Environmental Coordination Unit, advised he was present at a Tanker Task Force meeting at the Resources Agency. At that meeting the Coast Guard stated that the staff of PG&E did follow the book according to the plan. However, the test was called at ebb tide and the present oil spill contingency plan did not consider such a tide. Mr. Hawes stated that the Coast Guard set the conditions and that PG&E responded to that set of conditions. Mr. Sanders then advised that at the Tanker Task Force meeting, he had requested the Coast Guard to expedite their report and forward a copy to the Commission. He pointed out the Final EIR requires a complete revamp of the oil spill contingency plan.

At the conclusion of this testimony, Ms. Smith moved that, in light of the fact that the staff had requested the report from the Coast Guard on the subject oil spill drill, the

action be postponed until the Commission is in receipt of that report and has had time to review it.

Mr. McCausland advised for the record that Chairman Cory had left a note dated March 30, 1978 to Mervyn Dymally and Roy Bell saying he would also like to review the findings of the Coast Guard before he makes a decision. Mr. McCausland then instructed the staff to meet with PG&E and reach a solution to this matter.

Attachment: Calendar Item 11 (9 pages)