

1 request that your Commission consider that. We have the voice  
2 of the people through Proposition 9, which, as we all know,  
3 imposed some substantial burdens on us as public officials  
4 and on other public employees. That, as I say, was an  
5 aside, but I do agree with Mr. Bennett wholeheartedly in  
6 his characterization.

7 Finally, getting to the second point, which I hope  
8 to make brief and then get to answering some of the questions  
9 that were raised earlier, that is not the "can you" but the  
10 "should you" adjust the prices in question here for these  
11 fields upwards. If the analysis which I provided to the  
12 Chairman this morning which was provided to me by our  
13 engineering staff is correct, what we are looking at is a  
14 net benefit in dollars and cents -- dollars -- to the State  
15 of some \$900,000 at a cost to the balance of the state's  
16 ratepayers of some \$110 million on an annual basis.

17 Now, the tradeoff that we are talking about in  
18 that sense is not complete. It does not, for instance,  
19 include any effect on Southern California that might accrue  
20 or grow out of the higher prices that may be established by  
21 your body. Neither does it take into account additional  
22 costs to the State as a consumer of gas to those with whom  
23 it contracts because their cost of power and gas has increased.  
24 So, it is conceivable -- in fact, the direction is inescapable  
25 -- that the \$900,000 figure would be reduced somewhat. To

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1 what extent, I cannot say.

2 It is on that basis alone, the public interest basis,  
3 that I would recommend and feel strongly that your body should  
4 stay with the conservative estimate of \$1.20 for the contracts  
5 in question here because the tradeoff to the public is of  
6 such a devastating, as far as I'm concerned, nature.

7 That gets us to some of the questions, and I think  
8 probably not taking them in order, Mr. Cory, if you'd like  
9 to reiterate them or interrupt me, please do so. But you  
10 raised the question as to why would the Public Utilities  
11 Commission have to pass on these increases to the public.  
12 Why, for instance, if all of these contracts were renegotiated,  
13 if PG&E found itself in the posture after a determination  
14 by your body that, for instance, a \$1.76 was a reasonable  
15 price to be paid for the three fields in question and there-  
16 after in negotiations with other producers or in arbitration  
17 a \$1.76 figure was adopted, why would the Public Utilities  
18 Commission pass that on to the general ratepayer and thereby  
19 increase these rates by this horrendous sum of \$110 million?

20 The answer is simply that we each have responsi-  
21 bilities. You today are sitting on the hot seat. Should  
22 you make the determination and get off the hot seat that  
23 a \$1.76 is a reasonable price and the price that you want  
24 charged for the lands in question, the gas coming from  
25 the lands in question, the buck will then be passed on to the

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1 Public Utilities Commission who will have to make a determina-  
2 tion as to the reasonableness of the contracts negotiated  
3 between PG&E and the producers. In doing so, we are  
4 constrained by a substantial body of law which, as I have  
5 gone through the opinion that was provided to you in  
6 researching the history of your operations in determining  
7 prices, I do not find to be the case with the State Lands  
8 Commission. In fact, I may be wrong, but I believe that this  
9 is the first time historically that the State Lands Commission  
10 has gone through this process to raise the price of natural  
11 gas that is sold from the State lands. In the past, I  
12 believe they had adopted the negotiated prices that have  
13 been arrived at by the producers and PG&E.

14 CHAIRMAN CORY: Let me put that in perspective.  
15 I'm troubled by it. One of the things that troubles me  
16 most about that is we were told that 90 cents, when we  
17 started this thing way back when, was all anybody was paying  
18 for gas. Then we were told that \$1.20 was all anybody was  
19 paying for gas period. Close to flat ass lying. Close.

20 When you go back and read the transcripts, there  
21 are a little few weasel words in there, but what really  
22 comes out and what really troubles me is that we have a  
23 contractual obligation to get the highest price from proximate  
24 fields, and we were led to believe that Standard Oil was  
25 negotiating in good faith and that PG&E was negotiating in

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1 good faith; and I assumed that the Public Utilities Commission  
2 were monitoring those negotiations and that all the cards  
3 were on the table.

4 Then I started hearing rumors around that there  
5 are secret deals and secret contracts. When we issued  
6 subpoenas for them and we get them, lo and behold, they do  
7 exist. Not just a contract. You have to have a road map  
8 to ask enough questions to get all the agreements and side  
9 agreements and deals to get the full price on the table.

10 What kind of a system is out there in which we're  
11 forced to even get into this mess? I mean, I'm troubled  
12 by being here. I don't know really what I'd do about it,  
13 but here's this whole system of all these side deals, all  
14 this secret stuff where you've got to go through 30 minutes  
15 of testimony to ascertain that \$1.20 isn't \$1.20, that \$1.20  
16 in fact is a \$1.76. That's really the net effect of the  
17 deal.

18 I've got some problems with the secrecy of that  
19 and the fact that it's really almost a feeling that there's  
20 a conspiracy out there to defraud the State of California  
21 of its share and that somehow it's okay for Occidental through  
22 arbitration to get \$1.36 or \$1.34 and have the record sealed  
23 as to why they got that, and somehow everybody comes raining  
24 on my parade saying I'm supposed to ignore my contractual  
25 obligation to get the highest price on an adjacent field when

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1 adjacent field or very close to adjacent field was the  
2 arbitration price. What kind of a system is out there?  
3 What kind of shop are you guys running and what kind of a  
4 shop is PG&E and Standard Oil running when they enter into,  
5 for example, side agreements that if Standard Oil can't get  
6 us to accept the \$1.20, PG&E will go ahead and eat all those  
7 costs?

8 I've got some problems with all this. It seems  
9 like it's a public business, public asset. All the facts  
10 ought to be out on the table with everybody just sort of  
11 laying them out, looking at it and dealing with it openly  
12 rather than all these secret deals.

13 Can you help me with this, and why doesn't this  
14 information come out from your shop automatically? Do you  
15 allow the guys to enter into secret deals?

16 MR. GRAVELLE: I don't think you can put us in  
17 bed -- if there are conspiracies, Mr. Chairman, I don't  
18 think it is reasonable to attempt to, nor could you successfully  
19 put in bed with interests who have tried to arrange such a  
20 conspiracy.

21 CHAIRMAN CORY: No, I'm not suggesting that.

22 MR. GRAVELLE: There may very well be conspiracies.  
23 I'm not disputing that, nor am I agreeing with you that that  
24 exists because I don't know. I do know, as was testified  
25 by the prior witness a few moments ago, that for the Union

1 Oil field that the Public Utilities Commission determined  
2 a price, or it can be claimed that the Public Utilities  
3 Commission determined a price of \$1.66 for that field. The  
4 witness indicated that the price was more likely \$1.76 which  
5 means that for rate-fixing purposes we were below that level.

6 I would also say to you that the decision of  
7 the Commission does not spell out that \$1.66 level. That  
8 has to be given from the work that was presented by our  
9 staff and put into the record in an action in this proceeding.  
10 Those kinds of determinations, that is the rate-fixing level  
11 of the -- for rate-fixing purposes, the level of the contract  
12 prices are listed in the proceedings, in the rate proceedings  
13 before the Commission.

14 To the extent that we are able to determine what  
15 those contracts provide for and whether or not they were  
16 entered into at arm's-length, we are under the constraint  
17 of the judicial decisions to allow them as legitimate rate-  
18 making expenses.

19 If we can make a determination that there is some  
20 imprudence on the part of the utility, that the utility did  
21 not act reasonably or that they are dealing with an affiliate,  
22 for instance, we can and do make substantial disallowances  
23 for rate-fixing purposes.

24 CHAIRMAN CORY: But do you have a flat requirement  
25 that PG&E disclosed to you all public and private deals

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1 entered into with producers?

2 MR. GRAVELLE: To the extent that they might exceed  
3 for instance, the contract?

4 CHAIRMAN CORY: No. Just in terms of the public  
5 interest. I have real trouble with, given what I presume  
6 your role to be -- and I'm very ignorant in that area. I  
7 may be totally wrong about what your role and assignment is.  
8 It seems to me that what I thought the PUC was doing was  
9 keeping these guys out there honest.

10 It seems to me that the first thing to do is say,  
11 all right, guys, you're a monopoly. In exchange for that  
12 monopoly right, you have the right to disclose to us what  
13 you're doing. If you go out and say that Standard Oil as  
14 a producer will go negotiate this price and if you don't  
15 get it, we'll eat it, that tends to skew the negotiations  
16 rather significantly in the marketplace.

17 Do you require them to disclose those kinds of  
18 secret deals of not?

19 MR. GRAVELLE: Our interest, Mr. Cory, is to make  
20 sure what is passed through to the ratepayer in the form of  
21 regulation -- we're talking about price regulation here;  
22 that is the principal interest that we have, that we each  
23 have -- is that the utility is not charging the ratepayers  
24 or that the Commission is not allowing the utility to charge  
25 the ratepayer something that should not be passed through to

1 it. If the utility takes it upon itself to make payments  
2 under the table, for instance -- and I'm not accusing any  
3 utility of doing that; although, it may be the case. I'm  
4 not an expert in that aspect of the field. If that occurred,  
5 our responsibility would be to see that those under-the-table  
6 payments were not passed through to the ratepayer. If they  
7 were absorbed by the stockholders of that company and its  
8 management that is making that choice, then the stockholders  
9 are the ones that suffer and the stockholders are the ones  
10 that have to bring the action.

11 CHAIRMAN CORY: Is the answer to my question you  
12 do not have a general requirement that they disclose all of  
13 those deals per se, and if they don't disclose them, they  
14 have abridged their responsibility?

15 MR. GRAVELLE: I would say there is not that  
16 general requirement, except to the extent that the agreements  
17 are going to be passed through to the utility customer.

18 CHAIRMAN CORY: I just commend that to you because  
19 in the circumstances, as I understand it, there was in fact  
20 a private deal between the producer and PG&E.

21 MR. FALLIN: Chairman Cory, Jack Fallin of PG&E.

22 CHAIRMAN CORY: No. No, sir. You'll have your  
23 time.

24 MR. FALLIN: I have a quick point to make.

25 CHAIRMAN CORY: Sir, you are not recognized and

1 you are out of order. Would you please sit down? Thank you.

2 MR. GRAVELLE: You raised the question "significantly"  
3 earlier with Mr. Bennett, that you felt it was the obligation  
4 of the Commission to do some regulation of producers.

5 Again, this gets us back hopefully not to  
6 personalities, but to Mr. Lippitt as the representative of  
7 the producers. There is in fact an Order Instituting  
8 Investigation that signed by the Commission which is looking  
9 toward the regulation of the California producer. I might  
10 expect --

11 CHAIRMAN CORY: When is that happening?

12 MR. GRAVELLE: -- that the cooperation of the gas  
13 producer is not readily apparent in that proceeding as it  
14 might have been in your proceeding to determine gas prices  
15 to be charged here, and that is the case.

16 The current status -- and it is a difficult  
17 proceeding because of its very nature -- the current status  
18 of that Order Instituting Investigation is in a limbo situa-  
19 tion. The reason it is in a limbo situation is because of  
20 the Federal Energy Bill which, among other aspects, in some  
21 of its forms is looking toward the regulation of intrastate  
22 gas prices. If that legislation comes to pass, presumably  
23 neither the California Public Utilities Commission nor  
24 possibly the State Lands Commission will have anything to  
25 say about what the price level is for the intrastate-produced

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1 gas.

2           It would be, in our view, at least on a short-term  
3 basis, nonproductive to proceed with that difficult piece  
4 of litigation in the face of the hopefully forthcoming  
5 federal legislation. One of the problems that one of the  
6 cases that Mr. Bennett mentioned to you, the Richfield case,  
7 was a prior determination that the Commission did not have  
8 the jurisdiction to regulate intrastate gas production at  
9 the wellhead. The determination there was that the producer,  
10 in that case Richfield, who was selling to the public utility  
11 Southern California Edison had not dedicated its gas, and  
12 under the very section that Mr. Bennett referred you to,  
13 Section 216(c) of the Public Utilities Code, indicated that  
14 Richfield was not a public utility, that the Commission had  
15 exceeded its jurisdiction in trying to impose public utility  
16 status on Richfield and that the solution should be taken  
17 up through legislation, which was another part of one of  
18 your earlier questions, Mr. Cory.

19           There was a reference, Mr. Bennett was correct,  
20 by Justice Traynor as dicta in the case that there might,  
21 had other things occurred, there might have been a dedica-  
22 tion which would have allowed the Public Utilities Commission  
23 to regulate the producer. It's because of that case, for  
24 instance -- again for your edification, it was decided by  
25 the California Supreme Court in 1960 -- because of the change

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1 in circumstances with regard to energy between 1960 and 1977  
2 and because of the change in the makeup of the California  
3 Public Utilities Commission, the change in makeup of the  
4 court and the inability subsequent to the Richfield decision  
5 to get legislation which would give, clearly give the  
6 Commission authority to regulate California gas producers,  
7 we finally got the three votes that Mr. Bennett was unable  
8 to muster his ten years as a commissioner to institute this  
9 investigation.

10 If there is no federal regulation of intrastate  
11 gas, that proceeding will progress.

12 CHAIRMAN CORY: By when?

13 MR. GRAVELLE: It's going to be a long and  
14 litigious ordeal. I would say you would not be able to  
15 look for a decision by the California Public Utilities  
16 Commission --

17 CHAIRMAN CORY: I understand the decision, but  
18 when will you make a decision to either proceed with it,  
19 or how long are you going to give the federal government  
20 to preempt?

21 MR. GRAVELLE: I would say that the back burner  
22 status of that investigation should not remain in that  
23 status for more than another month. If the federal govern-  
24 ment does not act or if we clearly see that they are going  
25 to act one way or another, we can make a determination to

1 either take it off the back burner and proceed or leave it  
2 there and probably discontinue the investigation.

3 I believe that there might have been other  
4 questions, Mr. Cory, that you addressed to Mr. Bennett or  
5 maybe to me through Mr. Bennett by comment that I don't  
6 recall.

7 CHAIRMAN CORY: You believe at this point you do  
8 not have the existing statutory authority to proceed to  
9 declare some form of regulation of wellhead gas prices.

10 MR. GRAVELLE: I believe personally, one commissioner,  
11 that we can make an extremely good case today for the regula-  
12 tion of California producers, which is one of the reasons  
13 that I supported wholeheartedly the investigation to do so,  
14 the attempt to do so. That is where I stand.

15 CHAIRMAN CORY: If we should arrive at some  
16 determination of a price today, add to that the caveat that  
17 if you, the PUC, would choose to enter the field we would  
18 be willing to determine that whatever your price and judgment  
19 was would be the appropriate and proper amount, wouldn't that  
20 tend to meet the thing, because we have one set of facts  
21 and standards, and nobody has gone into this area to regulate  
22 the marketplace. Then it's unregulated since. The price  
23 has been relatively high.

24 What I am concerned about is the public interest  
25 that we might defer and not do something or take some

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1 absurdly low figure and then everybody else in the world  
2 get a high price because of the PUC's reluctance to enter  
3 this area. If we say, all right, it's a buck fifty, buck  
4 ninety-two, whatever the figure is, however, if the PUC  
5 wants to come in and provide that the public interest is  
6 best served by saying that the price is a dollar twenty or  
7 ninety cents, we will, for our side of the contract, be  
8 willing to stand aside and say, we are very much for the  
9 public interest. We will not exceed that and we will not  
10 bind anybody to a contractual obligation that exceeds that.

11 MR. GRAVELLE: I think when we get into the subject  
12 matter, this is one of the areas where you are in somewhat  
13 of a Catch-22 situation. Our concern is that you will make  
14 a determination that a price higher than \$1.20 is reasonable.  
15 That is your, depending on whether you are being controlled  
16 by the leases or by the statute as it's now clear, apparently  
17 clear, that is a determination by a body, a State body.

18 Are we to say thereafter that the State Lands  
19 Commission was wrong in its determination that \$1.52 --

20 CHAIRMAN CORY: No. If we decide that if the PUC  
21 does not come into the field then in fact the reasonable  
22 price is "X"; however, we invite you if we don't have the  
23 statutory authority or case law authority to control what  
24 other people get, we have a contractual obligation to get  
25 at least as high a price as everybody else is getting. We

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1 say to you we think the prices are kind of absurd. The  
2 consumer is getting his ox gored. If you wish to come in  
3 and say the word, we invite you in, and we will not hang  
4 anybody up. What is reasonable is whatever you decide it  
5 to be. The ball is in your court, PUC. What happens if we  
6 do that?

7 MR. GRAVELLE: That is a very complicated set of  
8 circumstances. I think in deference to all of the legal  
9 counsel sitting around here, I would not want to try to give  
10 you an answer to that now. I would comment that because of  
11 the nature of the proceeding that we have instituted to  
12 regulate producers, if that is a vehicle that we would be  
13 utilizing and, again, because of the appeals that were  
14 followed, assuming that the Commission does regulate, make  
15 a determination that it has jurisdiction, we are at least  
16 a number of years from a final judicial determination because  
17 you can bet your boots that that case will go to the U.S.  
18 Supreme Court if that determination is made.

19 So, I don't know where we would be down the road.  
20 I would like to point out one other Catch-22 situation that  
21 we have. That is if it is your desire that a body, be it  
22 the Public Utilities Commission or some other regulatory  
23 agency, regulate the California producers, then you must  
24 make the distinction that was alluded to on a negative basis  
25 by a prior witness between the old and new gas, because

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1 what we're talking about here is flowing gas from the Rio  
2 Vista field, if I understand correctly, back from 1930.

3 CHAIRMAN CORY: Has the PUC made any distinction  
4 within California as to what they consider reasonable for  
5 PG&E between old and new gas?

6 MR. GRAVELLE: I think implicitly you can say yes.

7 CHAIRMAN CORY: I have looked for that and haven't  
8 been able to find it.

9 MR. GRAVELLE: We've discussed it already today,  
10 and that is in the determination to utilize \$1.66 for the  
11 Union Island field as opposed to the utilization for the  
12 balance of the contracts of \$1.20 for the rate-fixing  
13 purposes.

14 CHAIRMAN CORY: Were any of those old contracts  
15 at a higher price, but you said, no, we will not give you  
16 that rate, or were you just taking that which was actually  
17 paid?

18 MR. GRAVELLE: That which was actually paid or  
19 which was, to our understanding, was actually paid and would  
20 be passed on to the ratepayers aside from the other questions  
21 of any other deals that might have been made.

22 I would say to you that as a matter of policy,  
23 our Commission would have no objection to the State Lands  
24 Commission determining the higher price for newly discovered  
25 gas on State lands than for the flowing gas that we are

1 talking about in the situations before you today. I would  
2 not be here making this type of an argument, nor would any  
3 of the other commissioners, if that were the situation with  
4 which we were dealing.

5 If a body is to regulate at the wellhead, such  
6 as is done on the federal level, you cannot have it both  
7 ways; that is, no distinction between old and new gas because  
8 there is valid reason for giving incentives for newly  
9 discovered gas.

10 There is not, as we see it, any valid reason for  
11 raising the price of flowing gas, particularly when you  
12 are talking about fields that go back to 1930.

13 CHAIRMAN CORY: But when I pursued that question  
14 in terms of trying to find a PUC regulation that dealt with  
15 that distinction, the staff informed me of a void in that  
16 area, that there is no distinction by regulation of the PUC  
17 between old and new gas. The distinction only exists at  
18 the federal level.

19 MR. GRAVELLE: There is no distinction in regulation  
20 because we do not regulate that gas. The distinction has to  
21 be determined in an ad hoc basis, case-by-case, and the  
22 example is the one which I cited to you of the Union Island  
23 field where there is a distinct price differential recognized  
24 for rate-making purposes.

25 As a matter of policy, what I am attempting to tell

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1 you today is that the Public Utilities Commission is not  
2 adverse to higher prices for newly discovered gas to be  
3 determined by this Commission, nor to be determined by  
4 producers who go out and put that gas into the dedicated  
5 stream for use by the utilities of this state. That, I would  
6 say to you, is the general policy consideration, without  
7 giving you a determination as to what level that is; but  
8 the \$1.20 or the price that you're fixing for flowing gas  
9 does put us in a difficult situation when the Commission is  
10 involved in attempting to get new sources of gas from wherever  
11 -- Mexico, South Alaska, anywhere else that we are dealing  
12 with at the same time that the utilities are with other  
13 state governments or with foreign countries to be faced  
14 with the situation that prices in California are equated  
15 to, for instance, the Canadian level.

16 That is one of the reasons that we are so strongly  
17 opposed to an increase at this time in the price level.

18 I don't think Mr. Bennett put anybody to sleep.  
19 I may have.

20 MS. SMITH: I just have one question for you,  
21 and that relates to the cost of gas to the consumer. A number  
22 of witnesses have testified that there will be an increased  
23 cost, but your testimony indicated a higher cost than any  
24 other testimony I've heard. You indicated an increase of  
25 110 million. So, I'm curious about the figure that you used

1 in arriving at this figure and what period of time this  
2 increase would be spread over, and also if you do have  
3 the information, I'd like to know what would be the impact  
4 that would be felt by the consumer on their monthly bill.

5 That sounds like a lot of money if I have to read  
6 that in the newspaper. I might get really upset, but I  
7 might not be quite as upset if I know in dollar amounts on  
8 my monthly bill what that increase is going to be.

9 MR. GRAVELLE: I may not be much of a lawyer, but  
10 I'm much less a mathematician. I have a summary which was  
11 supplied to Mr. Cory earlier which I would be happy to give  
12 you. One hundred ten, zero four two, two four five is an  
13 annual figure. It would cover all classes of ratepayers,  
14 but only in Northern California because of the rate schedules  
15 that we have utilized in taking the gas that goes to the  
16 consumer and because of the lifeline which has been adopted  
17 by the Commission and has been mandated by the Legislature.  
18 There is going to be a varying impact, and I cannot right  
19 now break that down to you on an average customer's bill  
20 or lifeline customer's quantity bill; but we will, if you're  
21 inclined, I would like to have the opportunity to have our  
22 staff attempt to develop that and send it to you by letter  
23 subsequently if that's acceptable to you.

24 MS. SMITH: Okay. The cost to the consumer will  
25 be a factor I will consider in voting on a price. So, I'm

1 asking these questions because I'd like to know what figure  
2 I would have to vote under to prevent a \$110 million increase  
3 to the consumers.

4 (Thereupon a brief recess was taken.)  
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1 CHAIRMAN CORY: Okay. We're back. We have paper  
2 in the machine, and we're ready to go ahead.

3 During the interlude Betty was raising the question  
4 that she was not sure that her question was answered as to  
5 how that was calculated. Is there anybody that can address  
6 themself to that question?

7 MR. GRAVELLE: The calculation I will give you,  
8 which you can look at and keep for analysis, the computation  
9 is based on an actual 1977 purchases of 128,504,752 MCF,  
10 Union Island, 13,177,596 times 2.08, which is the recommen-  
11 dation in your staff proposal on the agenda item minus the  
12 \$1.35, which comes out to \$9,619,645. The Occidental cost  
13 is rolled into that, which is \$4,793,833, and then all of  
14 the other contracts which we assume, because of the determi-  
15 nation of your body, would establish this new level of price  
16 for negotiation purposes, which will be the bulk, or  
17 \$9,628,767.

18 MS. SMITH: What price would we be establishing?

19 MR. GRAVELLE: \$2.08. If, for instance, your body  
20 established a price of \$1.50, in round figures -- I don't  
21 have it calculated here -- we would be talking about an  
22 impact on the balance of the ratepayer, other than the  
23 State of California, somewhere in the neighborhood of \$35  
24 million annually.

25 CHAIRMAN CORY: We have a figure which the staff has

1 prepared which showed after July '77 which is the same.  
2 They have one figure before, one after. That would be the  
3 new renegotiation period in the major universe. They were  
4 using 127 billion cubic feet. You were using 128.5. So,  
5 there is a discrepancy, perhaps, there as to how they added  
6 a couple of figures.

7 MR. GRAVELLE: If you have it in front, it's  
8 estimated --

9 CHAIRMAN CORY: I don't have yours. I have the  
10 staff's.

11 MR. GRAVELLE: Ours is estimated annual effect,  
12 1978 based on 1977 volumes.

13 MR. EVERITTS: Those are actual volumes?

14 MR. GRAVELLE: Yes.

15 CHAIRMAN CORY: In terms of corresponding figures  
16 I'm just trying to get us down to where we are, and using  
17 the 127 figure, they have come up with a 150 going to an  
18 increase of 279, and one of the differences was they were,  
19 I think, assuming that if nothing happened there would be  
20 a normal inflation to the \$1.20 which would tend to discount  
21 the discrepancy. I think that's what the staff -- am I  
22 misreading the staff's analysis of this, that they'd used  
23 through the current, the comparative figure being a buck  
24 twenty up through July of '78, but they figured that it  
25 would go to 1.28 at that point just through the normal things.

1 So, the combination of the differences in the total base  
2 and the eight cent factor, what you're subtracting from,  
3 is where reasonable men can differ as to what's going to  
4 happen, but it's in that ballpark. So, they use the one  
5 fifty, twenty-seven nine or twenty-eight. So, it's somewhere  
6 in the twenty-eight to thirty-five.

7 MR. GRAVELLE: That's correct.

8 MS. SMITH: Instead of 100 --

9 CHAIRMAN CORY: Well, that would be -- yes. That  
10 would be the buck fifty as opposed to it. They used the --  
11 your top figure to get to 210 was 2.08, whereas our top  
12 figure was \$2.00, which by comparison came down to 914; but  
13 that gives rise to the discrepancy which is concerning the  
14 numbers as to what those differences are. Slightly different  
15 numbers here and there, but the ballpark figures are, I  
16 think, accurate.

17 MR. GRAVELLE: Would you like us to supply you any  
18 material?

19 MS. SMITH: Yes, I'd be happy for you to.

20 MR. GRAVELLE: Let me identify what it is precisely.

21 MS. SMITH: Just exactly what the cost impact would  
22 be to the ratepayer in terms of their monthly bill over a  
23 period of time.

24 MR. GRAVELLE: We do that on the basis of our present  
25 rate schedule, depending on the usage.

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1 CHAIRMAN CORY: If you took, for ballpark prices,  
2 a factor of seven millimeters industrial and residential,  
3 is that about the universe?

4 MS. SIEGEL: 2.6 million for PG&E's service area.

5 CHAIRMAN CORY: Total meters, industrial and  
6 residential?

7 MS. SIEGEL: Everything.

8 MR. GRAVELLE: Greville?

9 MR. WAY: I think within the State of California  
10 it's about six million, but that includes Southern California.  
11 I think that's fairly close.

12 CHAIRMAN CORY: The ballpark per month is 2.75 as  
13 I'm doing it quickly in my head per month.

14 MR. WAY: Less than a dollar.

15 MS. SIEGEL: Less than a dollar? That's not true.

16 CHAIRMAN CORY: If you use the figure I just used.  
17 Three million, I think slightly less than three dollars, a  
18 few cents under three dollars is where I think the figure  
19 comes out.

20 MR. McCAUSLAND: I would appreciate the PUC going  
21 back to their ivory tower and computing the numbers that go  
22 into the background and maybe we can evaluate them.

23 MR. GRAVELLE: If it's agreeable with the members  
24 of the Commission, we would give you some spread of the cost  
25 to classes of consumers on an annual basis at the figures

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1 recommended by your staff in the agenda item, 2.08, and for  
2 comparison purposes, if it would be agreeable to you, we will  
3 take \$1.50.

4 MR. McCAUSLAND: We wouldn't even mind some  
5 interpolation in between if you want.

6 MR. GRAVELLE: I would reiterate, however, that,  
7 please, because we send you that, don't get the impression  
8 that we're recommending a \$1.50, because \$1.20 is our number.

9 MR. McCAUSLAND: You can send it to us at a \$1.20.

10 CHAIRMAN CORY: The \$1.50 would have an increase also.

11 MR. GRAVELLE: Would have a zero impact.

12 MR. McCAUSLAND: We would hope that you would find  
13 some kind of inflation factor of what you, at least as an  
14 in-house estimate, think might be a working number for next  
15 year's prices, anyway.

16 MR. GRAVELLE: I would definitely, Mr. McCausland,  
17 and respectfully try to avoid doing that because I would not  
18 want to be giving signals to the industry as to what the  
19 Commission, our Commission, might find acceptable for  
20 ratemaking purposes.

21 MR. McCAUSLAND: You got to get into it then, right?

22 CHAIRMAN CORY: Let's back up --

23 MR. GRAVELLE: We each become the ham in the  
24 sandwich at some point in time.

25 CHAIRMAN CORY: I'm having some trouble accounting-

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1 wise. If the total universe after July 1, 1978 is 178 with  
2 127, 128 billion cubic feet and there is 21 billion cubic  
3 feet currently in arbitration and before this body, that  
4 appears to be a significant portion of the 128; and, therefore,  
5 going from wherever we are to \$1.20, if we go from 90 cents  
6 or something, that those items that are still out, if they  
7 all go to \$1.20, would there not be a financial impact?

8 MR. GRAVELLE: So what you want --

9 CHAIRMAN CORY: No, I'm just asking a question.  
10 You said that there would be a zero impact of going to \$1.20.  
11 I'm suggesting that there appears to be BCF that's not in  
12 there that is --

13 MR. GRAVELLE: Mr. MacKenzie informs me that you  
14 are correct, that there may be an impact at \$1.20. I base  
15 that statement on my belief that they are all at \$1.20  
16 currently.

17 CHAIRMAN CORY: I think there are some not, but  
18 it's not --

19 MR. GRAVELLE: Not substantial.

20 MR. MacKENZIE: We can show you the impact, if  
21 there are any that are not, we can assume that there will  
22 be certain numbers that would not -- if we went to 1.20 what  
23 the impact of going to 1.20 would be using the present  
24 rate schedules.

25 CHAIRMAN CORY: Do you have any other questions?

1 MR. McCAUSLAND: I'd like to ask a couple of  
2 questions. We're reluctant partners in a rather difficult  
3 area, and it seems that California has an Energy Commission  
4 and the Public Utilities Commission and the State Lands  
5 Commission. As I have begun to go through the record, it's  
6 become fairly evident to me that California's gas is probably  
7 the most precious gas that we have because it's available at  
8 a time when the system is most in need of peaking capacity  
9 in order to meet high demands. I assume that a lot of times  
10 when that demand is called upon is when only the priority  
11 use customers are actually receiving service.

12 Is the Public Utilities Commission engaged in any  
13 active analysis of how we're going to be meeting our gas  
14 demands over the next several years and what role California's  
15 gas plays in meeting that and what price it's going to take  
16 to deliver California gas to be there when PG&E or anybody  
17 else needs it?

18 MR. GRAVELLE: The Public Utilities, Mr. McCausland,  
19 the Public Utilities Commission is actively engaged in that  
20 activity, principally, I would say, through the efforts of the  
21 Chairman of the Commission who is, with the Chairman of the  
22 Energy Commission and with the Governor, have been for the  
23 last two years, plus -- in round figures, the last two years,  
24 since he came on the Commission -- I'm speaking now of  
25 Mr. Ratinovich -- has been very actively engaged with other

1 public officials, Commissioner Ross before him, in Canada,  
2 in Mexico, in Alaska, with the utilities and without the utilities

3 MR. McCAUSLAND: But what about here in California?  
4 My difficulty is that I have also discussed it with  
5 Mr. Batinovich and Mr. Ross, and I share your Commission's  
6 concern. I think that you have the most thankless task of  
7 all, unless it's the one that we have today; but I think  
8 you have to address the problem of having gas on line in  
9 California when that peak winter day comes. We just went  
10 through a drought. What happens when we go through a freeze?

11 MR. GRAVELLE: That is one of the reasons why we're  
12 protecting this resource. Mr. Lippitt I think very honestly  
13 would accuse us, and maybe eventually so, of being very  
14 niggardly in PG&E as they have accused them of being  
15 niggardly with the gas in California. You used the term  
16 "the value" of gas. Mr. Bennett tried to get you off of that  
17 direction. I would also try to get you off of that direction.

18 MR. McCAUSLAND: I substitute the word "precious  
19 commodity".

20 MR. GRAVELLE: I would not disagree with that. It  
21 is a precious commodity. But on the value concept, for  
22 peaking purposes or for any other purposes, it has a  
23 substantial value. What we are attempting to do, and we  
24 have over a period of years, and I would be less than honest  
25 if I tried to be obtuse about meeting the question, is to

1 retain as much of that gas in the ground for future use and  
2 for peaking use as is possible, at the same time allowing  
3 the producers reasonable return on their cost and on their  
4 investment.

5 CHAIRMAN CORY: Doesn't that take you to a point  
6 where low prices to the consumer encourages consumption, and  
7 maybe what we really need is for some bold stroke to come  
8 in and maybe a heavy tax on it so the government has that  
9 profit coming into it rather -- don't you have to price it  
10 out of the marketplace? I can't balance the two.

11 MR. GRAVELLE: There are substantial problems,  
12 Mr. Cory, because, for instance, we have mandated by the  
13 Legislature the concept of lifeline ratemaking for the energy  
14 needs of the State of California, which the Legislature has  
15 recognized and the Commission has recognized is that we're  
16 talking about protection of human life, basically, on that  
17 cold winter morning that Mr. McCausland refers to.

18 We do not want to outprice the ability of the poor  
19 or the elderly or the parsimonious user to have gas available  
20 to them when they truly need it, because this State is so  
21 dependent upon the needs, so dependent upon gas as a fuel.  
22 We are, to some extent, unique in the United States in that  
23 area. So, we have been protecting the commodity that we have  
24 at home. We don't believe, contrary to what producers might  
25 tell you, that there are huge reserves of natural gas. If

1 there were, there is an interstate market for it, and the  
2 interstate market, to the extent that it exceeds the  
3 California prices that are being paid now, would have developed.

4 CHAIRMAN CORY: Is there a pipeline to get it out?

5 MR. GRAVELLE: Where there is a source, there will  
6 be a pipeline to get it out. You can see that wherever gas  
7 is produced; and if there is no pipeline, there will be  
8 schemes to bring gas in by LNG or other means.

9 CHAIRMAN CORY: From my vantage point, let me  
10 suggest to you from what I know about the liquid petroleum  
11 industry, that does not necessarily follow even though logic  
12 would dictate it, given the monopolistic practices of the  
13 industry, that there in fact may be gas there to which some  
14 people have access but the market doesn't develop because the  
15 pipeline isn't there. That's a chicken and egg thing.

16 MR. GRAVELLE: I understand what we're talking about  
17 are volumes. We have no doubt that there is gas in Cali-  
18 fornia and that there will be gas in California for use  
19 sometime in the future. The quantity, the magnitude of that  
20 gas is the critical point, and we believe that the magnitude  
21 of that gas is not as huge as some would have you believe.  
22 The quicker that flowing gas gets repriced at a higher level,  
23 the more profit is going to be made on that. The production,  
24 the producers tell us all the time, let us take the gas out  
25 of the ground, pump it into the system, make PG&E take it,

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1 put it on not as peaking gas but as a main source of supply.

2 That means that the gas fields are going to be  
3 depleted. My understanding is, and your staff undoubtedly  
4 has informed you of this, that Ryer Island, for instance,  
5 is a field that does not look like it's going to be productive  
6 for too long a time in the future. I think that they would  
7 substantiate that analysis. It's a depleting commodity,  
8 and Ryer is very important.

9 CHAIRMAN CORY: Ryer Island is the one that is  
10 going to --

11 MR. GRAVELLE: Standard Oil.

12 CHAIRMAN CORY: Standard Oil on transmission which  
13 is not a peak loading, but a --

14 MR. GRAVELLE: I share your problem.

15 CHAIRMAN CORY: Go ahead.

16 MR. GRAVELLE: We have been accused of inconsistency,  
17 and we were, and rightly, of being inconsistent in that when  
18 we are talking about the price of the gas that is going to  
19 the utility from the producer, we want to talk cost; and  
20 we do, as you heard Mr. Bennett before me iterate.

21 When we talk about gas that goes from the utility  
22 to the consumer, we talk about and we fix our rate structure,  
23 we do so on a value concept, which does hopefully provide  
24 the signal to the users to cut back, to go to alternate  
25 sources of fuel and to feel the impact of extravagant use of

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1 this precious commodity.

2 The exception there is the lifeline residential  
3 customer which, as I again point out, is one which is a  
4 very different broad social problem and one that's mandated  
5 by legislation.

6 MR. McCAUSLAND: I'd like to ask a question on a  
7 slightly different subject, but this also relates, I think,  
8 to PG&E and the PUC's relationship. One of my other roles  
9 is investing retirement funds for the State, and I watch the  
10 ratings of California corporations; and it's very clear that  
11 California utilities are not enjoying the most favorable  
12 ratings at the national level in the financial community on  
13 the basis of return on investment and regulatory outlook.

14 How do we address those kinds of issues in terms  
15 of fully pricing the commodity and yet protecting the consumer?  
16 How are we going to be sure that we have the capital plant  
17 in place to meet California's future needs if it's the  
18 perception of others that we're not an attractive place to  
19 invest?

20 MR. GRAVELLE: We could be here for several days.  
21 Without trying to be corny, I'd like to say, "You're in good  
22 hands with Allstate." You're in good hands with the PUC.

23 (Laughter.)

24 MR. McCAUSLAND: That's good enough.

25 MR. GRAVELLE: We understand. We understand that

1 problem; and the financial community, believe it or not,  
2 spends a good deal of time coming out to California and  
3 looking at the Commissioners to see if we have green horns,  
4 whether we are what they would call "public ownership nuts",  
5 whether we're trying to bankrupt the utilities and things  
6 of that nature. We have taken steps to improve the quality  
7 of the earnings of the utilities that we regulate, and we do  
8 so very often at the substantial criticism of some of the  
9 people who will undoubtedly follow me today to testify before  
10 you, which is why I say that we all share being the ham in  
11 the sandwich at some time.

12 There is a fine balance that we try to make. I  
13 would say to you that I believe that the California utilities,  
14 as a whole, are very healthy. The perception of the financial  
15 community as reflected in the rating of some of the debt  
16 issues of our utilities is not as good as it is in other  
17 areas of the country under other Commissions; nevertheless,  
18 there are substantial other reasons why that is true and  
19 why utilities generally have a difficult time financing.

20 We have worked with our utilities, and I don't  
21 think when they come in on a case-by-case basis and ask, as  
22 Pacific Telephone is going to do, for a 14-percent return  
23 on equity and 10-percent rate of return, which equates to  
24 \$471 million, these are things that we have to wrestle with.

25 CHAIRMAN CORY: How long have you been on the

1 Commission?

2 MR. GRAVELLE: Mr. Cory, I've been on the  
3 Commission a year today. I was sworn in a year ago today.  
4 I've been with the Commission for 18 years, the last two  
5 and a half of which before I became a Commissioner was as  
6 general counsel.

7 CHAIRMAN CORY: What has been the recent history  
8 of rate increases granted by the Commission to PG&E? When  
9 was the last one?

10 MR. GRAVELLE: The last rate increas Mrs. Siegel --  
11 without looking at her I know she's frothing at the mouth  
12 right now. The last rate increase that we might refer to  
13 was granted just prior to Christmas 1977, and there may be  
14 some significance in that. It was what we categorized as  
15 a Rate Stabilization Order which transferred funds from the  
16 energy cost adjustment account to the general rate base of  
17 the utility, again hopefully to provide a signal to the  
18 financial community, among other things, that PG&E is in the  
19 process of asking for general rate relief right now, would  
20 have the opportunity to earn their authorized rate of return  
21 throughout the year 1978. There will probably be --

22 CHAIRMAN CORY: What was the order of magnitude  
23 of that?

24 MR. GRAVELLE: That was, I believe, in the  
25 neighborhood of \$80 million. The rate of return that was

1 found reasonable there was equated to the return on equity  
2 that has been last found reasonable. It put the rate of  
3 return at 9.5 percent.

4 CHAIRMAN CORY: Prior to that when was their last  
5 rate increase?

6 MR. GRAVELLE: 1976, I believe. The end of the  
7 year 1976. There is a phase. The prior rate case is still  
8 going on in one phase, and it has been submitted and is  
9 awaiting decision currently. That has to do with the  
10 conservation efforts of the utility and the tax problems  
11 of the utility, basically.

12 CHAIRMAN CORY: '77 was the basic electric increase  
13 of 80 million. In '76 there was a rate increase. Was that  
14 the electric and gas?

15 MR. GRAVELLE: That's my recollection, yes.

16 CHAIRMAN CORY: The order of magnitude of that was?

17 MR. GRAVELLE: Sylvia?

18 MS. SIEGEL: It's 170 million for electric and gas  
19 in Phase One. The authorized 71 million results in electric  
20 for '77 out of the total of 981 million. The balance above  
21 the 71 million is attributable to the ECAC adjustment on  
22 an annualized basis, plus the increase allowed for the gas  
23 department.

24 MR. GRAVELL: If we're talking about ECAC, that is  
25 the Energy Cost Adjustment Account.

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1 CHAIRMAN CORY: That was '76.

2 MR. GRAVELLE: The '76 test year.

3 CHAIRMAN CORY: When was the rate increase prior  
4 to that?

5 MR. GRAVELLE: I think the increase prior to that  
6 was a 1975 decision based on a 1974 test year.

7 CHAIRMAN CORY: What was the order of magnitude  
8 of that?

9 MS. SIEGEL: 213 million, December the 16th, 1975.

10 CHAIRMAN CORY: What was that?

11 MS. SIEGEL: Gas and electric.

12 CHAIRMAN CORY: What was the rate increase prior  
13 to that? That was '75. When was the one prior to that?

14 MS. SIEGEL: That was a rating commission, and  
15 they were coming every 16 weeks then.

16 MR. GRAVELLE: We had procedures previously to  
17 offset what was called the fuel costs. We now have procedures  
18 to offset what we call energy costs which are based on  
19 historical data and roll in all of the various components.

20 CHAIRMAN CORY: I somehow was under the impression  
21 that electric rates had been frozen for a long time.

22 MR. GRAVELLE: What has been frozen, Mr. Chairman,  
23 was the level of the lifeline rate. If you, as a consumer,  
24 have been able to retain your usage at the lifeline quantity,  
25 you have not had an increase in your gas or electric rates

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1 for some years. If you have utilized above a lifeline  
2 quantity, as a residential user, you have experienced some  
3 substantial increases; and if you are a commercial or  
4 industrial user of gas, you have had your rates inverted,  
5 meaning that instead of a declining block rate, which was  
6 the past practice, as your usage goes up your rate goes up,  
7 which is, as I say, based on the value concept, something  
8 that we do not preach to you for the producers.

9 MS. SMITH: Just one last question, Mr. Gravelle.  
10 Has your testimony here today been on behalf of the Public  
11 Utilities Commission, or are you testifying in your individual  
12 capacity?

13 MR. GRAVELLE: I am happy to say, Miss Smith, that  
14 a majority of the Commission support -- and we are a five-  
15 member body -- a majority of the Commission support the  
16 testimony that I gave today. The lone minority member,  
17 Mr. Symons, does not, and he provided a statement to you for  
18 your August 11th, 1975 hearing which was part of the trans-  
19 mittal which I gave you today.

20 MS. SMITH: So, there was a resolution of your  
21 Board or a vote?

22 MR. GRAVELLE: There was a consideration, right.  
23 That goes back to August, and it was a touchy situation  
24 because we didn't have a full commission at that time. Before  
25 coming here today I checked with Commissioner Sturgeon to

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1 find out if I had his support to provide the testimony today,  
2 and he would be the third vote necessary. Mrs. Dedrick has  
3 not taken a vote on this. She was not present at the time  
4 of the first consideration, and I have been unable to  
5 contact her between yesterday and today to find out whether  
6 she would support it. Commissioner Sturgeon said, as long  
7 as you are talking about flowing gas, I'm with you a hundred  
8 percent. If you're talking about new gas, we have a  
9 different ballgame.

10 CHAIRMAN CORY: To help me understand -- and I  
11 guess this is not so much on the factual pattern of gas,  
12 but the political realities of the world -- the five-member  
13 body of which you are one -- and you impress me very much  
14 with where you are philosophically. I have met Commissioner  
15 Batinovich. I know where he is philosophically. I have  
16 known Claire for some time and have a great deal of admiration  
17 and respect for where she is on most issues philosophically.  
18 So, if we did something to put the ball back in your court,  
19 it would seem to me there would be three votes for the  
20 people. Am I misreading your submission?

21 MR. GRAVELLE: I would hope that. I would hope  
22 that we would be three votes for the people.

23 CHAIRMAN CORY: As soon as you get to three, it's  
24 irrelevant.

25 MR. GRAVELLE: Again, I would reiterate, if you

19  
1 make a determination of reasonable, it puts our body in a  
2 greatly more difficult situation to determine that --

3 CHAIRMAN CORY: But I'm suggesting to you if we're  
4 going to continue in an unregulated field, we must recognize,  
5 unfortunately, the facts and the realities of what these  
6 secret deals have generated; but if in fact the PUC wishes to  
7 go in and determine what reasonable is and set the price to  
8 which they will not pass on to the consumer above -- which  
9 I think would have a great therapeutic effect on secret deals --  
10 we are willing to stand by that agreement. That seems to me  
11 to put the ball in your court. You seem to have three good  
12 votes. The public interest might well be served by people  
13 who are in a position to deal with those technical areas  
14 where we are mere neophytes and have to worry about definitions  
15 and a great deal of other problems.

16 MR. GRAVELLE: I think you deprecate yourself.  
17 I think three good people up there could come to a unanimous  
18 decision on \$1.20.

19 MS. SMITH: If we do vote to maintain the price at  
20 \$1.20 and the rest of the industry remains unregulated, what  
21 would the increase to consumers be?

22 CHAIRMAN CORY: You've got other arbitrations.

23 MR. GRAVELLE: That I can't tell you. What we  
24 would have to look at would be the arbitrations. What we  
25 would have to review later on would be the arbitrations and

1 the vigor with which PG&E negotiated, not only tried the  
2 arbitration proceedings, but negotiated the other contracts  
3 that were not subject to arbitration. I would say that I  
4 would think it would be of substantial benefit to them if  
5 the price was maintained at \$1.20 as a guide to what a  
6 State body charged by statute with fixing the price believed  
7 to be the reasonable price. It would be substantial  
8 evidence to have put before an arbitrator.

9 CHAIRMAN CORY: But you have the other one or two  
10 arbitrations at higher figures which have been adjudicated,  
11 or the court has refused to interfere.

12 MR. GRAVELLE: That's correct. I don't question  
13 that.

14 CHAIRMAN CORY: And you've got another one or two  
15 that are in the mill, and the box we're in is if they come  
16 back following the previous arbitration and we lock ourselves  
17 in contractually, we may be the only consumer that ends up  
18 with the low price.

19 MR. GRAVELLE: With regard to the arbitration  
20 question and what might happen in the future, based on  
21 short conversations that I've had with them today -- I  
22 think Mr. Fallin might be able to provide you with much  
23 more current information and better opinion on what might  
24 transpire there.

25 CHAIRMAN CORY: Any further questions?

1 MR. GRAVELLE: Thank you very much for your  
2 courtesy and the opportunity.

3 CHAIRMAN CORY: Thank you. You've helped us  
4 a great deal.

5 Sylvia?

6 MS. SIEGEL: Thank you, Mr. Chairman. I came here  
7 prepared to give you a lot of facts, but since you are so  
8 generous and gracious and nondiscriminatory inviting a  
9 woman to precede all the men who want to follow me, how  
10 could I do such a terrible thing?

11 I'm going to be very brief. As far as I'm  
12 concerned, this is a clear-cut problem. You raised some  
13 marvelous questions, and I wish I had you handy a few years  
14 ago when I was cross examining PG&E's witnesses on the very  
15 questions you posed.

16 Let me assure you, Mr. Cory and Commissioners,  
17 that the four lawyers on our staff who work for the love of  
18 it -- they do get somewhat of a salary -- and I, who get no  
19 salary, go into all of the information that goes on the  
20 record upon which we appeal to the Supreme Court -- and  
21 sometimes our writs are accepted -- with the greatest  
22 scrutiny. We don't rely on answers in response to our  
23 questions that are posed to the utility company. We insist  
24 on going to the utility's records and searching the records  
25 ourselves, and we come up with some mighty interesting things.

1 We blew the whistle on the overcollections on  
2 fuel cost back in 1975, and I think you recall that very  
3 well, Mr. Cory. We try to go into all of the questions of  
4 arm's-length bargaining, of proper pricing and so on in great  
5 detail. In fact, we're frequently cut off at the pocket  
6 from pursuing it, but we go ahead anyway.

7 Now, I hate to be in a position of kissing PG&E  
8 on both cheeks and saying, you've done a great job on  
9 bargaining. In my heart, I still don't think so, but honestly,  
10 I've not been able to uncover anything that shows otherwise.

11 So, if you want to rest on our hard work, so far  
12 I haven't been able to uncover anything. Now, for example,  
13 in the matter of oil buying, I know the same product purchased  
14 by ships as purchased by the oil companies sometimes has  
15 discounts, under-the-table discounts, rebates, temporary  
16 discounts, and whatever.

17 We did get some of that on the record there. You  
18 know more about this than I do. But if there are any such  
19 discounts in effect now, I haven't been able to uncover  
20 them. If you know them, I'd happily like to know about it.

21 We're going into Edison to do discovery next week.  
22 So, if you have any clues, help me. I need your help.

23 On the other hand, let me help you with plain talk.  
24 I'm not a lawyer, as you know. I just tell it like it is.

25 The impact on the consumer would be horrendous.

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1 While the Commission from September 16th, 1975 when they  
2 graciously accepted our proposal and adopted the beginning  
3 of inverted rates, which gives the proper economic signal  
4 to conserve, adopted the lifeline amounts as part of a  
5 conservation inverted rate structure, there have been no  
6 impacts on the lifeline amounts. However, during 1977,  
7 because of the horrendous price of gas, gas prices were  
8 actually inverted. Now there will be an impact on the  
9 lifeline amounts.

10 I'm not sure yet whether I agree with it, but  
11 that's what's happened. There will be on electric a  
12 stabilization decision that Commissioner Gravelle referred  
13 to that we're appealing. It's a terrible decision. I think  
14 the PUC is getting politicized.

15 I tell them that to their teeth, and I tell you  
16 that. We're going to appeal that decision, and we have  
17 appealed other PUC decisions.

18 On the whole I have to tell you the atmosphere  
19 in the last two years, or certainly in the first year of  
20 this PUC administration, has been far better than it has  
21 in the past.

22 Now, with respect to the question under consideration  
23 now, the only question you have to decide -- forget about  
24 what's going to exist in July '78. You're talking about  
25 a contract term that goes from January to June '77, from

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1 July to December '77, from January to June 1978; and  
2 clearly the rate is \$1.20. Anything above that, you are  
3 throwing a terrible burden on all of California.

4 The 110 million only refers to Northern California,  
5 but the rates will be reflected in the Southern California  
6 rates as well.

7 As you know, or maybe you don't know, we have a  
8 petition with 20 other petitioners in a coalition before  
9 FERC, the Federal Energy Regulatory Commission, to hold  
10 evidentiary hearings to set a proper national rate. The  
11 last rate, the current rate now in effect of \$1.45, as  
12 Mr. Bennett suggested, includes phantom taxes which should  
13 not be included in there, includes the highest prevailing  
14 rate of return, includes a cost of service, includes a  
15 component for exploration and development and who knows  
16 what else, a lot of which is improper.

17 They never held evidentiary hearings on that rate.  
18 We appealed it. The appeal is still in the courts. In the  
19 meantime, I am told -- and I get to Washington frequently --  
20 they're having a hard time deciding on continued regulation  
21 of the gas.

22 We may not have any decision on that. In the  
23 absence of a decision, then FERC has to act. FERC will act  
24 on our petition. There will be substantial evidence put  
25 into the record to show that \$1.45 is far above what is

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1 required. I pass that on for your information. I don't  
2 know what else to tell you.

3 I will tell you, I have to level with you. I  
4 will tell you, and I don't tell you in the way of threatening  
5 or anything else, but to protect the consumer constituents  
6 I represent -- that includes the 85,000 Berkeley Co-op  
7 members, the Statewide Consumer Federation of California --  
8 I'm reciting this for political purposes --

9 (Laughter.)

10 MS. SIEGEL: -- San Francisco Consumer Action,  
11 the citizens of a number of cities and counties in  
12 California, as well as our own constituents. I have to  
13 inform you that I left a lawyer home today with instructions  
14 to prepare pleadings. I'm staying overnight. He'll come  
15 up here and we'll go to Superior Court or wherever the hell  
16 you go, and we're going to file them. We're going to get  
17 injunctive relief. I will ask the Governor to intercede  
18 because we're not going to stand for an impact of \$110  
19 million.

20 I will ask for a legislative investigation of how  
21 this Commission functions; and, finally, I will be on the  
22 campaign trail informing all of the consumers in the state  
23 of how this Commission voted. This is no idle threat. To  
24 Michael Warren -- and you can talk to him -- I'm known as  
25 Spoiler Siegel.

1 I urge you, ladies and gentlemen, to do what's  
2 right for the broad public interest. I know that you're  
3 concerned. I know you want to do the right thing. You  
4 have a terrible problem.

5 You are right about regulation. We asked the  
6 California Public Utilities Commission three or four years  
7 ago to assert jurisdiction under the same Section 216(c)  
8 that the others have alluded to. We would have taken it  
9 up, but each company is in before that Commission with  
10 seven or eight applications at once. So, you can imagine  
11 how fast and hard we're working. We don't always have time  
12 to appeal, but on this one we will.

13 CHAIRMAN CORY: Let me ask you, what about the  
14 concept of if we come to a determination but provide that  
15 the PUC can overrule us, because I think they're in a better  
16 position if they go ahead and exercise discretionary power  
17 under that section which everybody seems to think they have.  
18 Doesn't that tend to give them a strong position to do  
19 something now and finally get off the dime and start  
20 regulating this?

21 MS. SIEGEL: You mean about asserting jurisdiction?  
22 Well, I think they can do it right now. They need three  
23 votes. That's been the problem.

24 CHAIRMAN CORY: I'm suggesting that there appear  
25 to be three votes there.

27

1 MS. SIEGEL: Don't be too sure of that, Mr. Cory.  
2 I know it appears that there should be three votes. I'll  
3 talk to you about it privately.

4 (Laughter.)

5 MS. SIEGEL: In fact, I might talk publicly someday  
6 soon.

7 (Thereupon a brief discussion was held off  
8 the record.)

9 CHAIRMAN CORY: It would help me in my deliberations  
10 here if I understood, but apparently you choose not to go  
11 into that any further at this time and this place because  
12 of the forum you're in. But that would be helpful if I  
13 understood that because what seems to me to be the case is  
14 that the plight I see likely to be coming about is that  
15 PG&E was, in essence, offered a net of a buck twenty,  
16 \$1.31 less 11 in compression charges some time ago. And as  
17 we wait more and more and more facts keep building up  
18 elsewhere in the universe because nobody will step in and  
19 say, no, we're not going to do this --

20 MS. SIEGEL: Don't worry about the facts that  
21 are going to exist beyond July '78. You treat that  
22 separately at a later time. All you're concerned with now  
23 is the price for the contract that expires in June 30, 1978.  
24 That's your only point of consideration.

25 There will be a lot of new factors that you'll

1 have to consider for the next contract term. Then you  
2 consider it. I'll help you if I can. I'll give you all  
3 the information I can get for you, but all you're talking  
4 about now is the contract period that expires June 30th, 1978.  
5 All these new figures are irrelevant.

6 You have to get like comparisons for like products  
7 for like periods; and if you do anything else, it's illegal.  
8 And I know there are ten reasons on the record right now  
9 that all add up to -- you don't mind if I use a legal term --  
10 irreparable harm, and we will pursue it. But I don't want  
11 to pursue it because I think you want to do the right thing,  
12 and I think right today in the public interest you do the  
13 right thing and just talk about \$1.20. Come back two months.  
14 I'll be happy to spend time and go over all the data I  
15 can get for you to show you what will exist for the next  
16 contract period. That's a promise.

17 MS. SMITH: Mrs. Siegel, when you say "irreparable  
18 harm", what are you referring to? Irreparable harm to the  
19 consumer?

20 MS. SIEGEL: To the consumer, yes. I'm concerned  
21 as you are about the consumer.

22 MR. McCAUSLAND: I'd like to simply say the last  
23 time Mrs. Siegel came I said that her reputation had  
24 preceded her. It's grown in the interim, and I appreciate  
25 your advice and input and also appreciate the pressure that

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1 you're bringing to bear on us today because as far as I'm  
2 concerned, you're the most bona fide representative of the  
3 public at large that we're dealing with.

4 MS. SIEGEL: Aren't you sweet.

5 (Laughter.)

6 MR. McCAUSLAND: I wish I could go for \$1.20,  
7 but in all honesty, I believe that my responsibilities  
8 in this onerous role -- no, that's not the right word.  
9 Give me a legal phrase for my role.

10 MS. SIEGEL: I'm not a lawyer, dear.

11 MR. McCAUSLAND: Compel me to vote for more than  
12 \$1.20. You've heard my questions to the other people that  
13 have testified. If you'd like to comment on any of the  
14 questions that I've asked, I'd appreciate your advice.

15 MS. SIEGEL: I think you've asked very good  
16 questions and, obviously, you've gone into this record in  
17 great detail. I think it's a philosophical point and also  
18 a factual point. As far as I'm concerned, Mr. McCausland,  
19 the facts are clear. The prevailing rate is \$1.20 for the  
20 contract period under discussion that expires June 30th, 1978.

21 In regard to peaking you ask, now, I've been  
22 arguing with the Commission that they ought to use California  
23 gas. I don't agree with the Commission's stance on LNG.  
24 I think the potential for future gas development is  
25 substantial in many areas. We're going to get a lot more

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1 gas from Mexico than we counted on. There is gas in  
2 Baja California. There are untapped reserves in the Gulf  
3 that nobody is talking about. There will be offshore gas.  
4 There are large, large tar sand areas that nobody is  
5 exploring yet that in ten years will produce more gas than  
6 exists in all of Saudi Arabia. I have that from the horse's  
7 mouth, the guy who is the oil consultant to the sheiks, a  
8 guy who is very big in New York. I can tell you his name  
9 privately. Okay?

10 There is going to be all kinds of gas available,  
11 and I think banking California gas, in my view, is a  
12 mistake. Now, the fact that PG&E chooses to use it for  
13 peaking has nothing to do with the pricing of it. The  
14 pricing is clear and simple. It's a buck twenty. I don't  
15 see how you can arrive at any other figure.

16 At a dollar twenty-one we might not appeal it.  
17 At a dollar thirty we will.

18 MR. McCAUSLAND: How about a dollar twenty-two?

19 MS. SIEGEL: No, sir.

20 (Laughter.)

21 MS. SIEGEL: I didn't tell you in past life I'd  
22 been a negotiator.

23 MR. McCAUSLAND: Oh, I recognize that.

24 (Laughter.)

25 CHAIRMAN CORY: In your past life?

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1 (Laughter.)

2 MS. SIEGEL: This is a reincarnated me. Thank you.

3 MS. SMITH: One more question. There are some  
4 individuals who contend that if the Commission were to set  
5 the price at a \$1.20 that would constitute a gift of public  
6 resources. Can you respond to that? Are you willing to --

7 MS. SIEGEL: No, it's not a gift of public  
8 resources; but according to our legal exploration of the  
9 question of a gift of public resources, the public entity,  
10 particularly a city -- and I'm not sure what the law is  
11 in regard to the State; we'll be glad to research it for  
12 you -- may do it if it's for a public benefit. Thus it  
13 is a number of cities in California contribute to the  
14 support of TURN to confer benefits on their constituents  
15 which we do.

16 CHAIRMAN CORY: What about, for example, there  
17 are three contracts in question. One of them is the  
18 Ryer Island in which the public doesn't benefit, as I look  
19 at it.

20 MS. SIEGEL: Don't ask me to struggle with that  
21 now. I'm too tired at this point.

22 CHAIRMAN CORY: Do you have some problems with  
23 it or not?

24 MS. SIEGEL: I'm sorry.

25 CHAIRMAN CORY: This is the gas that goes to

1 Standard Oil that other consumers don't see. Do you think  
2 we should make a distinction in that regard of our largess?  
3 If we're going to make the gift and confer benefit, we  
4 should confer the benefit on the monopoly as well?

5 MS. SIEGEL: I'm not so hot for Standard Oil,  
6 but we're talking about a technical matter of arriving at a  
7 prevailing rate in Northern California, and we're talking  
8 about setting a rate for this contract term. You have to  
9 look at the facts, and those are the facts. Okay? It's  
10 \$1.20. I hate to be repetitious, but that's what it is.

11 CHAIRMAN CORY: Any further questions?

12 Thank you very much.

13 We have some logistical problems. Things are  
14 going a little longer than we anticipated. We're going to  
15 take a five-minute recess so people can retrieve keys to  
16 their offices. We will be back here like in five, ten  
17 minutes to reconvene.

18 (Thereupon a brief recess was taken.)

19 CHAIRMAN CORY: We will try it again.

20 Mr. Radford? Would you identify yourself for  
21 the record?

22 MR. RADFORD: My name is Earl Radford. I'm an  
23 attorney for Shell Oil Company, and I'm speaking only with  
24 respect to the Ryer Island leases. Shell has a half interest  
25 in such leases and not as to the other.

1           Now, I want to make some comments and repeat  
2 some points I've made before. These leases are a contract  
3 between Shell as a lessee and the State as a lessor. The  
4 State as a contracting party is bound by the terms of their  
5 contract; however, this is a little more complicated than  
6 that because the State is also bound, or the State Lands  
7 Commission is bound, by the statute which gives you authority  
8 to lease, the statute under which these particular leases  
9 were issued; and these leases use the statutory language  
10 that royalty is based on the current market price at the well.

11           Now, in this proceeding, the entire proceeding,  
12 and whether you throw Mr. Lippitt's information out or not,  
13 you come back to the same point that for Ryer Island or the field  
14 nearest Ryer Island, there is only one price. That's \$1.20.

15           You can go to Canada. You can go to Algeria or  
16 you can go someplace else and get a different price, but when  
17 you stick to the words of our contract and you stick to the  
18 words of the statute, you can only go to \$1.20, and the staff  
19 has introduced no evidence of any price in excess of \$1.20  
20 that affects the Ryer Island leases.

21           Now, insofar as Ryer Island leases are concerned,  
22 and the leases say that you are supposed to determine what  
23 the highest price is, what the current market price is, in  
24 that respect you are conducting a fact-finding operation.  
25 As a fact-finding operation, we think that Shell, as an

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1 interested party, has not been granted due process. We  
2 were denied the right to cross question your witnesses,  
3 and we think that at that point you have a constitutional  
4 problem.

5 Also, insofar as the contract is concerned, you  
6 have in the past construed the royalty provisions to be the  
7 actual price in the Ryer Island field, and you've never before  
8 gone to any fictional price arrived at by somebody who has  
9 other interests at stake. But we think that the contract,  
10 the prior construction of the contract binds you the same as  
11 it would bind anyone else.

12 Now, I can understand that it would be an advantage  
13 to renegotiate every contract every week if the conditions  
14 change, but I don't think you have the power nor the right  
15 to do so. Particularly, I don't think you have the power  
16 under real old constitutional precepts of violating the terms  
17 of a contract because you are a State agency. This was tried  
18 in a Dartmouth College case many, many years ago, and I  
19 think that pretty well cuts you off at the pocket.

20 Now, one more point that I think I ought to make  
21 that I think is important in this hearing, particularly as it  
22 affects Shell, is that we feel the State has no power under  
23 this contract to determine a price other than the \$1.20 price  
24 for any period starting today and going backwards. We've  
25 entered no stipulation or no agreement with the State that

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1 they have any retroactive cure of anything. They've made  
2 no protest to us. We've entered no agreement with them.  
3 So, we think at this stage that any determination of price  
4 that you have can only start with production after your  
5 decision.

6 I thank you.

7 CHAIRMAN CORY: That relates to Shell. Your last  
8 point is that you have half the lease and someone else the  
9 other half?

10 MR. RADFORD: Standard Oil has the other half.

11 CHAIRMAN CORY: If they entered into any agreement,  
12 it was without your knowledge, blessing and consent?

13 MR. RADFORD: If they entered into an agreement,  
14 they entered their agreement.

15 CHAIRMAN CORY: They did not enter into for the  
16 entire joint venture.

17 MR. RADFORD: No, not that I'm aware of. I don't  
18 know that they've made that assertion.

19 MR. McCAUSLAND: Have we made that assertion?

20 EXECUTIVE OFFICER NORTHROP: I don't know.

21 MR. EVERITTS: They are operators of the lease,  
22 but I don't know whether --

23 MR. McCAUSLAND: I haven't read anything in the  
24 record that said we have asserted claim over --

25 MR. RADFORD: Well, people start talking about

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1 pricing going back to the beginning of 1977. I was just  
2 speaking to that point.

3 MR. McCAUSLAND: It's good to have it in the record  
4 because we clearly want to find out whether or not we have  
5 in fact asserted and we have some interest in changing your  
6 price.

7 CHAIRMAN CORY: In 1977 at a hearing, Standard Oil  
8 had indicated they wished to go ahead and enter into the  
9 agreement based upon \$1.20, and we said, as I recall the  
10 meeting, at the public meeting, you do so at your own peril,  
11 that as we read the contract we are unwilling to give you  
12 advance blessing that we consider that to be the market price.  
13 We don't know what it is, but we're unwilling to give you  
14 blessing of that.

15 Standard Oil acknowledged that they were proceeding  
16 at their own risk, and it's a question of what "own" referred  
17 to in terms of the indirect antecedent vis-a-vis Shell's position,  
18 vis-a-vis their position as the operator or not. I think  
19 that's an interesting point.

20 MR. RADFORD: And they were not selling Shell's  
21 gas under that contract. They, Standard, were not selling  
22 Shell's gas under that contract.

23 CHAIRMAN CORY: You get your gas --

24 MR. RADFORD: We handle ours independently.

25 MR. McCAUSLAND: These are two separate contracts.

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1 MR. RADFORD: We have a half interest in the State  
2 leases. We have a half interest in the other leases at Ryer  
3 Island. We get half the gas from Ryer Island. Standard gets  
4 the other half.

5 MR. McCAUSLAND: When was the last time that your  
6 half of the lease was before the Commission?

7 MR. RADFORD: As far as I know it's never been before  
8 the Commission.

9 CHAIRMAN CORY: It's been the whole lease. That  
10 has been the only thing before us, and that's the problem.  
11 Your relationship with Standard is a general partnership,  
12 a limited partnership, a corporation, a monopoly?

13 MR. RADFORD: Our relationship with Standard is we  
14 have half the lease and they have half the lease, and we hire  
15 them to run it, to actually go out there and do the physical  
16 work.

17 CHAIRMAN CORY: We've got an agent theory going.

18 MR. RADFORD: An agent theory to do the physical  
19 work. There is no agency for purposes of selling because  
20 that promptly gets you into very serious tax problems.

21 MR. McCAUSLAND: Almost anti-trust.

22 CHAIRMAN CORY: They have so much of that it's  
23 irrelevant anyway.

24 Thank you, sir.

25 Mr. Perez?

38

1 MR. PEREZ: My name is Ed Perez. I'm Deputy City  
2 Attorney representing the City of Los Angeles.

3 I'd like to extend an apology for Burt Pines who  
4 intended to be here. He had difficulty with his schedule.

5 Pursuant to the authority of the City Council of  
6 the City of Los Angeles, I'm appearing here today to voice  
7 our opposition as opposed to any price increase that would  
8 exceed \$1.20 per million BTU's. My specific concerns were  
9 outlined in a letter dated 12/29/77 to this Commission.

10 I'd like also to thank this Commission for its  
11 quick response to the joint letter from the Cities of Los  
12 Angeles and San Francisco and San Diego dated December 7th,  
13 1977, when we requested a copy of the Attorney General's  
14 opinion. It's action like that that reassures at least  
15 Los Angeles that this Commission is interested in a fair  
16 and open proceeding.

17 Upon receiving that opinion it became clear after  
18 I researched the cases contained therein and studied the  
19 theories propounded therein as to why that opinion was being  
20 held back from public scrutiny. Because if you look at that  
21 case, at the cases cited there and the theories, you can  
22 quite quickly and readily see that they really support the  
23 position of Pacific Gas and Electric Company.

24 I will just outline a few of them for you. The  
25 Hugoton case at page 872 states that Oklahoma and Texas gas

1 prices may be utilized to set the prices in Kansas. That  
2 case goes on to say, though, that the gas that they were  
3 concerned within the Hugoton embayment transcends the  
4 borders of the three states. So, you have an interstate  
5 situation much different than we have here, what exists  
6 in Northern California.

7 In addition, on page 875 of that case, the court  
8 there stressed you should be utilizing the wellhead price.  
9 So, no mention of foreign gas prices, no mention of Canadian  
10 gas prices, no mention of average weighted border prices.  
11 It said wellhead prices. That case clearly can be distinguished  
12 from what we have today.

13 In addition, the main issue in that case was an  
14 Internal Revenue issue, depletion allowance. They were  
15 concerned with the retrospective price setting, not prospective  
16 price setting as we are concerned with here.

17 In addition, the Weymouth case cited in the Attorney  
18 General's opinion, also an interstate gas case, also  
19 retrospective price setting; and the main issue there was a  
20 suit for underproduction of gas in Texas being transported  
21 out. If I may quote for you on page 95 of that case the  
22 rationale, quote:

23 "There is a potential conflict of  
24 interest and the opportunity for discrimi-  
25 natory preferrment such that the law may

1 find it necessary to adopt standards  
2 to assume fair conduct."

3 What does that mean? Well, what they were concerned  
4 with, you have different states, you have different courts.  
5 You are going to have different theories on any litigation.  
6 You have different conditions, entirely different package  
7 than what you have in this case. That case, the Hugoton  
8 case and everything else cited in the Attorney General  
9 opinion is totally inapplicable.

10 Now, if this issue that we are concerned with today  
11 does go into the courts, I'd very seriously consider taking  
12 the cases cited in the Attorney General opinion and put  
13 them in my voice because they support what we're trying to  
14 say. That's an entirely different situation than Texas and  
15 Kansas, and the Canadian prices have no relevance to Northern  
16 California.

17 I'd like to point out that actually, the Attorney  
18 General opinion, if you look at it -- I suggest the Commission  
19 read it. You may have already done it, but I suggest you  
20 read it yourself, and you don't have to be a lawyer to pick  
21 out some of the things that I'm going to highlight.

22 At page nine, and I quote, the author of that opinion  
23 says:

24 "Unfortunately, cases we have found in  
25 our research, including Hugoton, do not deal

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1 with a gas market like that in Northern  
2 California."

3 It goes on to say in the opinion on that page:

4 ". . . Gas sales at the California border...  
5 are not strictly comparable to the well-  
6 head sales of gas in Northern California."

7 Now, those qualifications some of my analysis of  
8 that opinion, and it just doesn't apply; and it's important  
9 because several speakers before me have indicated their  
10 intention to go into the courts.

11 I submit to this Commission that you will be going  
12 into the courts without legal authority whatsoever, and it  
13 will be a case actually of first blush for California.

14 The comments on OPEC and Canadian gas prices I think  
15 are particularly important for this Commission to consider.  
16 That opinion states, number one, the Canadian gas price is  
17 totally unrelated to the cost of production; number two,  
18 provides huge profits; number three, most importantly, unfair  
19 and unjust.

20 Your own counsel has said, as stated in his opinion,  
21 it's unfair and unjust. It seems to me the public deserves  
22 more consideration than that. Yet, your staff continues to  
23 advocate the use of quote unfair and unjust prices.

24 I do want to mention in passing that the City of  
25 Los Angeles has been concerned with some of the procedural

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1 problems in the case. I don't want to dwell on that. I  
2 will say this: This is a public agency. You have the public  
3 interest to be concerned about. Whether or not it's legally  
4 permissible or impermissible to cross examine in a fact-finding  
5 hearing, I would think you'd want to do that.

6 The people should be really -- they should have the  
7 feeling that this Commission is being above and open with  
8 everything. I think it's important, the confidence of the  
9 people.

10 CHAIRMAN CORY: Tell me how those two statements  
11 relate. It seems to me the question of allowing a citizen  
12 to use this forum for cross examination which is a fact  
13 gathering situation, to allow a person's biases, petty  
14 jealousy, competitive advantages, disadvantages, to come in  
15 to allow the citizen to use the compulsory power of this  
16 proceeding to cross examine, I'm not sure that's really  
17 appropriate.

18 MR. PEREZ: I think it's appropriate from the sense  
19 that if you have someone who is willing to stand up and  
20 advance a position to you, that you should take, for instance,  
21 the consultant in this case. That consultant should be  
22 willing to withstand cross examination so that this Commission  
23 can evaluate his basis and can evaluate whether or not his  
24 theories are sound. When you have an absence of cross  
25 examination, it's very easy to come up with a logical

1 argument. If you have cross examination, I think it would  
2 deter that.

3 MR. McCAUSLAND: I'd like to comment on this.

4 CHAIRMAN CORY: Sid?

5 MR. McCAUSLAND: I appreciate the comments that  
6 you've been making today because I think they have been very  
7 constructive. I hope all of the witnesses that follow you  
8 will be as constructive in their comments as you have.  
9 You have refrained from comments on character and other things  
10 which filter through the record and don't please me at all.

11 On the question of due process, though, which is  
12 on the fringe of what you are alluding to right now -- I'm  
13 not a lawyer. I haven't been to law school, but I understand  
14 that the bulk of the classes in law school relate to torts  
15 and actually dealing in adversary hearing settings. I am  
16 of the opinion that the number of courses in administrative  
17 procedure are far less prevalent and far less attractive in  
18 appealing to those in law school. My experience with the  
19 120 members of the Legislature is that in seven years of  
20 working in the environment I've never participated in an  
21 adversary fact-finding situation with cross examination there.  
22 With every administrative agency with which I deal -- and I  
23 deal in a lot more than I would volunteer for if I knew how  
24 many it was before I started -- the number of those that use  
25 administrative hearing officers as a forum for adversary

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1 exchanges is two.

2 believe the California government is by and large  
3 run by administrative procedure which does not generally  
4 encompass this thing we call adversary cross examination.  
5 It may well be with all the lawyers we have graduating from  
6 law school these days that we're not going to be able to do  
7 it this way much longer because we'll have to find jobs for  
8 them, and adversary cross examination is a good opportunity  
9 for them to get employment.

10 But I know a lot of people that come behind you are  
11 going to raise the due process issue. If you've got a problem  
12 of that due process, take it to the Legislature because they  
13 do all their business that way. We do our business to the  
14 best of our ability with all the people in California having  
15 an opportunity to come here and make their say. If there is  
16 cross examination to be done, we're the poor suckers that  
17 do it; but I don't want anybody else today to harangue me  
18 about due process.

19 Let me conclude by saying I really appreciate your  
20 comments. I think they are really to the point that's before  
21 us. Thank you for the constructive offerings.

22 MS. SMITH: Just for my clarification, you weren't  
23 saying that there was a denial of due process, were you?

24 MR. PEREZ: I think that's a conclusion of law that  
25 would have to be reached after it goes to court. I am saying

1 it is a possibility that exists.

2 One of the facts -- I will move on, Commissioner,  
3 because I know you don't want me to dwell on it. One of  
4 the facts that's important in the hearing that I attended  
5 on, I guess it was the 12th, you had the people conducting  
6 a hearing asking questions and cross examining, and those  
7 other participants and interested parties were not. I think  
8 it's basically unfair, and I don't think the Commission  
9 really wants to create that kind of a feeling amongst  
10 interested parties in this case. It's just a suggestion to  
11 this Commission. Let everything be open. That's my comment  
12 in that respect.

13 MR. McCAUSLAND: Let me ask you a question. How  
14 many of the decisions of the City of Los Angeles, many of  
15 which involve significant fact finding, actually allow for  
16 cross examination by the partisan interests?

17 MR. PEREZ: Well, in the ones that I've been involved  
18 with -- and that's the only one that I can address -- I'm  
19 sure that there are hearings that exist where we don't  
20 allow it, and it would be a similar situation. In ones that  
21 I have participated, the public utilities and Transportation  
22 Department, we always allow it; and I don't think that our  
23 charter or an administrative code says we must, but we do  
24 it because it's good for the public, good public relations  
25 and it's a good way to get the bottom line facts out.

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1 MR. McCAUSLAND: At least that portion of the  
2 city's operations are run on that principle.

3 MR. PEREZ: Yes, that's correct.

4 MR. McCAUSLAND: Do you think that is generally  
5 true of other departments of the city in their fact-finding  
6 operations?

7 MR. PEREZ: It would be speculation. Attorneys  
8 I've spoken with, they have always allowed the cross exami-  
9 nation.

10 MS. SMITH: Have you had any problem with the  
11 orderly administration of your hearings?

12 MR. PEREZ: I have not. I am sure that could be  
13 a problem. Yes, that's certainly a consideration, but I  
14 think just a few more comments and I'll leave.

15 There has been some mention about the impact in  
16 Northern California. Well, I'm here because we feel there  
17 is going to be an impact in Southern California. I'm not  
18 making work for myself. There is going to be a true impact.  
19 There may be some shortages of gas in Southern California  
20 in the next three or four years. We might have to borrow  
21 from Northern California. It would be a direct impact.  
22 When we have smog alerts sometimes we have to borrow from  
23 Northern California clean burning gas, and that has a direct  
24 impact.

25 More importantly, there are going to be contracts

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1 negotiated in Southern California. I do believe there is  
2 going to be a rippling effect, and I think it's going to  
3 affect the entire state.

4 MR. McCAUSLAND: You not only get all our water,  
5 you're going to get all our gas too.

6 (Laughter.)

7 MR. PEREZ: Well, I won't address that.

8 In conclusion I'd like to say --

9 CHAIRMAN CORY: So much for cross examination.

10 (Laughter.)

11 (Thereupon a brief discussion was held off  
12 the record.)

13 MR. PEREZ: In conclusion I'd like to say this  
14 Commission has a duty to make sure that the State Lands  
15 generate royalties, and it's a problem; but I think it's a  
16 paramount duty, as others have said, to consider the public  
17 interest. I think this Commission should do that. The  
18 price recommendation by PG&E utilizes a historical methodology.  
19 There has been no good reason advanced so far to deviate  
20 from that.

21 Thank you very much for your time.

22 CHAIRMAN CORY: Thank you.

23 Mr. Peckham?

24 MR. McCAUSLAND: Excuse me, Mr. Perez. If you don't  
25 have the answer don't come back up. Are you aware of how

1 much gas is currently imported into Southern California for  
2 use versus the percentage that is domestically produced?

3 MR. PEREZ: No, I do not.

4 MR. McCAUSLAND: Thank you.

5 MR. PECKHAM: My name is Robert Peckham. I  
6 represent Chevron USA, Inc., formerly Standard Oil Company  
7 of California. I'd merely like to reiterate the statement  
8 I made at the last Commission meeting.

9 CHAIRMAN CORY: Pardon me, Mr. Peckham. Do you  
10 know why the name was changed?

11 MR. PECKHAM: The name of Standard Oil Company of  
12 California was not changed. It still remains the parent  
13 corporate entity of the organization. We changed the name  
14 of part of our subsidiary operations and, in effect, caused  
15 all of our domestic operations -- that is, within the United  
16 States -- to be operated under one corporate entity, Chevron  
17 USA, Inc. It's a wholly-owned subsidiary of Standard Oil  
18 Company of California.

19 CHAIRMAN CORY: I'm trying to square it with what  
20 I thought. I thought the first statement was "formerly".  
21 It was formerly because it used to be Standard Oil of  
22 California, but you took some assets and put them over here --

23 MR. PECKHAM: Here in the western part of the  
24 United States we operated under this name of Standard Oil  
25 Company of California. In other parts of the United States

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1 we operated under other subsidiary corporations that were  
2 held by Standard Oil of California. Our leases with the  
3 State are now held by Chevron USA, Inc. They formerly  
4 were held by Standard Oil Company of California.

5 CHAIRMAN CORY: But it was my understanding that  
6 those leases, when you changed the name the same corporation  
7 was still the lessee, only the name was changed. And are  
8 you telling me that in fact now we have a wholly-owned  
9 subsidiary which we may not have the full access to the whole  
10 corporation standing behind those leases?

11 MR. PECKHAM: No. The interests under the lease  
12 were assigned to Chevron USA by Standard Oil Company of  
13 California. However, I think the form of the assignment  
14 Standard Oil Company of California -- I think the language  
15 was in the form of an assignment that kept Standard Oil  
16 Company of California as, in effect, a guarantor.

17 CHAIRMAN CORY: Fine. I'm sorry to interrupt.

18 MR. PECKHAM: Surely. I would like simply, as I  
19 said before, to reiterate the statement I made at the last  
20 Commission meeting, that Chevron objects to the recommended  
21 schedule of natural gas values appearing in this calendar  
22 Item Number 55 for the reason heretofore expressed by Chevron  
23 in its testimony presented during the tendency of the staff's  
24 hearings. My statement is made simply to complete the  
25 administrative record.

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1 I might shed a little light on the gas sales  
2 situation. We do at Ryer Island sell our share of the gas,  
3 or have a contract to sell it and or use it at our option  
4 with PG&E; and our submittal for the approval of the change  
5 in the contract price was made by us on our behalf along  
6 with all of the other state lease gas sales contract  
7 amendments that we submitted at the time shortly after July,  
8 1976 that caused this entire hearing to evolve.

9 CHAIRMAN CORY: Are you suggesting it was only on  
10 that half that you were not operating as a joint venturer --

11 MR. PECKHAM: We're operating as a joint venturer  
12 with respect to the operations, but we're each required to  
13 take and dispose of our own respective shares of the gas  
14 production in the field. We cannot presume under the  
15 circumstances to sell Shell's share of the gas or to dispose  
16 of it on their behalf.

17 CHAIRMAN CORY: I just want to make the record very  
18 clear. You're opting to be in a position, as I perceive  
19 it, and it may be factually accurate to maximize Shell's  
20 position to duck out. That may be factually accurate --

21 MR. PECKHAM: I'm not attempting to help Shell duck  
22 out or not. I'm just simply trying to clarify the record  
23 with regard to how the gas is handled, and we, Chevron, do  
24 not disclose or handle Shell's share of the gas.

25 CHAIRMAN CORY: When the person from your corporation

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1 or one of the subsidiaries was before this Commission and  
2 was informed that if they entered into any agreements they  
3 were proceeding at their own risk, can you tell me whether  
4 they were speaking for both parties to that joint venture  
5 or only one, or do you know?

6 MR. PECKHAM: We were negotiating only on our own  
7 behalf with PG&E, and that was the contract that we entered  
8 into at our own risk.

9 CHAIRMAN CORY: I want you to take it to the highest  
10 corporate level in your organization that henceforth on  
11 every joint venture that you come before this Commission,  
12 you had better have in writing an explanation of who you  
13 represent and who you do not represent because there appears  
14 to be an error. I don't know where that's going to settle  
15 out in court, but I also want the representative from Shell  
16 the record will please indicate he is still here -- I would  
17 like for them to be aware that I have a relatively long  
18 memory, and there are some slogans around this building  
19 which I try to adhere to. I try to deal with people in good  
20 faith. I presume you tried to deal with me in good faith,  
21 but we seem to have a communication difficulty; and we are  
22 going to eliminate that communication difficulty as we deal  
23 in the future. That may be somewhat cumbersome upon you,  
24 but for us to discharge our duties to the people, I think  
25 we have to know for whom it is you speak and that you do

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1 have authority to commit or not commit so we know how we are  
2 proceeding.

3 MR. PECKHAM: Might I say --

4 CHAIRMAN CORY: No animosity. It is just a fact  
5 situation. We've got to clear it up.

6 MR. PECKHAM: If there has been any mistake with  
7 regard to this matter, it's unintentional on our part I can  
8 assure you.

9 CHAIRMAN CORY: Okay.

10 MR. PECKHAM: May I say something more? Perhaps  
11 it grows out of the Commission's lack of knowledge of how  
12 the gas in any area now is handled with regard to co-venturers.  
13 Years ago gas was usually sold by an operator in a field for  
14 all of the participants in the field. Then some tax problems  
15 did evolve with that. As a result of that, that was changed  
16 and each party handles their own share.

17 We brought, as we were required to do, any amendments  
18 to our gas sales contracts for the Commission. Our gas sales  
19 contract only operates with respect to our share of gas.  
20 It's clearly defined in the sales contract, and the contract  
21 was approved originally by the Commission.

22 CHAIRMAN CORY: I understand the fact situation.  
23 I just want to correct it as we go forward so that all parties,  
24 including this staff, is aware of what we need so we know  
25 where we're at.

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1 MR. McCAUSLAND: I don't understand the facts.  
2 If I understood Mr. Radford's testimony earlier, I believe  
3 he said that his half of the lease had never been brought  
4 up before this Commission as a separate item, that it was  
5 part of one master relationship with the State. Is that  
6 a fair characterization?

7 MR. RADFORD: No. That may be what you've interpreted.  
8 The actual facts are that Shell's gas goes into the Shell-  
9 owned pipeline system and is not sold.

10 MR. McCAUSLAND: Okay. I did understand that part  
11 of your testimony. Has this Commission ever approved a  
12 contract with Shell in the Ryer Island field?

13 MR. RADFORD: Not that I'm aware. It's possible  
14 that you have because --

15 MR. McCAUSLAND: That's what I thought. Under what  
16 terms are you taking gas out then? Under the lease that's  
17 held by Standard Oil?

18 MR. RADFORD: No, under the lease held by Shell.  
19 There is an assignment approved by your Commission of a  
20 half interest in the lease to Shell.

21 MR. PECKHAM: It's held jointly.

22 MR. RADFORD: It's held jointly.

23 CHAIRMAN CORY: This is going to be an esoteric  
24 argument that I'm sure we'll know how many angels can dance  
25 on the head of a pin when we get through with that one. I

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1 I just want the staff to clearly understand that in the  
2 future we should define with whom we're dealing. That  
3 apparently is going to be a somewhat cumbersome process.  
4 Whatever regulations you need you should bring before us.  
5 We ought to get them in writing, signed up, sealed and  
6 delivered as to who it is we are dealing with because there  
7 is too much money on the table to allow the bets to be made  
8 and the people to skate when they don't like the results.

9 I don't think that happened, but if they allow our  
10 sloppy terminology to deal with it, I'll have to say that  
11 I kind of think that if that was a deal cut at the Petroleum  
12 Club between one of the sisters or two of the sisters they  
13 would find an accommodation because there is, at least in  
14 that realm, that gentlemen's agreement among thieves that  
15 work -- among gentlemen, pardon me; I'm getting tired --  
16 that those kinds of misunderstandings don't happen there.  
17 But we had better get them in writing. Okay.

18 Go ahead, sir.

19 MR. PECKHAM: I have nothing more to submit.

20 CHAIRMAN CORY: Okay. Thank you, sir.

21 (Thereupon a brief discussion was held  
22 off the record.)

23 CHAIRMAN CORY: Mr. Snaider.

24 MR. SNAIDER: Mr. Chairman, Acting Commissioners,  
25 my name is Leonard Snaider. I'm a Deputy City Attorney of

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1 the City and County of San Francisco. I'm here representing  
2 the City Attorney, George Agnost. I also have a very short  
3 statement on behalf of the City Attorney of San Diego.

4 Let me get that first. The City Attorney of San  
5 Diego wrote you on October 20th expressing a position on  
6 this matter. Basically, they wanted me to reaffirm to you  
7 that their position is that you should act in accordance with  
8 the recommendations of the California Public Utilities  
9 Commission, the \$1.20 recommendation. That is also my  
10 recommendation.

11 I'm going to try and be brief for the main reason  
12 that the majority of the case will be most coherently set  
13 out by Mr. Fallin, and I hope not to have repetition.

14 I do want to address certain points that have been  
15 raised by the three of you. Let me just list some of them  
16 that I want to discuss. Your point, Ms. Smith, raised about  
17 the possibility of a problem of a gift of public resources;  
18 the Chairman's concern that the State may somehow be short-  
19 changed. I think the phrase he used was the State may be  
20 getting the green end of the weinie, but I think that was  
21 the concept he was interested in.

22 CHAIRMAN CORY: Like most of your statements, slightly  
23 inaccurate, but go ahead.

24 MR. SNAIDER: Better slightly.

25 I wish to address the hamburger analogy that

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1 Mr. McCausland raised. I intended to discuss due process,  
2 but I will follow Mr. McCausland's advice and not discuss  
3 it in this forum at this time. I will discuss slightly the  
4 informal advice that the assigned Attorney General provided  
5 to the staff of the State Lands Commission, the letter of  
6 November 10th. I also wish to discuss the possible role  
7 that the PUC may have on this issue.

8 I was going to get into another issue, and I would  
9 like some clarification if this is even relevant now; and  
10 that is the question of the Canadian price. Since  
11 Mr. Lippitt, if I understood the prior discussion that you  
12 would not be considering Mr. Lippitt's presentation --

13 MR. McCAUSLAND: That was only my recommendation.

14 MR. SNAIDER: Well, then I better get into Canada,  
15 although only Mr. Lippitt brought that out.

16 Let me start with the idea of the gift of public  
17 resources. I assume that Miss Smith was concerned with the  
18 concept if you sold the gas too low you are somehow giving  
19 away something that the State was entitled to.

20 MS. SMITH: Before you assume too much, I didn't  
21 state an opinion one way or another on the issue. I merely  
22 stated that it was an issue that had been raised.

23 MR. SNAIDER: That's correct.

24 MS. SMITH: If you'd like to address it and give  
25 your opinion of it, that's quite acceptable.

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1 MR. SNAIDER: I think if there was a methodology  
2 used by PG&E as a gift of public resources, then you have  
3 done this in the past and you have acted illegally in the  
4 past. I asked very specifically and suggested very specifically  
5 to the Attorney General that they advise you if there was  
6 anything wrong with the way you had acted in the past.  
7 Again, I think one of you -- I can't ask questions of these  
8 people -- but one of you should ask them if there were to  
9 be anything wrong if you did adopt the \$1.20, whether there  
10 would be anything legally wrong. The informal advice that  
11 you were given by the Assistant Attorney General that  
12 represents the -- excuse me, I promoted you -- Deputy Attorney  
13 General that represents the State Lands Commission was that  
14 you may, m-a-y, do certain things, not must.

15 I think you should ask if you may charge \$1.20,  
16 if there is any problem with that. I'm convinced the clear  
17 answer is that there would be no problem. The reason is  
18 really quite simple, and this goes to the possible discrimi-  
19 nation to the State.

20 You have this wonderful showing up here of one PG&E  
21 contract in California. I think looking at California  
22 certainly is right. As a matter of fact, that's all you  
23 really should look at.

24 Mr. Northrop in the transcript of the September 29th  
25 hearing, I think made the statement that whether, quote,

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1 "The \$1.20 price was not consistent with gas prices being  
2 received by other producers in the State."

3 That's what you should be interested in, other  
4 producers in the State. Now, there are two ways you can  
5 look at that contract. Your staff says that you look at  
6 that contract as part of a rated average. If it's relevant  
7 and you look at it as part of a rated average, the dollar  
8 impacts shown there are really lost in the total.

9 The point I made before -- and we'll get to  
10 hamburgers now -- is that this is not relevant. Your staff  
11 man didn't seem to be too concerned about the new gas/old gas  
12 distinction. It's a major distinction.

13 Mr. Fallin has set it out quite well. I'm not  
14 going to go into it at any length, but there are significant  
15 reasons why that contract is in no way comparable to these  
16 others.

17 If you wanted to look for comparability, you should  
18 have given the employee from the Board of Equalization who  
19 looked at that contract the 183 contracts in Exhibit B and  
20 found out if they were comparable to your contract.

21 I think you would have found that those contracts  
22 were completely comparable and that the State getting \$1.20  
23 would be getting the same at every other old gas producer,  
24 all 183 contracts. That is the criteria.

25 Mrs. Siegel was quite right. Looking to the future,

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1 you can change it. There will be change July 1st, but  
2 looking up to July 1st, the \$1.20 will give the State the  
3 same thing everyone else is. If you go higher, the State  
4 will be earning far more than others in the same negotiated  
5 area; and the real problem is not the few dollars extra that  
6 the State gets, but the 50-to-1 ratio of excess profit  
7 that you're giving to these other producers. And I get the  
8 50-to-1 from the \$2 million to the State yield, somewhat  
9 in excess of a hundred million.

10 MS. SMITH: A question. Are you saying that if we  
11 set the price at a \$1.20 now that in July of 1978 there will  
12 be facts that will be so different that we will not be faced  
13 with the same argument that we're being faced with today?

14 MR. SNAIDER: Yes, because you're faced with these  
15 contracts that are fait accompli that will be renegotiated  
16 effective July 1st, '78. When they are renegotiated, it will  
17 be those new renegotiated prices that you will look to.

18 MS. SMITH: But they'll still be our contracts.

19 MR. SNAIDER: I'm talking about these 183 that are  
20 the rest of the independent contracts that are already out.  
21 In other words, the \$1.20 relates to them and the termination  
22 or renegotiation is July 1st. So, the concern that was  
23 raised was that somehow these contracts would get higher and  
24 you'd be left sitting with \$1.20. That is not a basis for  
25 concern. You can get more later if the facts change to

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1 justify it.

2 MS. SMITH: You would not be arguing that because  
3 we set the \$1.20 for our own contracts that we not remain  
4 at that figure in 1978?

5 MR. SNAIDER: I think you can change it when the  
6 facts change. If the facts changed in these contracts and  
7 these producers were getting \$1.50, a \$1.50 would be all  
8 right. I'm not saying a \$1.50 is right, but I think what  
9 you look to for possibility is what the other producers in  
10 these independent transactions are getting, and they're  
11 getting a \$1.20, and they will be through July 1st, '78.  
12 When those facts change, you should be free to change yours  
13 also.

14 MS. SMITH: To whatever figure they are selling for?

15 MR. SNAIDER: Be comparable, yes.

16 With regard to the question of Canada -- and I'm  
17 not going to dwell on the entire informal advice that was  
18 given to you -- there were two aspects really that were  
19 looked at. One was market value and then the adjective that  
20 went before market value, reasonable market value. Your  
21 attorney, I think, really gave you all the reasons -- pages  
22 9, 11, 12 -- why Canada's prices are not reasonable by any  
23 criteria. He explained the cartel-like setting, the OPEC  
24 tie.

25 He did not say you must use Canada. He said the

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1 weight to be given Canadian gas prices is a matter resting in  
2 the discretion of the State Lands Commission. I think  
3 the weight based on the evidence must be zero, and that is  
4 all that Canada is worth.

5 Now, for the possible Public Utilities Commission  
6 role in ratemaking -- let me digress back to Canada for  
7 one minute. I was in agreement with one other point that  
8 Mr. Hager made, and that was the point that wellhead pricings  
9 were the proper area of comparison. You have no evidence  
10 with regard to Canada of wellhead pricing. You have a  
11 border price. It's not a wellhead price.

12 You have no evidence of wellhead pricing in Texas,  
13 interstate. You have the border price, not the wellhead  
14 price. If you're going to look to wellhead prices, you're  
15 going to look to Canada and other areas that aren't comparable  
16 and aren't meaningful. Then the evidence that Mr. Lippitt  
17 has put in, either directly or through members of your staff  
18 is simply not wellhead pricing.

19 I do have something favorable to say, at least if  
20 I interpret it correctly, from one of the suggestions that  
21 was broken out here today. It would be reasonable for the  
22 State Lands Commission to leave the question of what is a  
23 reasonable price for this gas to the determination of the  
24 Public Utilities Commission. The Public Utilities Commission  
25 makes this determination right now to the extent that if

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1 they find a price unreasonable, they will not grant it for  
2 ratemaking purposes. So, the question should be deferred  
3 to the PUC, and the reasonable level could be set. I think  
4 that would have a salutary effect in many ways. It was  
5 already brought out before that this might be a strong signal  
6 to the rest of the market.

7 With regard to the question of regulating intrastate  
8 rates, I think Mr. Bennett's point was that the problem of  
9 lack of regulation of intrastate rates was that the prices  
10 were now all too high, that with regulation the \$1.20 would  
11 not be here. We look to the actual earnings of Mr. Lippitt's  
12 various clients.

13 If the regulation was involved, that could well  
14 even work against your narrow interest as a landowner because  
15 probably the prices would be well below the \$1.20; but it is  
16 an admirable attempt by the PUC if they go through with  
17 intrastate regulation.

18 Assigning them the role to determine the reasona-  
19 bleness and then setting fair prices on that basis would be  
20 a resolution of this particular problem that you find  
21 yourselves faced with at the present time.

22 I thank you for your courtesy, your attention;  
23 and it's been a pleasure being here.

24 MR. McCAUSLAND: Don't leave.

25 MR. CNAIDER: Oh, cross examination. Excuse me.

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1 (Laughter.)

2 MR. McCAUSLAND: I want to thank you for being  
3 constructive today. I really appreciate it.

4 You made reference early in your testimony to  
5 Mr. Fallin's presentation. Have you pretty carefully read  
6 his words in each of his preceding presentations to this  
7 Commission?

8 MR. SNAIDER: I have.

9 MR. McCAUSLAND: Are you able to stipulate that  
10 they seem to you from your reading to represent a pretty  
11 clear factual analysis of this situation so that a person  
12 from a casual reading can interpret what he means by what  
13 he says?

14 MR. SNAIDER: It all depends on who the person is  
15 and how casual the reading.

16 MR. McCAUSLAND: I'm not reading them casually.  
17 I found that the words are perfect if you understand the  
18 16 or 17 qualifiers and how they relate to other words.  
19 Since you were saying that he was going to set forth the  
20 better part of your case for you, I want to find out if you  
21 would stipulate that it would probably come across the way  
22 you wanted it to or there might be some question about  
23 interpretation.

24 MR. SNAIDER: I will say that in his presentations  
25 here, in my discussions with him, I found Mr. Fallin to be

1 extremely expert, extremely straightforward, extremely  
2 honest; and I think that on the whole I agree with what he  
3 says and would expect that I would agree with what he says.  
4 I don't hold this as a general rule with PG&E presentaions.  
5 I am usually engaged in challenging PG&E's --

6 MR. McCAUSLAND: This is awkward, isn't it?

7 MR. SNAIDER: No, it isn't. It is not awkward.  
8 This is the key point. The real strange part of this entire  
9 proceeding is the people that are here on the same side as  
10 PG&E. You have Bill Bennett, who has fought the utilities  
11 in various courts. You have the three cities, and we're  
12 fighting these rate cases continually before the California  
13 Supreme Court. We've won major victories there. We are  
14 very active in this role.

15 You have Sylvia Siegel, who has done an excellent  
16 job. You have the California Commission. You've got Shell  
17 Oil, Chevron. I may have left someone out. It's unintentional,  
18 but you have a very mixed group of people, all of us who are  
19 very, very concerned that your actions, through possibly  
20 the best intention to get a little bit of extra money for  
21 the State, may cause a massive, massive windfall, undeserved,  
22 for these producers and really a detriment in the state;  
23 and that's why we're all here. I'm not uncomfortable with  
24 being with Mr. Fallin in this case. I think PG&E has done  
25 an excellent job protecting the consumers; but, quite frankly,

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1 if they hadn't come to this Commission and this thing had  
2 rolled through the way it was originally proposed, they  
3 would have been challenged before the PUC as being imprudent  
4 for letting such a result happen, and that would have been  
5 a basis to reduce the price.

6 The problem comes about that they have fought and  
7 they have presented the case in an excellent manner. If  
8 you do this, and assuming the appeals lose -- which I don't  
9 think they would -- but there would be no real basis to  
10 deny them the rates whatever you give them. The only way a  
11 commission could deny their rates is to make a finding that  
12 you were unreasonable and did something so bad, and also  
13 that would have to be overturned by a court, because PG&E  
14 prudently did everything in their power.

15 So, I'm happy to be on the same side with PG&E in  
16 this case. PG&E in this case is representing the consumers'  
17 interest against the gas producers.

18 MR. McCAUSLAND: Can you clarify for me or perhaps  
19 elaborate on the phrase "great detriment" to the State so  
20 that I understand that?

21 MR. SNAIDER: Yes. The detriment to the State  
22 comes at many levels. One level is the State looking at the  
23 sum of the people in the state, the citizens. But the State  
24 just from the most narrow view, there are various offsets  
25 to this \$2 million dollar bonus you see. One offset is the

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1 immediate offset the \$1.3 million higher gas rates that the  
2 State would pay. The other is what might be described as  
3 a ripple effect. The state purchases many products, goods,  
4 services also take into account utility rates, far more  
5 difficult to calculate than the direct rate; but this is an  
6 additional dollar impact to the state.

7 The precedent that you might set and the financial  
8 detriment it might set could be enormous. That was the intent.

9 CHAIRMAN CORY: As I understand your position, it's  
10 that the City of San Francisco does a great deal to aid the  
11 consumer, particularly the utility consumer in the City of  
12 San Francisco; is that correct?

13 MR. SNAIDER: What I said was that we have been  
14 active before the California Public Utilities Commission to  
15 assure that there are not excessive rates charged to the  
16 city as a consumer of utilities services and to the city's  
17 citizens, consumers of utility services. That was what I  
18 said, Mr. Chariman.

19 CHAIRMAN CORY: I was trying to square that with  
20 recollection of some historical facts in San Francisco and  
21 the obligation of the city to assume the electrical distri-  
22 bution under the federal thing; and why is it the City of  
23 San Francisco hasn't met that rather clear obligation that  
24 has been sitting there for some 30 years to take over the  
25 distribution of electrical power to the City of San Francisco

1 on projects that were put in by federal money to which PG&E  
2 continues to reap the profits? Have you done anything about  
3 that in terms of going to court?

4 MR. SNAIDER: Quite frankly, sir, I'm here on a  
5 matter involving natural gas, which is of relevance to  
6 this Commission, and I have discussed that matter. I am  
7 not here to discuss past history and --

8 CHAIRMAN CORY: Thank you.

9 MR. SNAIDER: -- I'm interested in -- can I  
10 finish my answer?

11 CHAIRMAN CORY: Sure.

12 MR. SNAIDER: What I'm interested in, what we all  
13 should be interested in is that nothing you do will hurt the  
14 consumer today.

15 CHAIRMAN CORY: Thank you.

16 MR. McCAUSLAND: I would like the record to reflect  
17 that I am a consumer, the three of us are consumers, and it  
18 is the unfortunate fact of reality that the three of us  
19 occupy positions which require us to look beyond the interests  
20 of the consumer in this particular case to the best use of  
21 the State's resources and the State's return on its resources.

22 CHAIRMAN CORY: For a change of pace, Mr. Leineke.

23 MR. LEINEKE: My name is Ronald Leineke, and I'm  
24 appearing before you as a director of the California  
25 Independent Producers Association. We're 450 members strong.

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1 We are relatively new in the state. We are finally trying  
2 to organize.

3 We are independents. No major oil companies are  
4 among our members. We're operators and producers of natural  
5 gas. We're the guys that go out there and look for it and  
6 find it. We have dry holes, but we're the people providing  
7 the peaking gas to the state and whatever else we can find.

8 I'd like to start to disclaim any relationship to  
9 Mr. Lippitt. He does not work for us. He is not our counsel.  
10 He receives no fees from CIPA. Our organization, I think,  
11 represents quite a few more people than his does. Not to  
12 argue with anything he's presented. We think he's a very  
13 knowledgeable guy.

14 On the 12th we entered some testimony to the effect  
15 that the current \$1.20 price was not determined in the free  
16 marketplace. PG&E has shown, I think, some 200 or so contracts  
17 that are at a \$1.20. Boiling those down, they are signed  
18 by about 90 different entities. I think about ten of them  
19 are dead, they're estates so they're really not in the oil  
20 or gas exploration business. Forty of them, or the balance  
21 of the 80, are members of CIPA. There are a couple other  
22 exploration companies.

23 We feel that we're speaking for a majority of the  
24 companies who have signed this \$1.20 price, and we want to  
25 again say that it was not done at arm's-length negotiation.

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1 We had no choice. That was the only one offered.

2 Well, we had a choice -- either go to arbitration  
3 which is beyond most of the means of our members. We  
4 prohibited from negotiation en masse because of anti-trust  
5 so we can't pool our resources to negotiate for a price.  
6 So, it's kind of divide and conquer. That's so much  
7 \$1.20.

8 We did before ask that you consider all prices.  
9 The gas all burns the same. It's like food on the table.  
10 let's not ask how it got there; what does it cost to get  
11 there. We feel that we ought to get the same price  
12 as anyone else. It costs us to produce it and find it.  
13 incidentally, it takes quite a large carrot to keep  
14 of us to go out and risk a drill on a dry hole.

15 We're constantly subjected to a little dance  
16 it comes to contract negotiations. We call it the tug-of-war.  
17 PG&E tells us, well, we can't talk about anything higher  
18 than the price we're offering you because the CPUC will  
19 allow, probably will not allow them to be passed through.

20 We go down to the PUC, and we've talked on  
21 to several of the Commission members there. They say  
22 talk to PG&E. We do not set the prices. You're going to  
23 have to talk with them.

24 So, it's back and forth with Catch-22, and  
25 comes down to is we have a price unilaterally determined.

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1 PG&E. It always has been so and it is today.

2 So, we just want to make that point so whatever  
3 weight you are giving to it in your deliberations we hope  
4 you consider this fact. That seems to be really the published  
5 reason for being here and holding these hearings, but there  
6 has been a lot of testimony entered about the consumer and  
7 should any higher price determined by this Commission trigger  
8 a statewide increase should this happen.

9 It's very possible it would. I think I'm probably  
10 the only one that's going to say this, but that's good for  
11 the consumer. That's the best thing that could happen because  
12 this is going to assure additional development and develop  
13 additional gas supplies in the state where we do have control  
14 of them and we have the peaking ability when we need it.  
15 It will be here.

16 It's going to cost the consumer less for that gas  
17 in many ways than going to foreign sources through LNG or  
18 whatever. We're looking at much higher prices. You hear a  
19 \$110 million talked about that the consumer is liable to get  
20 stuck with. It's peanuts to what LNG prices are going to be,  
21 and that's coming. No question about it. The machinery  
22 is already at work and contracts are signed, and the money  
23 that the consumer is paying for that will be several times  
24 this; and most of that money is going overseas, will not  
25 benefit the California economy except for a relatively small

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1 handful of California families that control some of the  
2 distribution of that LNG.

3 But any higher prices that we as producers here in  
4 the state receive, it's going to go into the well. We heard  
5 talk about unjust profits. No such thing. These fellows  
6 ought to take a good look at our balance sheets if they want  
7 to make these unfounded charges.

8 I can say this for the independent driller: We like  
9 to explore for gas. Every time we make another dollar, it  
10 goes out in the ground. First of all, we have got income  
11 taxes to contend with. If we don't spend it, we have  
12 tremendous erosion; but that aside, we like to look for gas.  
13 It's exciting. The thrill of exploration is what got people  
14 into the business and, hopefully, to make their fortune.  
15 What can you do about that? I think that's what built this  
16 country.

17 I'd like to point out that we're really talking  
18 about 16 percent, roughly, of the gas supply at any possible  
19 higher prices. Already the balance of the 84 percent is a  
20 much higher price. I just can't believe that the overall  
21 effect on the consumer, on the utility bill, is going to be  
22 that difficult to assume. Christ, everything else has been  
23 going up, so is this.

24 So, inflation is here, and what's new? We do put  
25 the money back in the ground. I think approximately 85

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1 percent of Sacramento Valley is under lease. These lease  
2 rentals of three to \$25 per acre per year go to the property  
3 owners in the state. They go into the economy.

4 The drilling, the rig to drill. My estimate is  
5 something like \$80 million is spent every year drilling here  
6 in Northern California. This goes into the local economy.  
7 This employs Californians. I wish all the money we're  
8 sending to Canada could be spent here. That's not a reality  
9 of life; nevertheless, what's happening here is the money  
10 that's spent with us goes right back into our economy.

11 To be very brief, it's getting late, I'd say that  
12 we would like to see whatever price you determine, be it the  
13 \$1.20 or better than that. Hopefully, it's better because  
14 our costs are going up, and we think a \$1.20 is unreasonable.

15 Whatever it is, we're not going to threaten you  
16 with any litigation, or I personally am not whatever price  
17 you find. Hell, I can't even afford to go to arbitration  
18 now, but I want to thank you very much.

19 CHAIRMAN CORY: What does arbitration cost?

20 MR. LEINEKE: Well, I understand from companies  
21 that have gone into it in the past that their costs have  
22 been upwards of \$100,000. Each company, each arbitor, each  
23 side of the table.

24 CHAIRMAN CORY: And that is -- I'm just trying to  
25 quantify that so I understand what you are telling me. You

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1 are telling me that your choice, as a businessman, is to  
2 accept what the monopoly offers or you can go to arbitration.

3 MR. LEINEKE: Or we can not sell the gas. This is  
4 on new wells. On existing wells, we have two choices,  
5 either go to arbitration or to accept the price. If we find  
6 a new pool of gas and we go to negotiate a contract, there's  
7 really only one viable buyer, and that's PG&E. They have  
8 pipelines all over the Valley. We've had offers from other  
9 companies, but previous testimony has alluded to that. We  
10 couldn't make a deal because of pipelines. Those, I might  
11 say, were \$2.25. That's interesting but illusory at best.

12 MR. McCAUSLAND: Are you aware of any arbitrations  
13 that are currently pending in the Delta area?

14 MR. LEINEKE: Yes, I am. I am not personally  
15 involved in them, but I believe there is arbitration going  
16 on between PG&E on the one side and Signal, Aminoil, Honeycut  
17 and Camp and a couple other producers involved in that. As  
18 I understand, they each have individual contracts, but they  
19 have been lumped together for purposes of arbitrating it.

20 MR. McCAUSLAND: Do you have any idea how long those  
21 arbitrations have been pending?

22 MR. LEINEKE: Well, since July 1st of 1976. That's  
23 on the current price.

24 MR. McCAUSLAND: Do you have any idea how much of  
25 the natural gas consumed in Southern California is domestic,

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1 i.e., intra-California gas?

2 MR. LEINEKE: No, I do not.

3 CHAIRMAN CORY: Thank you very much, Mr. Lieneke.

4 MR. McCAUSLAND: Let me ask one more question. Do  
5 you have any idea what the values being debated in the  
6 arbitration are?

7 MR. LEINEKE: They're really closemouthed about  
8 that on all sides.

9 MS. SMITH: One other question. Assuming that we  
10 did set a price that was higher than the 1.20 and the rate  
11 increase to the consumer would be the 110 million as quoted  
12 earlier, your companies would benefit substantially; but  
13 how much more of an increase would there be in the amount of  
14 money that you spend on exploration?

15 MR. LEINEKE: First of all, I don't really believe  
16 that the rates are going to go up 110 million. There are so  
17 many variables involved in that number. PG&E may or may not  
18 give us a larger price based on what happens here, but should  
19 that be the case, I would say something like 90 percent is  
20 going to go right back into additional exploration.

21 I'm speaking in terms of small independent producers.  
22 This is all they do is drill. They do not pay dividends to  
23 a lot of stockholders --

24 MS. SMITH: People who are members of your  
25 organization?

1 CHAIRMAN CORY: Why would you put 90 percent back?  
2 That seems like that's a lot of bucks to put back. Don't  
3 you want some spending money?

4 MR. LEINEKE: Well, I'll speak for my own company.  
5 I'm trying to grow.

6 CHAIRMAN CORY: Why don't you put another dog in  
7 training?

8 MR. LEINEKE: I like to drill wells. It's just  
9 in the blood. Now, tax, number one, let's talk about that.  
10 You got 48-percent federal corporate rate. You got nine  
11 percent State rate. Right there, if you go drill more wells,  
12 commit to more leases and try to maintain any forward thrust  
13 to our companies, it takes tremendous capital to go ahead.

14 I drill about eight wells a year. I'd love to  
15 drill 20 or 30 wells. At two or three hundred thousand a  
16 crack, it takes a lot of money to go in there and drill.  
17 We're looking for cash. We're looking for more exploration  
18 dollars all the time.

19 If it comes from higher gas prices, that's where  
20 we put it, right back in the ground. I don't see any of  
21 these companies taking it out and investing in other businesses  
22 as we hear this criticism of some of the majors that they've  
23 been diversifying their portfolios. The independents drill,  
24 and that takes quite an investment to maintain that drilling  
25 schedule.

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1 MS. SMITH: If you were investing 90 percent of  
2 your profits from the increase, do you have any idea what  
3 effect that would have on the unemployment rate, like how  
4 many people would you be employing?

5 MR. LEINEKE: Well, I would say it would probably  
6 double what we're employing now. I think it would double  
7 the drilling activity here in Northern California. There  
8 have been several others --

9 MS. SMITH: They're all coming from Alaska.

10 (Laughter.)

11 MR. LEINEKE: There are some of our producers  
12 that our doing a small amount of drilling, and they're more  
13 active in other states. They would rather do it here, but  
14 there's a bigger carrot out there. They're drilling in  
15 areas where the gas is going for two and a quarter, a dollar  
16 eighty-five or whatever. As the price goes up, the drilling  
17 activity goes up.

18 This is well-established in Texas where about three  
19 years ago when the price was released and it soared up to  
20 well over \$2.30 for some of the contracts. Drilling activity  
21 followed it up just right up like that. Then the price  
22 leveled off as they found a lot of gas, and pretty soon there  
23 was more gas than there was a market for and the price went  
24 right back down, and it leveled out at a lower price. This  
25 is in relation to the additional prices. More drilling

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1 activity, more reserves were found.

2 CHAIRMAN CORY: Any further questions?

3 Thank you Mr. Leineke.

4 Mr. Doris?

5 MR. DORIS: My name is Monte Doris. I'm employed  
6 by a small independent oil company here in Sacramento. I  
7 am not speaking for them. I'm speaking for myself as a  
8 geologist, as a consumer of the state.

9 I did not come here with a prepared statement.  
10 I came here as a salaried employee hoping to hear things  
11 that would guarantee my employment in the future.  
12 Unfortunately, I haven't heard those things.

13 I hope that I don't speak beyond my means as some  
14 people have, and I hope that I don't ramble as others have.

15 I have read the documents, the transcripts, the  
16 evidence presented prior to today, and I have been here all  
17 day. I don't believe I have heard any facts addressing the  
18 issue. As I understand it from the material, the purpose  
19 of these hearings is to determine a reasonable market value  
20 for natural gas in Northern California. I don't think any-  
21 body has addressed the issue of market value.

22 The term market value has been interlaced and  
23 mixed back and forth rather carelessly with something that  
24 I think is more appropriately a market price. In fact, no  
25 evidence, no numbers, nothing has been presented which

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1 would give this Commission any idea of what the true market  
2 value of natural gas in Northern California would be.

3 I could sit here and talk to you about specifics,  
4 attempt to address issues like Ron Leineke did.

5 MR. McCAUSLAND: Perhaps you'd prefer to respond  
6 to questions.

7 MR. DORIS: I can't speak as an operator. I am  
8 strictly -- I'm a geologist. I am a salaried employee.  
9 I've got nothing to gain by increased prices, and addressing  
10 that issue would not -- I don't believe my testimony would  
11 have any credibility with this Commission. I don't believe  
12 I should do that.

13 But as an interested citizen and an employee of  
14 the industry, I don't believe the facts -- and this is  
15 supposed to be a fact-finding hearing -- I don't believe  
16 that the issue has been addressed at all.

17 CHAIRMAN CORY: How would you define the issue?

18 MR. DORIS: Well, as I understand it -- and not  
19 being a lawyer I could not --

20 CHAIRMAN CORY: That may be an advantage.

21 (Laughter.)

22 MR. DORIS: I could not attempt to -- well, I  
23 could not say whether or not this Commission has the legal  
24 right to determine --

25 CHAIRMAN CORY: But as a citizen just tell us

1 in your own words what you think the issue is that we should  
2 be looking at.

3 MR. DORIS: In the transcripts that I have read  
4 on the cover it says, "In the Matter of: Reasonable Market  
5 Value for Natural Gas in Northern California."

6 What I started to say is I cannot address the  
7 legal issues, whether or not this Commission can determine  
8 that; but assuming that you can address that issue, I don't  
9 believe you have in fact done that. Market value, as I  
10 would interpret it, is a price that buyers and sellers are  
11 willing to do business at the marketplace. Well, essentially  
12 in California there is no marketplace. A \$1.20 is not  
13 negotiable. To use words that lawyers have used here, a  
14 \$1.20 is the price that 183 of us are getting.

15 That is in fact the truth, that a \$1.20 that has  
16 been quote accepted by those producers is in fact a market  
17 price, not a market value at all. Nothing here has been  
18 submitted to determine the market value. There has been no  
19 evidence submitted to determine the market value of natural gas.

20 MR. McCAUSLAND: You have read the transcripts,  
21 but have you seen the documentation that was submitted in  
22 addition to the transcripts, the staff reports and written  
23 testimony, things of that nature? Because there are a lot  
24 of numbers in our record. I think we probably have sufficient  
25 data as to what people are paying for gas, both California-

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1 produced and gas which comes across our borders, to make a  
2 finding on what market value should be.

3 The thing that we're grappling with is how do we  
4 want to define market value. Is it going to be right there  
5 in that one field, or is it going to be what it takes for  
6 PG&E to provide gas to the people of California if and when  
7 they need it some winter morning? And are there marginal  
8 values that you pay for different kinds of gas? Is the  
9 \$1.20 artificially suppressed when 84 percent of the gas is  
10 paying a lot more?

11 Those are the issues that we've framed. I think  
12 we've already gathered enough information to suggest a \$1.20  
13 is a little bit light in this day and age.

14 MP. DORIS: Apparently your interpretation of what  
15 the word "value" means --

16 MR. McCAUSLAND: They don't like the way I use  
17 that word, do they?

18 MR. DORIS: I think you've gathered all the numbers  
19 and all the facts about the price that is paid. I don't  
20 think you've addressed the issue as to what it is worth.  
21 If you did, then you've got the even harder problem of  
22 determining how much of that is reasonable; and that is  
23 something I don't think that has been addressed by anyone.

24 MS. SMITH: Well, as a consumer, what is your  
25 opinion? Do you feel that it's reasonable for us to charge

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1 more than a \$1.20?

2 MR. DORIS: I have a tie to the industry that  
3 I cannot deny. I believe that makes me more knowledgeable  
4 than the average consumer. As far as my own bill is concerned  
5 I cannot help but believe in the end run it will be lower  
6 if local producers are encouraged to find and produce natural  
7 gas within the state and that it has always been and will  
8 always be the cheapest gas that PG&E can buy.

9 MS. SMITH: Are you saying that we should raise  
10 the price?

11 MR. DORIS: As an incentive for development for  
12 development of natural gas in California, yes.

13 My purpose in coming here without a prepared  
14 statement was that I listened to everything that has been  
15 said, and so much has been said through this microphone that  
16 did not make sense that I wondered if it was the microphone.

17 (Laughter.)

18 MR. McCAUSLAND: Our microphones work the same way  
19 those do.

20 I appreciate your testimony because I think you  
21 have in fact helped focus the issue for us, and we have in  
22 fact been listening to everyone's thoughts on the matter  
23 today in anticipation of the presentation which will be  
24 made later this evening by PG&E in which they will suggest  
25 whatever they will suggest about the staff proposal and the

1 ways that we could reasonably act; and sometime before dawn  
2 I assume we may find the courage to make a decision that  
3 hopefully will balance off the interests of the State as a  
4 producer of gas, the State as a owner of the land, the State  
5 as an association of over 21 million individuals, most of  
6 whom are consumers. And the three of us get to figure out  
7 how to reach that balance.

8 MR. DORIS: The bottom line in my coming up here  
9 is that I don't know why -- well, first of all, there is  
10 a major difference between independent oil companies and  
11 major oil companies, and I don't think the public is aware  
12 of what the difference is.

13 MR. McCAUSLAND: This Commission is.

14 MR. DORIS: That is good. By no means do not  
15 interpret that as a statement against major oil companies  
16 because it is not. We live and operate by a completely  
17 different set of bounds, and I am not so sure that people  
18 realize that.

19 Independent operators do a lot of drilling. We  
20 find a lot of gas in this state. Unless we are encouraged  
21 to continue to do so, we will not be able to do so; and I  
22 don't believe that anybody has addressed the independent  
23 operators in this state, any government agency, whether it  
24 be this one, that you see, whoever. I don't think anyone  
25 has come to us and explored, found out what our costs are,

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1 what it costs us to operate, how much money we make.

2           You hear people up here make complaints about  
3 windfall profits. Where are the numbers? Show me the wind-  
4 fall profits that the independents have made. No one has done  
5 that.

6           MR. McCAUSLAND: That's correct.

7           CHAIRMAN CORY: You're correct.

8           MR. GRAVELLE: It wasn't asked for.

9           CHAIRMAN CORY: I don't think we're putting too  
10 much weight on that. I don't think you need to fear any  
11 decision based upon that weakness in the record.

12           MR. McCAUSLAND: Why don't you listen to the balance  
13 of the testimony and then perhaps you will feel that you  
14 might want to contribute some more.

15           MR. DORIS: Well, I had hoped to speak much later.  
16 I had hoped to hear PG&E's testimony, but I believe I know  
17 what it is going to be.

18           MS. SMITH: We will allow you to come back and  
19 testify again.

20           MR. DORIS: I don't think it will change my  
21 statement, but if it does, I will. Like I say, I'm up here  
22 as a concerned citizen and an employee of the industry and  
23 as a consumer of the state. Thank you.

24           CHAIRMAN CORY: Thank you.

25           Mr. Williams?

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1 MR. WILLIAMS: My name is Stanwood I. Williams.  
2 I am a director of CIPA, but I do not represent them in this  
3 testimony. My testimony is given for my own company which  
4 is called the Sumpf, S-u-m-p-f-Williams of which I'm co-owner.

5 I've been kicking around in this business for about  
6 40 years as a geologist, as a major independent oil company  
7 employee, as a drilling contractor and as the company owner  
8 now of a small oil and gas producing company, exploration  
9 company. My testimony is primarily written with a thrust  
10 toward the price of gas and how it affects the independent  
11 producer.

12 I understand from some of the remarks that have  
13 been made by the Commission that that is not the thing that  
14 you're interested in hearing; however, I wish to discuss my  
15 testimony from that standpoint because the price with respect  
16 to the independent producer is all important when it comes  
17 to the major problem that no one has touched on to any great  
18 extent here today to my knowledge and that is the problem  
19 of development of additional reserves.

20 That is not strange at all. I've spent a little  
21 time in Washington lately, and we have the same problem in  
22 Washington. The President's energy program devoted nothing  
23 whatsoever to the development of additional reserves, and  
24 the new Department of Energy, which has been passed now and  
25 it is in by Congress and is now in operation, as you all

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1 know, does not add one iota to the development of natural  
2 reserves.

3 It adds a price of \$3.50 a barrel, as a matter of  
4 fact, to every barrel produced in the United States with  
5 it's \$10.6 billion budget, which is just a starter.

6 So, it is not strange that we aren't talking about  
7 the development of additional reserves here today, but I  
8 want to address that to some degree. We are one of the  
9 companies on a list that was named by PG&E as having signed  
10 a contract at a \$1.20. We have produced gas in the Sacramento  
11 Valley since 1974 and have never had a contract with PG&E  
12 until November, 1977, in which instance they were our only  
13 outlet for one well. This contract was negotiable to a  
14 degree, but not at all as to price, which is insufficient  
15 to afford an ongoing development program when stacked up  
16 against today's cost.

17 We have made numerous attempts to develop other  
18 markets for gas wherein the price would be commensurate with  
19 exploration, development and operating costs, including  
20 mineral right taxes and the new costs engendered by the highly  
21 detailed new federal reporting procedure. In such attempts  
22 we have been only partially successful.

23 We sell a good part of our gas to PG&E on a spot  
24 basis without sales contract, and the balance goes to Dow  
25 Chemical under a negotiated contract more favorable than the

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1 PG&E contract; and we received a \$1.20 per mmBtu from  
2 PG&E and a \$1.35 from Dow.

3 Also under the Federal Gas Emergency Act we signed  
4 a contract for our uncommitted gas with the National Gas  
5 Pipeline Company of America, Houston at the instigation  
6 of and with the full approval of the FPC. The price was  
7 \$2.25. This would have involved wheeling through PG&E lines,  
8 but before shipments could commence, the deal was called off  
9 without explanation or reason.

10 Because the price is controlled at a \$1.20 by  
11 PG&E, even though most of our production is taken at a  
12 slightly higher figure by Dow, we currently are drilling  
13 only wells that are contractually required in order to hold  
14 our leases. New exploratory drilling ventures are not  
15 fundable under these price conditions insofar as the  
16 independent producer is concerned.

17 So much for the specifics of our PG&E experience.  
18 Even with complete deregulation at the federal level, the  
19 price in California will still be controlled by PG&E and  
20 Southern California gas company in tune with the rulings of  
21 the CPUC.

22 The price is currently controlled to the extreme  
23 disadvantage of California producers who supply only 15  
24 percent of the total consumption, while at the same time  
25 far higher prices are paid for the remaining 85 percent of

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1 the PG&E consumption. The price is held so low that public  
2 consumption remains extremely high, and no one can afford to  
3 search for more supply within the state.

4 In conclusion, I must conclude that to pay the  
5 State the price paid today for California-produced gas is  
6 unfair because it is the price paid for a small portion only  
7 of the total purchases. It is inadequate to do the job of  
8 keeping the independent producer alive. It is determined  
9 under almost completely monopolistic practices, and it  
10 promotes consumption without allowing for replacement and  
11 therefore is not in the interest of the consumer of California.

12 Also in closing, I would like to add a remark with  
13 respect to the independent producer. In this country, we  
14 have a very fantastic situation. We have 10,000 independent  
15 producing oil and gas companies. No other country in the  
16 world has a thing like this to offer to its country. We  
17 used to have 20, but controls cut that down to today's  
18 figure of 10. Controls have been the bane of the existence  
19 of the independent producer in attempting to develop reserves.

20 The independent producer stands ready and financed  
21 with adequate and very able staff to go out and drill and  
22 find more reserves, but he is hampered at every step of the  
23 way by controls, price controls being number one.

24 The reasonable value, the reasonable market value  
25 for gas, which is what we're gathered about here today to

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1 discuss, has got to be something higher than the independent  
2 producer and the rest of the producers are receiving now in  
3 the Sacramento Valley. Otherwise, the producer is going out  
4 of business as he has in the past in the rest of the country  
5 and in the State of California because of the fact that he's  
6 been unable to get his price that will keep him in business  
7 for both oil and gas.

8 In the State of Texas, as Mr. Leineke has just  
9 related to you, the prices have been kept high for natural  
10 gas. There is a great scurrying around and a lot of drilling  
11 in the State of Texas. They'll never run short in that  
12 state.

13 The same thing is true in the country of Australia,  
14 as an example. The price of their oil has been kept high,  
15 and now that they're finding oil in great quantities --  
16 much larger than they anticipated after their first discovery --  
17 they're going to be self sufficient because they have the  
18 money to drill in the deeper places, in the more remote places  
19 and in the areas where exotic methods of extraction are  
20 necessary. That's why the price has to go up if we want  
21 reserves.

22 Thank you.

23 CHAIRMAN CORY: Thank you very much.

24 MR. McCAUSLAND: Would you care to suggest the  
25 price?

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1           Let me ask a question that precedes that  
2 and you don't have to answer it if you don't want to.  
3 Are you willing to tell this body what your return on  
4 invested capital is?

5           MR. WILLIAMS: Return on investment capital.

6           MR. McCAUSLAND: Or some other number that you  
7 would --

8           MR. WILLIAMS: I can't give return on invested  
9 capital per se in dollars and cents, but I can tell you  
10 this, that in Northern California in the Sacramento Valley  
11 the return on investment of the independent producer  
12 runs somewhere in the neighborhood of three for one up to  
13 as high as ten for one. That is over a ten to a twenty-  
14 year period, and that includes the drilling of dry holes.

15           CHAIRMAN CORY: What do you mean by three to one?

16           MR. WILLIAMS: I believe if you invest a dollar,  
17 ten years from now you get three back. The risk however  
18 is on the order --

19           CHAIRMAN CORY: Does that three to one ratio  
20 take into account the dry-hole capitalization?

21           MR. WILLIAMS: That takes in the dry holes, but  
22 does not take in dry holes of those who are not successful.  
23 I'm talking about the people that are in the business  
24 still today. The average wildcat that is successful in  
25 the San Joaquin Valley per operator is on the order of one

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1 out of twenty.

2 MS. SIEGEL: Are you selling stock? Can we buy  
3 some?

4 MR. WILLIAMS: We'd love to sell some stock.

5 MR. McCAUSLAND: My second question is: Would you  
6 care to suggest the price that you believe would encourage  
7 the industry to increase its exploration activity, at  
8 least its field development activity?

9 MR. WILLIAMS: Yes, I would suggest a price  
10 that would be equivalent of a barrel of fuel oil in Btu content.

11 MR. McCAUSLAND: Someone else suggested that once  
12 before. I can't remember whether it was Union or Phillips.

13 MR. WILLIAMS: That's the only basis it can ever  
14 really be straight on down the line, in my opinion, for  
15 comparison purposes.

16 CHAIRMAN CORY: I think we have, according to  
17 my indications, two people left to testify -- that is  
18 Mr. Fallin and Mr. Lippitt. Is there anyone else here  
19 that wishes to testify?

20 Now, it's 6:30. It's a question of what the  
21 wish of the majority of the Commission is in terms of whether  
22 or not we eat dinner and come back for those two, whether we  
23 continue on. Do you wish to get a resolution of this problem  
24 tonight? Do you wish to put it over and punt again?

25 (Thereupon a brief discussion was held off  
the record.)

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1 CHAIRMAN CORY: All right. Mr. Fallin.

2 MR. FALLIN: I feel like the bridesmaid who almost  
3 didn't make it.

4 MR. Mc CAUSLAND: But you've been patient today.

5 MR. FALLIN: I was telling somebody yesterday I  
6 can remember the day when we began the first hearing. I  
7 think there were about three of us in the room who were  
8 interested and an audience of one or two. It's grown.

9 My name, I think, has been mentioned before. Jack  
10 Fallin. I testified before you three months ago, I guess,  
11 now.

12 I do have a more or less -- well, it is something  
13 I worked up to speak about, but I'm going to do what I guess  
14 most people fear to see me do because like me they don't  
15 know where I'm going to turn. I'm going to extemporize for  
16 a few minutes.

17 What's happened here, I think, is this hearing has  
18 brought out -- I might say flushed out, but I don't think  
19 that's accurate -- it's brought out testimony. It's brought  
20 out evidence that wasn't in the record book before. We've  
21 finally got two people who were really interested in seeing  
22 the new prices, the gas producers, the people who will  
23 benefit.

24 Now, I'm not casting that now as a bad thing. I  
25 think it's factual. I think they should have been in and

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1 around all along because those are the people who stand  
2 to benefit by what you're going to do.

3 The question was asked, and Chairman Cory stopped  
4 it a little while ago, by the next to the last speaker. I  
5 guess I'm to the point now where I can call him a young man.  
6 He protested the statements that had been made in the proceeding  
7 about producer return, about windfall profits, about recovery  
8 over cost; and he said there isn't anything in the record  
9 at all, I think inferring that if it were in the evidence  
10 and in the record, those documents would support a claim that  
11 in fact profits aren't reasonably being earned.

12 Mr. Williams then came on and, I think in honesty  
13 to me, it sounded certainly forthrightly, made a statement  
14 that he wasn't loath to disclose his costs and that he  
15 thought that his costs would demonstrate a need for increased  
16 price levels.

17 Now, the question that was slipped, and the reason  
18 I may have spoken from the audience, is that I asked, not  
19 orally, but I wrote a letter to this Commission staff  
20 referring to this issue because my position, the PG&E's  
21 position, has been all along -- and I can't speak for the  
22 CPUC on this -- that if the producers can come in and show  
23 to you --

24 CHAIRMAN CORY: The CPUC?

25 MR. FALLIN: Yes, California Public Utilities

1 Commission.

2 CHAIRMAN CORY: Are there some others where you  
3 do you speak for them? You said you cannot speak for them.  
4 I just want --

5 MR. FALLIN: I'm not going to answer that, Chairman  
6 Cory.

7 MR. MACKENZIE: He doesn't represent them in any  
8 way.

9 MR. FALLIN: Well, I guess I can say I haven't  
10 discussed this with them.

11 CHAIRMAN CORY: That's what I wanted to know.

12 MR. FALLIN: My statement was, before I was  
13 stopped there, we have always taken the position that if it  
14 can be shown that in fact the prices received are insufficient  
15 to return adequate return to those producers, the very term  
16 you're talking about, reasonable market value, permits you  
17 to consider that and requires you to consider that even if  
18 it's to our detriment.

19 What I'm saying is that the term was designed to  
20 say what it does say. It says "market value." It then says  
21 that market value must be reasonable.

22 I do not have an objection, I have not had an  
23 objection -- and I've said this repeatedly -- to that line.

24 I think I should ask, and I will ask, why is it  
25 that the staff chose not to explore this avenue which I asked

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1 them to explore and which the producers now indicate was  
2 open to exploration, because obviously this is an important  
3 issue.

4 MR. McCAUSLAND: Would the staff be willing to  
5 respond to that question?

6 EXECUTIVE OFFICER NORTHROP: I was doing a house-  
7 keeping chore. Would you mind restating the question,  
8 Mr. Fallin?

9 MR. FALLIN: The question is that we've now had  
10 people at this hearing -- which was to be oral comments and  
11 no more evidence -- which indicate that the people that  
12 most directly stand to benefit from a proposed increase,  
13 the gas producers, do contend, as I think Mr. Lippitt was  
14 quoted as saying, that higher price levels are required to  
15 return to them a reasonable profit over their cost.

16 Now, it is true that throughout this proceeding  
17 PG&E has said that if that can be shown, if the costs require  
18 further profits, that should be cranked into the analysis.  
19 Now, I asked that the Commission explore this, and after,  
20 I think, having subpoenaed PG&E twice and a couple of other  
21 fellows a couple of times, that you use that power or whatever  
22 other inquiry you have to find out if in fact that's so,  
23 if the costs do require a higher level of profit; and I  
24 never got a reply to that request.

25 EXECUTIVE OFFICER NORTHROP: That's a very long

1 question, and I have a very short memory at this time. Let  
2 me try to answer what I think you're asking me.

3 What you're asking me, as I recall, is, it seems  
4 to me, why didn't we go to the producers and say, what do  
5 you need to produce gas. Is that what you're asking me?

6 MR. FALLIN: Uh-huh.

7 EXECUTIVE OFFICER NORTHROP: As I took the charge  
8 from the Attorney General, the charge was to find out what  
9 the fair market value of gas is, and we proceeded along  
10 those lines.

11 CHAIRMAN CORY: So, your definition of fair market  
12 value says that that's really irrelevant.

13 EXECUTIVE OFFICER NORTHROP: What's the market  
14 get? What's really the market value of gas?

15 CHAIRMAN CORY: Whatever willing buyers and sellers  
16 you can locate arrive at rather than a cost basis.

17 EXECUTIVE OFFICER NORTHROP: I don't think that's  
18 anywhere called for in the charge.

19 MR. McCAUSLAND: Let me ask a question. If this  
20 matter was submitted to the California Public Utilities  
21 Commission, it would be incumbent upon them under their  
22 powers to consider the fair return aspects of the price.

23 MR. MACKENZIE: Yes, providing that information  
24 were adduced on a record. The Commission would have to make  
25 a determination of whether that was tantamount to a reasonable --

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1 whether it was a reasonable expense or a reasonable item  
2 to put in the rate base.

3 MR. McCAUSLAND: If this Commission chose to defer  
4 the question of fair return to the PJC and, in fact, we have  
5 built no record that would demonstrate whether or not the  
6 prices that have been discussed here relate to fair return  
7 or not, you would then be able to deal with the situation  
8 de novo in terms of building your record?

9 MR. MacKENZIE: We would be required to whenever  
10 the applicant or utility chose to file an application, which  
11 is totally within their discretion to seek a rate increase.  
12 That would include the component of the factors that would  
13 go into these costs that they would then be absorbing.  
14 The determination would then have to be made as to whether  
15 or not that was reasonable. So, we're talking about possibly  
16 years for all utilities that will be faced with these increased  
17 costs to come before the Commission and have these long,  
18 elaborate hearings that are required in order for the  
19 Commission to make those findings of reasonableness.

20 MR. McCAUSLAND: But in fact your professional  
21 staff and its procedures have been geared to make those kinds  
22 of findings for many years.

23 MR. MacKENZIE: Yes, and they make them sometimes  
24 as short as six months. It usually takes longer than that,  
25 as I understand, to make those findings.

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1 MR. WAY: I'm Grev Way, and I'm with the Commission  
2 staff. You've got a few legal problems, and I'm no lawyer;  
3 but what we can get from PGE&, PG&E really cannot deny us.  
4 But about three or four years ago the Commission staff  
5 attempted to pursue what it cost to produce gas in California.  
6 We pursued this through PG&E, and we also wrote letters  
7 to a number of producers; and we got back a number of  
8 derogatory letters. We got back one letter that didn't  
9 even seem to be relevant, but it gave us some cost figures;  
10 and it's really a matter of what are the producers willing  
11 to provide along this line.

12 That may be a major problem because I don't think  
13 the Commission has authority, maybe we do.

14 MR. FALLIN: Chairman Cory, I don't make this  
15 sort of thing for effect only. I'm saying that --

16 MR. McCAUSLAND: I respect you quite a bit. I've  
17 read a lot of your words.

18 MR. FALLIN: You have in front of you an issue  
19 that's important for resolution to us as much as it is for  
20 you.

21 We've said, and I think it's true, that the  
22 standard doesn't just say market value and it doesn't say  
23 fair market value. It says reasonable market value. The  
24 position we've always taken is that if it can be shown that  
25 the value that the market creates -- and I'll talk about that --

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1 is the value of the market that you're to deal with. It  
2 shows up a \$1.20.

3 If there's evidence to show that that \$1.20 is  
4 unreasonable, then that evidence ought to be in and perhaps  
5 it should be given effect. To the extent that now at least  
6 one member, Mr. Lippitt, is excluded to the extent that  
7 Canada still floats in the chamber, the issue of Canadian  
8 prices or FERC prices, those only are reasonableness.

9 The point I'm making is that if in fact the  
10 producers are willing now to come forward and to show you  
11 the numbers that indicate that this is not enough to give  
12 them a fair return, then that ought to be in the record;  
13 and the reason I'm asking it here is that we didn't get it.

14 The CPUC has had a lot of trouble trying to get  
15 it. Your staff has demonstrated an ability to pull documents  
16 out of oil companies that seems to be unparalleled.

17 MR. McCAUSLAND: I understand we're getting better  
18 at it, too. Once we finish what we're working at right  
19 now --

20 MR. FALLIN: What I'm saying comes back to the  
21 pragmatic points that these witnesses have made. They can't  
22 be belittled. The odd thing is that they are new points,  
23 and they are points that I tried to raise and everybody said,  
24 oh, yeah, you're great. You'd help them out if they could  
25 show they needed it. It's not a posture. If it was in the

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9  
1 record, then we could consider it.

2 Another point that I think has to be made -- and  
3 I'll talk about it a little while down the road. The point  
4 has been made that it's important to explore for gas in  
5 California, that it's important to bring in gas supplies.  
6 In that very statement that you've heard repeated several  
7 times lies a distinction between Union Island and the flowing  
8 gas contracts we're dealing with here.

9 It's not just because the FPC uses the term. That  
10 contract was designed -- and I'll discuss it with you -- to  
11 provide both compensation for unusual value to PG&E because  
12 of its timing and size and also to provide an element of  
13 incentive for new gas finds in this state.

14 That has to be done very carefully. Perhaps you  
15 ask yourselves, well, why is that? You're looking at it.  
16 You're looking at it.

17 The reason why we have to be very darn careful of  
18 that new gas incentives is because somebody is going to turn  
19 around and try to club the consumers with those prices for  
20 flowing gas. Mr. Williams I think very accurately described  
21 the situation with respect to new gas finds in that, to a  
22 certain extent, they are negotiable, but not with price.

23 We have tried to work some recognition into new  
24 gas pricing having to do with exactly when the prices are  
25 paid, even though the wells aren't connected and everything

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1 else without creating the price effect that we see coming  
2 back to haunt us in proceedings like this, in proceedings  
3 like the arbitration you've talked about.

4           There is no fight from this side, and perhaps not  
5 from the other side, about the notion that new high costs  
6 for new gas may be justified because you encourage exploration.  
7 There is no question about it. That's not what we're  
8 dealing with here, and the fact is that the prices you're  
9 talking about, there is no guarantee.

10           We tried on a tentative basis to have contracts  
11 signed by the producers which down at the bottom one paragraph  
12 said, it is agreed that the increases hereinabove provided  
13 will be devoted to exploration activity in California. We  
14 got a resounding lack of interest in that sentence.

15           Again, if the producers can come forward and tell  
16 you that they are willing to devote every cent of these  
17 increases on flowing gas supplies into exploration for  
18 new gas, that changes a lot of things; but that's not the  
19 case. As you say, we don't have a record on their costs,  
20 we don't have a record on these things.

21           In the state of the record you've got right now,  
22 you'd have to assume that the cost increases can't be cost  
23 justified. You have to assume it because I've asked for it  
24 time and time again, and there is no evidence in the record  
25 that indicates that they are. We just don't know. The state

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