

AUG 11 1995

Decision 95-08-014 August 11, 1995

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Valley View Packings Company (V.V.P.) Is the subject of the following complaint:

Case 83-08-045
(Filed August 23, 1993)

otherwise impossible to tell save by
Wright & Talisman, by Jerome F. Candelaria,
Attorney at Law, for complainant.
Law suit Minami, Lew & Tamaki by Donald R. Tamaki to ask for redress

to ask for separate Minami, Lewis & Tamaki, by Donald K. Tamaki,
Attorney at Law, for defendant.

Valley View Packing Co. (Valley View), a subsidiary of Valley Land & Cattle Co., is a prune dehydrator located in Yuba City, California. Until September 1993, Valley View was classified as a core transportation customer of Pacific Gas and Electric Company (PG&E) and was subject to the core transportation rate schedule. Valley View claims reparations of \$180,810 from PG&E, alleging that PG&E should have recommended to the Commission that Valley View be reclassified from core to noncore status between 1991 and 1993. PG&E denies Valley View's claim, alleging that Valley View's own negligence, and ultimately its own conscious decision not to submit the necessary documentation, prevented it from obtaining reclassification. A public hearing was held before Administrative Law Judge Robert Barnett.

Classification as Priorities by (such as Anti-Revolutionary) to be released
Declassification by (such as Anti-Revolutionary) to be approved by
In May 1941, Resolution (Res.) G-248 imposed a

RRI 11 DVA

Since the turn of the century Valley View has grown, harvested, dehydrated, and packed prunes and other fruits. Because fuel costs are substantial (Valley View uses an average of 700,000 therms in a single, month-long dehydration season), lowering the cost of gas used in dehydrator tunnels is critical.

In 1987 Valley View obtained a low negotiated Schedule G-85 rate from PG&E. The G-85 tariff was applicable to large nonresidential customers who could verify that their alternative energy cost was lower in equivalent price, including, but not limited to, delivery charges and taxes, than PG&E's otherwise applicable retail rate schedule. The format established by PG&E in considering Valley View's request for the G-85 rate was to ask for specific information and calculations concerning fuel costs, equipment costs, operating costs, and added value of natural gas. Valley View provided all the information PG&E requested and entered into a contract with PG&E for the G-85 rate. The data supplied by Valley View was applicable only to 1987 and would not apply in subsequent years. By 1988, the G-85 rate schedule had been canceled, so of necessity ensuring a low rate for Valley View became difficult. In March 1988, the Commission issued Decision (D.) 88-03-085, which established that in order to qualify for reclassification to noncore status, core customers who used in excess of 250,000 therms annually, or 20,800 therms per month, had to satisfy existing standby requirements, except where the customer had clear technological capability to install alternate fuel facilities, and where the cost to do so and then to use alternate fuel would be less than the cost of core service. (D.88-03-085, 27 CPUC2d 591, 600.) D.88-03-085 required PG&E to seek Commission approval for each transfer request for reclassification through an advice letter.

In May 1991, Resolution (Res.) G-2948 imposed a reclassification ban. G-2948 addressed the ability of customers classified as Priority P2A (such as Valley View) to be reclassified

as noncore customers. The Commission decided that customers included in the P2A class desiring to be reclassified as noncore after August 1, 1991, should be denied the opportunity to transfer until the matter was addressed in a future proceeding. There was a window of opportunity to transfer between May and August 1, 1991.

In December 1991, D.91-12-075 (42 CPUC2d 566), the Southern California Gas Company (SoCalGas) Biennial Cost Allocation Proceeding (BCAP), considered the matter of SoCalGas' P2A core to noncore transfers and adopted a tracking account for those transfers. The Commission said:

"There is no further need to hold in abeyance the processing of transferring applications received subsequent to the temporary August 1, 1991 deadline specified in Resolution G-2948." (42 CPUC2d at 489.)

In March 1992, Re Western Liquid Gas Association, D.92-03-091 (43 CPUC2d 562), decided an application for rehearing of Res. G-2948 and G-2959 concerning the elimination of the alternate fuel requirement for those customers who could no longer use their alternate fuel systems because the systems did not satisfy air quality standards. D.92-03-091 announced our intention of eliminating the alternate fuel requirement for noncore customers. However, concerned about related cost allocation issues and the effect of removing the alternative fuel requirement on core customers, we deferred implementation until a decision in Rulemaking (R.) 86-06-006. In regard to filing deadlines, we said,

"The existing rules provide for a deadline of August 1, 1991 for customers to change from core to noncore status. We will retain this deadline until detailed rules and ratemaking issues are resolved." (43 CPUC2d at 566.)

resolution notes that Res. G-2948 is set as deadline of August 1st 1991, but added in parentheses of original memo ASQ add in boldface

reference # The Commission lifted the August 11, 1991, deadline for processing requests for core-to-noncore transfers from core to noncore.

In adopting this treatment for CP2A entitled "Guidelines for
core/noncore transfers, there is no further need to hold in abeyance the processing of
transfer applications received subsequent to resolution
to the temporary August 1, 1991 deadline previously
specified in Resolution G-2948."

In D.92-10-051, PG&E's BCAP, we eliminated the alternate fuel requirement and the economic practicality test imposed by D.88-03-085 for core customers seeking to transfer to noncore status. However, in Ordering Paragraph 9, we said "the changes in this ordering paragraph are suspended pending further consideration and review in R.86-06-006." (46 CPUC2d 113, 164.)¹

On September 17, 1993, in D-93-09-006, in R-86-06-006, the requirement that noncore customers maintain, or demonstrate, the economic practicality of, alternate fuel capability was removed.

so determined that the best way to proceed is to determine what the best way is to proceed.

1 "The alternative fuel requirement for noncore schedule eligibility and the economic practicality test shall be eliminated; the penalty for a noncore customer's failure to comply with a curtailment request shall be \$16 per therm; customers who show a pattern, or reasonable expectation, of failing to curtail when requested shall be moved to the appropriate core rate schedule; the minimum size requirement for noncore status shall be either 100 Mcf per peak day or 20,800 therms per active month; and existing noncore customers shall remain noncore at their choice if they are below the size requirements until further order. The changes in § 9 this ordering paragraph are suspended pending further consideration and review in R-86-106-006-MJ (D.92-10-051, Ordering Paragraph 9).

In brief, Yuba Valley View asserts that PG&E should have transferred its Valley View from core to noncore status prior to August 1991. Failing that, PG&E should have made the transfer in 1992 in accordance with D.91-12-075 & D.92-03-091, and Res. (G-2993) all as cited above. PG&E asserts that those referenced citations did not authorize the transfer; it was only with D.F.93-09-082 in R.86-06-006, in September 1993, that PG&E was authorized to make the transfer, which it did on September 28, 1993, giving a new rate.

Complainant's Evidence Mr. Tirri, its chief financial officer, testified that his company operates 110 gas dehydrator tunnels in Yuba City. The drying season for prunes lasts about 30 days during August-September. His Exhibit 62 shows that for 1992, for example, Valley View's gas cost as a core customer in this short season was approximately \$87,644. If Valley View were on a noncore schedule, the costs would have dropped to approximately \$41,206.66 on July 1, 1992, saving \$46,437. In 1987, Valley View entered into a G-85 contract with PG&E, which authorized a discounted rate. To obtain the discount he had to supply PG&E with documentation showing that Valley View could economically use an alternate fuel. PG&E did not challenge that documentation. In By 1988, the G-85 rate schedule no longer existed and Valley View sought to transfer to the noncore rate schedule. He provided PG&E with information based on a formula (SV) developed by PG&E in 1987. He submitted revised data concerning the cost of equipment, fuel costs, cost of PG&E service, and costs Valley View could pay others if for gas alone. (Exhibit 34) set forth in Appendix A. PG&E denied Valley View's request for noncore service because it believed Valley View's calculations regarding the savings from alternate fuel use were wrong. Valley View did not challenge PG&E's conclusions. Soon thereafter he attempted to obtain noncore status and had discussions on a yearly basis.

basis with PG&E, and constantly requested a movement to any kind of a status that would allow Valley View to save money within the PG&E system, but he did not submit any documentation to PG&E to support a transfer. He said that PG&E neither assisted Valley View nor informed Valley View of its noncore service options.

On May 13, 1991, he sent to PG&E a letter seeking nothing immediate help in obtaining noncore status. It included with that letter was a detailed, revised schedule showing economic merit and practicability. (Exhibit 6, set forth in Appendix B.) That information showed that even if the cost of alternate fuel conversion had been three times higher than the estimated amount, it would have paid to convert. He said PG&E never commented on, or even considered the information provided by Valley View. PG&E's only response was to mail a formal information packet which only provided no information concerning Valley View's specific request, but, rather, generic information regarding the various noncore service levels. PG&E gave Valley View no direction regarding the information needed to process a change from core to noncore status until after June 14, 1991, a tough and busy time for Valley View. He said that he received a letter dated June 14 from PG&E which set forth PG&E's requirements for transfer from core to noncore status. He discussed these requirements with a PG&E representative, and concluded that because of the press of business (Valley View was entering the height of its season), it could not respond in a timely fashion; that is, by July 15. Further, he said that he chose not to submit information immediately following the June 14 letter because he was assured by PG&E that the transfer requirement might be dropped. He said he did not know there was an August 1 deadline. Also, he said he never told it caused problems with PG&E. He testified that in 1992 he was still working with PG&E in the hopes of obtaining noncore status. A PG&E representative told him that PG&E could not help and that he would have to take his case directly to the Commission. In May 1993, he contacted the

Commission for help. He received a letter from Commission's Advisory and Compliance Division (CACD) stating Valley View was eligible for noncore status in 1993; but PG&E still refused to apply for transfer, which is an application of funds on behalf of Valley View and defendant/s. Evidence of their lobbying record and a transcript of the

Defendant's Evidence

Mr. J.A. Witness for PG&E testified that in June 1988 he received from Valley View a one-page document regarding Valley View's proposed alternative fuel system for the Yuba City plant.¹⁸ At that time to receive noncore status applicants had to "show the economic feasibility of an alternate fuel system." PG&E was required to submit this information to the Commission by advice letter to obtain approval for the transfer. He reviewed Valley View's document (Exhibit 134) and responded by letter dated July 20, 1988. He said that Valley View's proposal as written on the one-page sheet was incorrectly calculated. The actual conversion factor for heat content of butane when compared with natural gas was 1.01, not 0.91, as stated.¹⁹ And based upon the 1.01 factor and information that Valley View had supplied, he concluded that it was not economically beneficial for Valley View to burn alternative fuel at the Yuba City plant relative to PG&E's GNR-2 noncore rate being offered at that time.²⁰ By Valley View's own calculations, Valley View's cost of equipment to burn alternate fuel was \$60,000. Even had the lower factor of 0.91 been applied, then at most, Valley View would have only saved about a penny per therm, or \$6,000. The capital expenditure to install an alternate fuel system could not be economically justified.

He testified that after concluding that Valley View's documentation did not meet the standard for reclassification, he did not verify whether the facility could physically accommodate the installation of an alternative fuel system; verify the cost of propane or butane; the cost of equipment; or seek a detailed breakdown of the equipment components; or insurance costs, because these factors would only have increased Valley View's costs, making

more apparent Valley View's inability to economically install, burn, and maintain an alternate fuel system in addition to its existing gas system.

The witness testified that the May 13, 1991 letter sent by Valley View to PG&E to attempt to qualify as a noncore customer was inadequate. The letter provided insufficient data to calculate the cost to install alternate fuel equipment to estimate the thermal savings Valley View would be using, and to forecast the estimated savings per therm. He said that the May 13, 1991 letter with attachments was basically "a back of the envelope" series of figures, "just a one line back of the envelope statement."

The witness replied to the letter with a brochure that explained the gas industry restructuring and an overview of rates, schedules, etc. In his opinion, this made Valley View aware of all its options (and the consequences of each option), and all the various service levels and contract requirements, such as take-or-pay obligations, length of contract, etc. Until Valley View could determine which contract was best for Valley View, it was premature for PG&E to address the limited data and calculations appearing in Valley View's May 13 letter. The witness testified that he followed up by telephone to make sure Tirri received the brochure, and to discuss service options and contract obligations. After this follow-up, Tirri still failed to submit any additional proposed documentation or to act in furtherance of his desire to transfer Valley View from core to noncore status.

Upon learning of Res. G-2948, setting the August 1, 1991 deadline, the witness testified that he immediately called all his customers, including Valley View, to inform them about the decision. He went over with Tirri the information PG&E would need to demonstrate economic feasibility, such as fuel quotes and equipment requirements, and told him about the August 1 deadline. As a result of the telephone call, the witness said that he got the impression that Tirri was going to start gathering the necessary information to support Valley View's quest for reclassification.

The witness testified that to show economic practicability PG&E developed a set of requirements which were set forth in PG&E's June 14, 1991 letter to customers, including Valley View. In his opinion, these were requirements the Commission would examine in approving or disapproving transfers. This was not the first time Mr. Tiff was informed of these requirements, but it was the first time PG&E put them all together in one document.

The requirements as specified in the June 14, 1991 letter are:

a. Economic practicability must be demonstrated as outlined below:

a. An alternate fuel system design must be provided, including all equipment and sufficient on-site, permanent tank capacity to allow continuous use without interruption.

b. A financial analysis of the alternate fuel system must be provided. Cost of money and other financial factors must be clearly shown. Systems with a three-year payback or less, based on PG&E core rates will be considered.

c. Fuel costs used must be based on actual projected prices and weighted to reflect the facility's actual usage profile.

b. Practicality of system installation must be demonstrated as outlined below:

a. A plot plan must be furnished along with other drawings necessary to show tank and equipment locations along with proper clearances from buildings, vehicle traffic, etc. as required by code.

b. Provide a statement along with a P.E. if he verified stamp from a registered professional engineer, verifying that the proposed system was designed in compliance with all pertinent codes and ordinances.

should submit a bona fide estimate of the off installed cost of the design as verified by the above-mentioned PG&E engineer, and (e) if such alternate fuel system is not feasible, a statement must be furnished from the local air quality management district or state air and watershed management fuel system would be authorized to operate. If the fuel is not authorized off site, then the witness said that the customer must be provided to PG&E that the customer understood and accepted responsibility for any service interruption or curtailment experienced due to voluntary selection of noncore status.

The witness said that in the past, PG&E could negotiate with the customer, and over time, collect the necessary data demonstrating economic feasibility to install, burn, and maintain an alternate fuel system; but with the August 1, 1991 deadline approaching, PG&E no longer had this luxury of time to collect the data in this fashion. With 14 to 15 customers, some with multiple facilities, it would not have been practical or fair to gather the data through back and forth negotiations with the customer. Therefore, based on PG&E's past experience in verifying customer claims with respect to technical feasibility and economic practicability to install, burn, and maintain an alternate fuel system, PG&E established the criteria set forth in the June 14, 1991 letter. By letter dated June 20, 1991, PG&E confirmed to all its potential transfer customers, including Valley View, the August 1 deadline.

A PG&E witness testified that he interpreted D.91-12-075, a SoCalGas application proceeding (which lifted the transfer prohibition for SoCalGas' customers), as not applying to PG&E. He believed it was not until September 1993, that PG&E was authorized to process transfers.

info re Valley View's proposal (Exhibit 6) was totally inadequate, in PG&E's estimation. It did not include a site plan, nor detail on type and cost of equipment (such as vaporizers, bins tanks, pipes, etc.), nor detail on operation and maintenance costs, nor verification by a professional engineer prior to issuance.

A PG&E witness testified that in response to PG&E's June 14 letter advising customers of the August 1 deadline,

37 customers provided the required information by August 1 and were transferred from core to noncore. Further, in response to the July deadline, consultants became available to help transfer applicants prepare the necessary documents. The California League of Food Processors had knowledgeable representatives assisting customers. Propane and butane suppliers helped so engineers could be retained to produce the entire package of documents. Sunsweet, the largest dehydrator, used consultants to prepare the documents for its installations. Sunsweet was among those approved for transfer. Many small dehydrators transferred; most managed to obtain the necessary documents in July. Only one customer decided not to gather the documentation on Valley View or to seek an adjournment.

A PG&E witness testified that in June 1992, he was first contacted by Mr. Tirri regarding transfer, but he could do nothing for Valley View as the August 1, 1991 deadline was still in effect. In July 1993, PG&E received a copy of the letter sent by CACD to Valley View stating that in CACD's opinion Valley View was eligible for transfer from core to noncore if it met the proposed reclassification tests of Res. 2959 and D-92-03-091. PG&E's legal department decided that the letter was inaccurate, that Valley View was not eligible for transfer. No discussion had and no information was given Valley View of what was asked.

To understand the ramifications of PG&E's refusal to submit Valley View's transfer request to the Commission without proper documentation, a knowledge of the effect of the transfer on rates is necessary. For example, if at the time in question their

core rate, was 20¢ per therm and the noncore rate was 12¢ per therm, the \$8,000 revenue shortfall was booked to the core balancing account and all other core customers would pay for that shortfall. To protect the core from an ill-advised transfer, the Commission required detailed documentation showing alternate fuel capability and economic feasibility. The utility was the doorkeeper.

Anti Pre-1991 Valley View also argues that PG&E wrongfully denied Valley View's noncore status from 1988-1991. It contends that a necessary component of a gas utility's duty to advise its customers of the availability of a lawful, lower cost service is the corollary duty to properly advise its customers of any procedure required to obtain that lawful, lower cost service. But despite Valley View's continued requests for lower gas noncore status from 1988 through 1991, PG&E made virtually no efforts to advise or accommodate Valley View's requests for transfer, and, in fact, foiled Valley View's efforts to obtain a lower, lawful rate by unnecessarily delaying by more than three years, to inform Valley View of its own season requirements necessary for obtaining noncore status, then informing Valley View of those requirements at the height of its preparation for the harvest/dehydration season, with only weeks before a Commission-imposed August 1 deadline. Again, all as well as well as PG&E says that Valley View's 1988 attempt to qualify for noncore status was totally inadequate. A one-sheet summary without corroborating documentation is of no value, even if the arithmetic on the summary is correct, and PG&E disputes the accuracy of the summary. PG&E rejected the summary and Valley View did not provide additional information. Valley View blames PG&E for failing to take steps to verify Valley View's information, but PG&E asserted that it is not PG&E's responsibility to verify a customer's information, or that responsibility rested solely with the customer. No reliance. We agree with PG&E. Valley View's submittal was totally inadequate. It knew it had to provide information to show it was

is technically feasible and economically practical for it to install and burn alternate fuel. And it knew its showing was to be submitted for Commission approval. Without supporting workpapers, the submittal was meaningless. Assuming Valley View was correct that it could save money by use of alternate fuel, the support for that conclusion was lacking. Contrary to Valley View's position, PG&E is under no obligation to make the case for Valley View.

Mr. Tirri of Valley View argues that PG&E illegally failed to inform Valley View of its service options in 1989 and 1990, and cites D-86-12-010, that utilities must send customers a notice annually summarizing their service options and current rates whenever new programs, changes or rate changes occur. However, PG&E's other representative testified that he sent Valley View every year a 20-page packet with the tariffs attached. PG&E communicated tariffs and options requirements, as just a matter of doing business.

Overall, we believe PG&E met its annual obligation to provide notice to its customers, including Valley View. The record is also uncontested that Valley View failed to submit any documentation whatsoever in 1989 and 1990 in support of its desire to transfer to noncore status.

B. The Events of 1991

On May 13, 1991, Valley View sent to PG&E a letter seeking help in obtaining noncore status. Included with that letter were data showing economic practicability. That data showed that even if the cost of conversion had been three times higher than the estimated amount, it would have paid to convert. Valley View contends that PG&E never responded to this letter.

PG&E's evidence is that it immediately responded to Valley View's letter by sending Valley View a brochure providing an overview of all tariff schedules, so that it could be made aware of not only the service levels, but also the contractual obligations, such as take-or-pay, length of contract, etc. PG&E's witness testified that he followed up by telephone with Tirri to make sure

Tirri had received the brochure and to discuss service options and contract obligations he and his wife went to BAA. Tirri does not mind this approach. After Response G-29481 of May 22, 1991, it imposed a transfer ban, effective August 1, 1991, PG&E on June 14, 1991, mailed a letter to all customers who might qualify for transfer including Valley View, setting forth PG&E's requirements necessary for such transfer from core to noncore. Valley View did not submit any documentation in response to PG&E's letter. According to Tirri, one of the reasons he chose not to submit information immediately following the June 14 letter was he was assured by PG&E that the transfer requirement may be dropped in future so PG&E denied that a such a representation was made to Tirri. What was said was that PG&E hoped the requirements would be dropped in the future, but no transfer now required action by August 1, as stated in the letter.

The evidence shows that Valley View made no effort to comply with the June 14 requirements. The evidence further shows that 37 customers who received the June 14 letter complied by August 1. Those customers submitted documents which showed:

- a. An alternate fuel system design, including removal of all equipment and sufficient on-site, ~~and~~ permanent tank capacity to allow continuous use.

- b. A financial analysis of the alternate fuel system, with costs of money and other ~~and~~ financial factors clearly shown.

Fuel costs based on actual projected prices were used and weighted to reflect the facility's actual usage profile.

- c. A plot plan along with other drawings necessary to show tank and equipment locations along with proper clearances from buildings, vehicle traffic, etc., as required by code.

Not only the services, but also the consequences of disconnection, as "take-or-pay," penalty of contract, etc. PG&E's witness

e. A statement along with a PG&E stamp from a registered professional engineer, verifying (or re-^doing) that the proposed system was designed in accordance with all pertinent codes and applicable ordinances.

In addition, application form 100-30-80,0, Noncore new generation fuel system, dated January 1991, contains the following language:

noted above, a bondafide estimate of the installed cost of the design as verified by the above-mentioned engineer.

g. A statement from the local air quality management district stating that the proposed alternate fuel system would not be authorized to operate.

Valley View asserts that PG&E did not inform Valley View that the Commission had lifted the August 1, 1991 deadline for transferring from core to noncore. In Resolution G-2993, dated July 1, 1992, it said that transfer applications could again be processed. D.92-10-051, issued in October 1992 in PG&E's BCAP, eliminated the alternate fuel requirement and the economic reasons practicality test, but suspended the implementation pending further consideration. However, the following day, Valley View asserted that PG&E did not inform Valley View that the Commission had lifted the August 1, 1991 deadline for PG&E P2A customers. In Resolution G-2993, despite the repeated efforts by Valley View to obtain noncore status in 1992 and 1993, in late July 1992, as the prospect grew that Valley View would enter another soggy dehydration season subject to the core rather than noncore gas fleet transportation rate, Valley View again sought PG&E's help, asking in a letter if there was anything Valley View could do to change its status. PG&E said it was still prohibited by the August 1 ban. As a result, Valley View paid core rates in 1992. Later in 1992, we are met with apparently conflicting language in Commission decisions, see March, D.92-03-091 (in which PG&E was a party) retained the August 1, 1991 deadline. In July, in Valley View Resolution G-2952, in an introductory paragraph, it said that transfer applications could again be processed. However, for this need has

proposition: the resolution quoted a SoCalGas decision (D.91-12-075), which decision, if applicable at all to PG&E, was superseded by D.92-03-091. In July 1992, so far as PG&E's customers were concerned, D.92-03-091 was controlling; the August 1, 1991 deadline was still in effect. Therefore, PG&E cannot be faulted for failing to bring Valley View's transfer request to the Commission's attention.

Assuming the conflict in Commission language should be settled in favor of the customer, and PG&E should have brought a properly documented Valley View transfer request to the attention of the Commission, we are confronted by Valley View's failure to provide the necessary data to PG&E to implement such a request. The alternate fuel requirement and the economic feasibility test had not been eliminated. Valley View had, since June 1991, almost every year, to provide PG&E with the documentation PG&E requested for a transfer procedure. Valley View failed to provide that documentation. Every PG&E customer who transferred from core to noncore during this period had provided the detailed documentation requested by PG&E. PG&E cannot be faulted for Valley View's lack of due diligence. Valley View's insistence that the material it did provide was sufficient is not persuasive. Our review of the material leads us to conclude that its paucity, especially its lack of supporting documentation, would have precluded transfer until at least September 1993. The Commission need consider only one of two other possibilities: (1) The alternate fuel requirement and the economic feasibility practicality test were conditions applicable to PG&E's customers seeking a transfer from core to noncore during the first eight months of 1993. On September 17, 1993, the Commission issued a D.93-09-082, which eliminated those conditions. On September 28, 1993, too late for the 1993 dehydratation season, PG&E transferred Valley View to noncore status. If that is so, then it is clear to the Commission that Valley View argues that because the transfer prohibition had been lifted by Res. G#2993, PG&E had an obligation to submit

Valley View's transfer request to the Commission in time for Valley View's dehydrogenation season. and, among other things, the letter of PG&E argues that since the elimination of the alternate fuel requirement and the economic practicability test were both also suspended by D.92-10-051, pending further review, many transfers from core to noncore associated with such elimination were, as a practical matter, also put in abeyance. Moreover very unlike D.91-12-075 (in SoCalGas' BCAP), which broadly removed the too-tight August 1, 1991 prohibition of ResV Q-2948 against transfers of SoCalGas' customers from core to noncore, there is no equivalent language in D.92-10-051 stating that the August 1, 1991 deadline was removed. Furthermore notwithstanding the principle reason a utility may

We are met here with essentially the same situation and arguments pertaining to the 1992 season, as Valley View argues the ban was lifted; PG&E says now. In either case, our conclusion is the same: Valley View did not provide adequate documentation to PG&E for PG&E to bring a transfer request to the Commission.

Since June of 1991, Valley View had two years to provide information to PG&E which 37 other core users managed to provide within a matter of weeks. Valley View's argument that in 1991 it could not comply because it received the data request too late in its season, whatever its original merit, had become desiccated by 1993. PG&E is obligated to inform its customers of options; it is not obliged to make the case for the customers' best interests.

Findings of Fact: Valley View has failed to

1. In 1988, the Commission required that a core customer seeking to transfer to noncore status must show that it had the technological capability to install alternate fuel facilities that were economically practical, as well as meet the need based

2. In 1988, Valley View submitted data to PG&E in an attempt to obtain noncore status. That data was both erroneous and inadequate. It did not show economic practicality for alternate fuel facilities.

On May 13, 1991, Valley View submitted data to PG&E in an attempt to obtain noncore status. This data was insufficient to calculate the cost to install alternate fuel equipment, to estimate the thermal output, and to forecast the estimated savings per therm. It did not show economic practicality for alternate fuel facilities due to the cost of setup.

In May 1991, Res. #G-2948 set August 1, 1991 as a deadline for core to noncore transfers. (PAC, 1991-02-11) 240-80-30.C

PG&E notified Valley View about the terms of Res. #G-2948 immediately after it was issued to encourage timely submission.

In June 1991, PG&E followed up its notification to Valley View with a letter outlining the information required to prepare an application to the Commission to obtain transfer authority.

Valley View made no attempt to comply with the requirements of the letter. Valley View said it had no time to comply, indicating it was still working on its May 1991 proposal.

Valley View relied on its May 1991 proposal as being adequate, showing the May 1991 showing was inadequate. It did not include a site plan, nor detail on type and cost of equipment, nor detail on operation and maintenance costs, nor verification by a professional engineer. It did not show economic practicality for alternate fuel facilities. It is reasonable to assume all of this would have been included in the original proposal. By August 1, 1991, at least 37 other core customers were similarly situated to Valley View and were transferred from core to noncore status. A final hearing notice was issued on August 1, 1991.

In 1992 and 1993, Valley View failed to upgrade its showing to PG&E. Assuming that the August 1, 1991 ban on transfers had been lifted in 1992, Valley View was still obliged to provide PG&E with the necessary information to show alternate fuel capability and economic practicality. Valley View did not meet its obligation to provide information within the specified time period.

11. It was only in September 1993, when the Commission removed the alternate fuel capability and economic practicality tests, that Valley View met the requirements to transfer to noncore status, which was done.

12. Valley View, by its own negligence and failure to submit necessary documentation, prevented it being eligible to transfer from core to noncore status.

13. PG&E informed Valley View of its options; PG&E is not obliged to make the case for Valley View.

Conclusion of Law

The Commission concludes that the relief requested in the complaint is denied.

O R D E R

IT IS ORDERED that the relief requested in the complaint is denied.

This order is effective today.

Dated August 11, 1995, at San Francisco, California.

DANIEL Wm. FESSLER
President
P. GREGORY CONLON
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY

Wealey Franklin

Acting Executive Director

VALLEY VIEW PACKING CO INC
COST OF FUEL FOR YUBA CITY
ALTERNATIVE SOURCES

COST OF EQUIPMENT TO BURN ALTERNATIVE FUEL
INTEREST COST FOR FINANCING FIVE YEARS @ PRIME
TOTAL COST OF EQUIPMENT

THERMS BURNED PER YEAR
EST. THERMS OVER FIVE YR. PERIOD

PLANT COST PER THERM

COST OF BUTANE PER THERM

COST OF SERVICE FROM PG&E

COST WE COULD PAY TO OTHERS FOR GAS, ALONE
CONVERSION FOR HEAT EQUIVILANT 0.91[?] 1.01[?]

\$60,000.00
\$13,869.61
\$73,869.61

11
0.019896869
0.34030413
0.009876769

10.36

32/therm.

(END OF APPENDIX A)

TM -

Here is THE SHEET AS IT STANDS NOT INCL
Information plus some needed information.
Give me a call when you have time.

Bob Chapman

MR. TIM BOHAN
P&E MARYSVILLE
MAY 15, 1991

THE O CASE NO: AY-A-93-08-015AY
Date: 10 NOVEMBER 9, 1994
Witness: RUL OF KANO STATE HIGH COURT
RECEIVED IN THE CIVIL REGISTRY SECTION OF THE HIGH COURT OF NIGERIA
KANO STATE

DEAR TIM:

УЧЕБНАЯ БИБЛИОТЕКА
8163-936

Что такое выдача новых

Exhibit: (C-6)

THIS LETTER IS INFORMAL, BUT CONFORMS TO OUR
CONVERSATION WHEREIN WE ASKED YOUR HELP IN
PROVIDING VALLEY VIEW PACKING CO., INC. WITH
THE ABILITY^{TO} TO MOVE TO A SERVICE LEVEL OF THREE
DELIVERY SCHEDULE FOR OUR TWO ACCOUNTS IN THE
YUBA CITY AREA. AS YOU WILL SEE FROM THE RECENT
SCHEDULE WE MADE AVAILABLE TO VALLEY VIEW,
WE COULD POTENTIALLY SAVE A VERY EXPENSIVE
AMOUNT OF MONEY IN AN INDUSTRY WHERE MARGINS
ARE PAPER THIN. AS WE DISCUSSED SINCE THIS
INDUSTRY IS SO HIGHLY COMPETITIVE WE HAVE
MADE EVERY ATTEMPT TO AVAIL OURSELF OF ANY
COST CUTTING MECHANISM AT OUR DISPOSAL. THIS
SEEMS TO BE ONE OF THOSE COSTS THAT THE COMPANY
MUST CUT IN ORDER TO STAY COMPETITIVE.

YOUR HELP IN THIS MATTER IS GREATLY APPRECIATED. TIME IS OF THE ESSENCE, AS ALWAYS WE NEED YOUR ANSWER YESTERDAY SO WE CAN SIGN CONTRACTS FOR THE SUPPLY OF NATURAL GAS.

I LOOK FORWARD TO HEARING FROM YOU AS SOON AS
POSSIBLE, SO THAT WE CAN MOVE FORWARD.

R. R. Ries

SOURCES FOR ALTERNATIVE PAY BACK PERIOD

RONALD L. TIRRI, C.P.O.
VALLEY VIEW FACKING CO., INC.

(END OF APPENDIX B)

VALLEYVIEW PACKING CO INC
ESTIMATED COST OF CONVERSION TO PROPANE
IN ORDER TO RUN THE DEHYDRATOR TUNNELS IN YUBA CITY
(0-5) (0-5)
SOURG PETROLEUM YUBA CITY TON RICHINS YUBA
673-8816

ИАН НІТ ЯВ
СІЛХУЧАН НАО
ІСІКЕД ІАМ
ІОЛУ :НІТ ЯВ

COST OF EQUIPMENT NEEDED TO PRODUCE 1,000 TONS OF
 COST OF MONEY AT PRIME RATE FOR FIVE YEARS $\frac{1}{2} \times 100,000 = 50,000$
 CONSUMPTION OF THERMS OVER A FIVE YEAR PERIOD $100,000 \times 5 = 500,000$
 TOTAL COST OF PROJECT $100,000 + 50,000 + 500,000 = 650,000$
 THE COST OF THERMS USED BY VALLEY INDUSTRY FOR ONE
 THERM USED BY VALLEY INDUSTRY IN NORMAL USE IS $\frac{650,000}{100,000} = 6.50$
 CROP YEAR COST OF THERM USED BY VALLEY INDUSTRY
 OVER A FIVE YEAR PROJECT LIFE $6.50 \times 500,000 = 3,250,000$
 THE COST OF NEW EQUIPMENT OVER A FIVE YEAR PERIOD ON A PER THERM BASIS
 INDUSTRIAL EQUIPMENT COST $\frac{3,250,000}{100,000} = 32.50$
 THE COST OF PRODUCT FROM PO&B CURRENTLY IS 10.45 PER THERM

IF WE WERE UNDER SERVICE LEVEL THREE ~~ЛЯТТАМ ВЕНТ. ИХ ЧАСН ЯЧУЮ
С/DELIVERY COSTS ВИДУ ПО ВХ 60.000У . ОВТАХОВЫЯ
ПИ КАК PRODUCT COST IN SUMMER 1981 ВІДУ 1981 НІКЕД НІЧУАЛ
МАКСИМУМ COST \$0.28 PER THERM
ЛЯКУТАМ ПО УЧІРУО ВІДУ СОНІЛЯТИСЯ ПОДО НАС
SPOT PRICE WOULD BE LOWER
SOURCE TEXAS OHIO O&G~~

MINIMUM SAVINGS ON CAN HEAT TANT \$0.16 PER THERM
 SAVINGS PER YEAR AT 000,000 TH USEAGE . . . \$96,912.00
 SAVINGS PER YEAR AT 700,000 TH USEAGE AVERAGING \$10,064.00

PAY BACK PERIOD FOR ALTERNATIVE SOURCE EQUIPMENT CONVERSION

0.028677883\ YEARS

VALLEY VINE PLUCKING CO., INC.

(END OF APPENDIX B)