

MINUTE ITEM  
This Calendar Item No. C80  
was approved as Minute Item  
No. 80 by the State Lands  
Commission by a vote of 3  
to 0 at its 3-8-94  
meeting. 8

CALENDAR ITEM

C80

03/08/94  
PRC 5206  
Willard  
Kruger

S 4

APPROVE MODIFICATION OF THE  
GEOTHERMAL STEAM SALES PRICE FORMULA  
AND LEASE AMENDMENT, STATE  
GEOTHERMAL RESOURCES LEASE PRC 5206,  
LAKE COUNTY

APPLICANT:

Santa Rosa Geothermal Company  
Attn: Kevin Rupp, Manager  
Corporate Land/Property Tax  
50 W. San Fernando, 5th Floor  
San Jose, California 95113

AREA, TYPE LAND AND LOCATION:

Approximately 130 acres of reserved mineral interest lands  
situated in the southeast portion of The Geysers Geothermal  
Area, Lake County.

BACKGROUND:

PRC 5206 was issued by competitive bid in 1976 for a primary  
term of twenty years and for succeeding periods of ten years  
each. The City of Santa Clara was the highest qualified  
bidder, but pursuant to P.R.C. Section 6912(b) the owner of  
the surface matched the high bid, was awarded the lease and  
assigned it to the Natomas Company. Following this, the  
Commission approved assignment of the lease in 1985 from  
Natomas to Phillips Petroleum, and in 1986, the lease was  
assigned from Phillips to Freeport Geothermal Resources  
Company (FGRC). Subsequently, FGRC constructed a  
20 megawatt electrical generating plant, the Bear Canyon  
Plant, on the State lease.

In January 1988, the Commission approved a geothermal steam  
sales price formula pursuant to terms of the lease. This  
agreement established a base price of \$1.891 per thousand  
pounds of steam produced from the leased lands, to be  
adjusted semi-annually each January 1 and July 1 based on  
changes in selected economic indexes. The adjusted prices  
were effective retroactively to the first day of the  
applicable six-month period and applied prospectively to the  
following six-month period.

CALENDAR PAGE	525
MINUTE PAGE	674

CALENDAR ITEM NO. C80 (CONT'D)

In June 1990, the Commission approved assignments and consent to encumbrance of PRC 5206 for financing construction of the electrical powerplant. FGRC assigned its interest in the lease to Freeport-McMoRan Resource Partners (Freeport), and Freeport assigned its interest in the lease to Santa Rosa Geothermal Company (Santa Rosa). Concurrently with such assignments, Santa Rosa assigned its interest as security to certain lenders. Upon closing of the overall transactions, Calpine Corporation of San Jose (Calpine) acquired a general partnership interest in Santa Rosa.

In April 1992, Calpine, on its own initiative, lowered the steam sales price to reflect market conditions. Commission staff advised Calpine that the Commission had not approved a change in the steam price used for royalty purposes, and that Calpine's royalty payment for the production month of April 1992 was underpaid and penalty and interest were assessed. In August 1992, Calpine requested a determination from the State regarding Calpine's royalty payment for the subject lease. Commission staff met with Calpine to discuss its interpretation of the lease provisions and the steam price formula. It was agreed that until a settlement is reached on this issue, Calpine would pay the disputed royalty amount each month under protest. A protest account was established for this purpose.

**PROPOSED SETTLEMENT:**

During the last quarter of 1993, Calpine and the Commission staff reached agreement on a settlement of Calpine's request for modification of the geothermal steam sales price formula. This included agreement on several points.

1. The price used to determine royalty payments for steam production from PRC 5206 shall be based on the arithmetic average of the four highest prices in the field: CCPA, NCPA-East, NCPA-West and SMUD. This new base price is \$1.74205 per thousand pounds of steam and replaces the current base price in the steam sales price formula. The new price is effective for the period July 1, 1993 through December 31, 1993.
2. The new base price shall be adjusted each January 1 and July 1 based on changes in the Gross National Product Implicit Price Deflator, weighted 75 percent, and the Producer Price Index for Fuels, Related Products and

CALENDAR ITEM NO. C80 (CONT'D)

Power, weighted 25 percent. The new base indexes, corresponding to the new base price, shall be 124.0 for GNP-IPD (second quarter 1993 index) and 81.83 for PPI-FRPP (second quarter 1993 average). The newly adjusted price shall no longer be applied retroactively to the preceding six-month period, as it had been previously. The first adjustment of the new base price shall be January 1, 1994.

3. The royalty rate for steam production shall be increased from ten percent to twelve and one-half percent.
4. Calpine shall surrender claim to funds currently being held in a protest account for the differential in royalty payments for the production months from June 1992 to October 1993, plus the disputed amount for April and May 1992 (\$6,251) and any disputed amounts from royalty payments for any subsequent months prior to implementing the new base price.
5. The original steam price formula agreed to by Freeport and the Commission in January 1988, currently \$2.254 per thousand pounds, shall continue to be the price used to compute steam value for net profit accounting purposes. Such price will be adjusted each January 1 and July 1 in accordance with the formula agreed to in January, 1988.
6. The terms of this modification of the geothermal steam sales price formula and lease amendment of the royalty rate shall be effective for the remainder of the primary term of the lease (ending December 14, 1996), and the succeeding secondary ten-year term. The lease's other monetary considerations may need to be renegotiated for the secondary term.

AB 884:

N/A

CALENDAR ITEM NO. C80 (CONT'D)

**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: P.R.C. 6804.1, P.R.C. 21065 and 14 Cal. Code Regs. 15378.

**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 MODIFICATION OF THE GEOTHERMAL STEAM SALES PRICE FORMULA UNDER STATE GEOTHERMAL RESOURCES LEASE PRC 5206 COMMENCING AT A NEW BASE PRICE OF \$1.74205 PER THOUSAND POUNDS OF STEAM PRODUCED FROM THE LEASED LANDS, EFFECTIVE FOR THE PERIOD JULY 1, 1993 THROUGH DECEMBER 31, 1993, RECALCULATED EACH JANUARY 1 AND JULY 1 BASED ON CHANGES IN SELECTED ECONOMIC INDEXES, THE FIRST ADJUSTMENT TO BE JANUARY 1, 1994; AND THE LEASE AMENDMENT OF THE ROYALTY RATE FOR STEAM PRODUCTION FROM PRC 5206 INCREASED FROM TEN PERCENT TO TWELVE AND ONE-HALF PERCENT; TERMS OF THE MODIFICATION OF THE GEOTHERMAL STEAM SALES PRICE FORMULA AND LEASE AMENDMENT OF THE ROYALTY RATE SHALL BE EFFECTIVE FOR THE REMAINDER OF THE PRIMARY TERM OF THE LEASE (ENDING DECEMBER 14, 1996), AND THE SUCCEEDING TEN-YEAR TERM.

CALENDAR PAGE	526.2
MINUTE PAGE	677