MINUTE ITEM
This Calendar Item No. C72
was approved as Minute Item
No. 72 by the State Lands
Commission by a vote of 3
to 0 at its 9/23/92
meeting.

CALENDAR ITEM

C 72

A 57, 58

S 29

09/23/92
W 13001
Willard
Hager

APPROVE THE 1992 LONG BEACH
TIDELANDS DRY GAS PRICE AGREEMENT
WILMINGTON OIL FIELD, LOS ANGELES COUNTY

APPLICANT:

City of Long Beach Gas Department
Attn: Mr. Chris Garner
2400 East Spring Street
Long Beach, California 90806-2285

BACKGROUND:

Pursuant to provisions of Chapter 29, Statutes of 1956, First Extraordinary Session, the Long Beach Gas Department shall receive into its system all Long Beach tidelands dry gas which it can utilize economically and which is not required for oil field operations and shall pay to the State the reasonable wholesale market value for such dry gas. Chapter 29 also provides that the reasonable wholesale market value of tidelands dry gas shall be determined from time to time jointly by the City of Long Beach and the State Lands Commission.

The statutory directive that the City and the State agree upon the reasonable wholesale market value for tidelands dry gas has been the cause of dispute between the City and the State in the past. In 1988, the City requested negotiations to change the price formula because regulatory decisions of the California Public Utilities Commission (CPUC) significantly restructured the California gas market. In this restructured market, the prime determinants of the market price of gas were the two price portfolios that the major gas utilities were required by the CPUC to keep. These were the core portfolio, which set forth the weighted average cost of gas purchases by the utilities for their core customers (residential users), and the noncore portfolio, which set forth the weighted average cost of gas purchases by the utilities for their noncore customers (commercial users and wholesale customers). The City and the State agreed that the weighted average cost of gas purchases by the Southern California Gas Company for its noncore customers (SoCal Noncore WACOG) was the best available determinant at that time of the reasonable wholesale market value of dry gas in the Los Angeles Basin. It had the added advantage of being published regularly by a disinterested third party. Therefore, the SoCal Noncore WACOG was used as the determinant for the price of Long Beach tidelands dry gas in the 1988 Long Beach Tidelands Dry Gas Price Agreement that was approved by the Commission in June 1988.

Beginning August 1, 1991, the CPUC ordered all California public utilities to cease publishing a noncore WACOG. This order was a product of the CPUC's decision to unbundle fully the services that public gas utilities has been providing to their noncore customers, that is, to large commercial, industrial, and wholesale customers. Therefore, SoCal Gas stopped publishing the Socal Noncore WACOG, and it will not be publishing a successor price bulletin.

The State agreed to accept as an interim price while negotiating a new price the weighted average cost of gas for purchases by the City of Long Beach for all of its supplies other than tidelands gas (Long Beach WACOG). As the negotiations progressed, the parties agreed that the Long Beach WACOG was the only consistently reliable and available indicator of wholesale gas prices in Southern California and should form the base for the new price agreement. The City and the State negotiators agreed that the Long Beach WACOG should be increased by a factor of 10 percent to account for the cost benefit to the City of receiving the Long Beach tidelands dry gas in Long Beach. They also agreed that negotiations for a new price formula could be demanded by either the City or the State if the Long Beach WACOG differs by more than 15 percent from comparable short-term, wholesale gas prices prevailing and used in actual sales transactions for substantial quantities of dry gas in the Los Angeles Basin.

The staff believes that the newly negotiated price formula which is incorporated in the 1992 Long Beach Tidelands Dry Gas Price Agreement fairly reflects the reasonable wholesale market value of dry gas in the Los Angeles Basin. This is the price that by statute the City must pay and the State must receive for Long Beach tidelands dry gas. Because the price will be retroactive to August 1, 1991, the City will pay to the State about $574,000 representing for the period from August 1, 1991 through July 31, 1992, the difference between the Long Beach WACOG and 110 percent of the Long Beach WACOG. The Long Beach City Council has approved the new agreement.

STATUTORY AND OTHER REFERENCES:

A. P.R.C.: Div. 6, Parts 1 and 2; Div. 13.

B. Cal. Code Regs.: Title 3, Div. 3; Title 14, Div. 6.

AB 884:

N/A

OTHER PERTINENT INFORMATION:

1. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14. Cal Code Regs. 15061), the staff has determined that this activity is exempt from the requirements of the CEQA because the activity is not a "project" as defined by CEQA and the State CEQA Guidelines.

   Authority: 14 Cal. Code Regs. 15061(b)(3).

EXHIBIT:

A. 1992 Long Beach Tidelands Dry Gas Price Agreement.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. CODE REGS. 15061 BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY P.R.C. 21065 AND 14 CAL. CODE REGS. 15378.

2. APPROVE THE 1992 LONG BEACH TIDELANDS DRY GAS PRICE AGREEMENT.

3. AUTHORIZE THE EXECUTIVE OFFICER TO EXECUTE ON BEHALF OF THE COMMISSION THE 1992 LONG BEACH TIDELANDS DRY GAS AGREEMENT.

W 13001

Willard

Hager

EXHIBIT "A"

1992 LONG BEACH TIDELANDS DRY

GAS PRICE AGREEMENT

The City of Long Beach ("City") and the State Lands Commission ("State") entered into the 1988 Long Beach Tidelands Dry Gas Price Agreement ("1988 Agreement") which established the price to be paid by the City to the State for Long Beach Tidelands (Tidelands) dry gas that the City shall receive pursuant to section 6 of Chapter 29 of the Statutes of 1956, First Extraordinary Session. Paragraph 1 of the 1988 Agreement provides that the price shall be equivalent to the actual wholesale weighted average cost of gas purchases by Southern California Gas Company for its non-core portfolio ("SoCal Non-core WACOG") in effect at the time Tidelands dry gas is taken by the City. Paragraph 3 of the 1988 Agreement provides that if the SoCal Non-core WACOG ceases to exist, the City's payments to the State for Tidelands dry gas shall be based on any successor pricing mechanism reflecting the weighted average price per MMBtu of the Southern California Gas Company's total short-term purchases of dry gas applicable to wholesale customers, and if a mechanism for determining the weighted average price of the Southern California Gas Company's total short-term purchases of dry gas ceases to exist, then the price payable by the City to the State for Tidelands dry gas shall be equivalent to the reasonable wholesale market value of dry gas in the Los Angeles Basin as determined jointly by the City and the State.

Effective August 1, 1991, the Southern California Gas Company stopped publishing the SoCal Non-core WACOG, and has not published and is not expected to publish a successor price schedule reflecting its short-term and spot market purchases. This situation is a product of a determination by the California Public Utilities Commission to unbundle fully the services that had been provided by a public gas utility to its non-core customers; that is, to large commercial, industrial, electrical generation and other wholesale customers. To facilitate this unbundling of services, the California Public Utilities Commission has precluded the Southern California Gas Company from offering a non-core price portfolio. The Southern California Gas Company now publishes only a core portfolio, which is composed primarily of long-term purchases of gas and is used for pricing gas provided to its core customers; that is, its residential and small commercial customers. As a result, the City and the State must find a means for determining the reasonable wholesale market value of dry gas in the Los Angeles Basin other than a pricing mechanism published by the Southern California Gas Company.

The City and the State believe that a fair and workable determination of the reasonable wholesale market value of dry gas in the Los Angeles Basin can be made by using as a base the monthly weighted average cost per MMBtu of purchases by the City's Gas Department of interstate gas delivered into the Southern California Gas Company's system and of locally produced offshore gas other than Tidelands dry gas. This monthly weighted average cost of gas will be referred to as the Long Beach WACOG. The City and the State believe that the reasonable wholesale market value of dry gas in the Los Angeles Basin should include an additional factor to account for the savings on intrastate transportation charges resulting from the delivery of Tidelands dry gas in Long Beach. That factor shall be a percentage of the Long Beach WACOG.

Since August 1, 1991, when the Southern California Gas Company stopped publishing the SoCal Non-core WACOG, the City has been paying the State as an interim price for Tidelands dry gas the Long Beach WACOG without any additional premium. The City and the State have agreed that this interim price shall be adjusted retroactively to reflect the final price when agreement is reached on that final price.

Therefore, the City and the State agree as follows:

1. Beginning August 1, 1991, the City shall pay monthly to the State for Tidelands dry gas taken into the system of its municipal gas department a price per MMBtu equivalent to 110% of the Long Beach WACOG, as defined above, that is in effect at the time the Tidelands dry gas is taken by the City. In the event the actual Long Beach WACOG is not fully ascertainable when the City's payment for Tidelands dry gas is due, the City shall make the payment using its best estimate of the Long Beach WACOG and adjust the payment when the Long Beach WACOG has finally been determined. The City shall adjust retroactively the Long Beach WACOG to reflect adjustments made by suppliers or pipelines.

2. The additional payment that will be required from the City by virtue of using 110% of the Long Beach WACOG retroactively to August 1, 1991, shall be made to the State without interest no later than 30 days from the date this agreement is executed by both parties. Any portion of this additional amount that is not paid when due shall bear simple interest from the due

date at the rate of 12% per annum.

3. The City shall provide to the State with each monthly payment and adjustment for Tidelands dry gas, a schedule or schedules showing the components of the Long Beach WACOG upon which the payment or adjustment was based. In addition, the City shall make available to the State at all reasonable times all contracts, correspondence and other written documentation concerning the City's gas acquisitions upon which the Long Beach WACOG is based for purposes of permitting the State to audit and validate the Long Beach WACOG.

4. If throughout at least a consecutive three-month period, the Long Beach WACOG differs by more than 15% from comparable short-term, wholesale gas prices prevailing and used in actual sales transactions for substantial quantities of dry gas consumed in the Los Angeles Basin, either the City or the State may demand a renegotiation of the price payable for Tidelands dry gas taken by the City. The demand shall be made in writing and shall demonstrate compliance with the grounds provided in the preceding sentence for making the demand. Upon the making of a valid demand

for renegotiation of the price, the City and the State shall commence within 30 days of the date of the notice, negotiations in good faith on a new pricing mechanism for Tidelands dry gas. If a new price is agreed upon, 110% of the Long Beach WACOG will be an interim price to be adjusted retroactively to reflect the newly established price from 30 days after the date of the notice demanding a price renegotiation. If no new price is agreed upon, 110% of the Long Beach WACOG will remain as the final price payable by the City for Tidelands dry gas, unless the party proposing the new price obtains a final judicial determination that the other failed to negotiate in good faith, in which case the proposed price will become the new price effective 30 days after the date of the notice to renegotiate the price.

5. The City's Gas Department shall purchase all Tidelands dry gas which can be economically utilized by the City's Gas Department and which is not required for oil field operations in the Long Beach tidelands. The City shall purchase all the Tidelands dry gas that it needs to meet its requirements and shall not purchase other gas unless the amount of the available Tidelands dry gas is insufficient to meet its requirements. In the event there is any Tidelands dry gas which cannot be

utilized economically by the City's gas Department and is not required for oil field operations in the Long Beach tidelands, the City shall sell such gas under short-term contracts or in the spot market and shall pay to the State the net receipts from the sale after deducting the City's reasonable costs of handling the gas, including a transportation charge equivalent to the City's tariff rate as set forth in Rate Schedule 9 applicable to gas owned by others and transported or exchanged by the City's Gas Department under Section 15.36.080 of the Long Beach Municipal Code or its successor. Presently the City's Schedule 9 tariff approved transmission charge is $0.045 per therm.

6. The City and the State believe that the intent of the pricing directive in section 6 of Chapter 29 is to provide a price reflecting the reasonable wholesale market value of dry gas purchased for consumption in the Los Angeles Basin. Market conditions for dry gas in the Los Angeles Basin have changed substantially since 1956 when Chapter 29 was enacted. The statutory reference to prices prevailing from time to time at absorption plants where wet gas produced in the Los Angeles Basin is being processed, while reflective of the reasonable wholesale market value in 1956, is today not only not reflective of such value but not even

operable because of the elimination of absorption plants. Currently, the reasonable wholesale market value of dry gas delivered in the Los Angeles Basin is influenced far more by purchases of out-of-state and foreign gas than by purchases of local gas because the volume of the former far exceeds the volume of the latter. The City and the State are of the opinion that 110% of the Long Beach WACOG is reflective at this time of the reasonable wholesale market value of dry gas in the Los Angeles Basin and, therefore, that its use is contemplated by the pricing directive in section 6 of Chapter 29.

7. This agreement has been approved on behalf of the City by the Long Beach City Council and on behalf of the State by the State Lands Commission.

DATED: ____________________

JAMES C. HANKLA
City Manager
City of Long Beach

DATED: ____________________

CHARLES WARREN
Executive Officer
State Lands Commission