Suspended

# PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

E-8 E-5

**Copy for:**
**Orig. and Copy to Executive Director**
**Director**
**Numerical File**
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RETURN TO:
ENERGY BRANCH
ROOM 2011

RESOLUTION: G-2648

EVALUATION & COMPLIANCE DIVISION
BRANCH: Energy
DATE: ~~July 24~~, 1985 8/7

## RESOLUTION

SOUTHERN CALIFORNIA GAS COMPANY (SoCAL) AND PACIFIC LIGHTING GAS SUPPLY COMPANY (PLGS). ORDER AUTHORIZING ACCEPTANCE OF A GAS TRANSPORTATION AGREEMENT WITH TEXACO, INC. (TEXACO)

By Advice Letters 1527 and 70, filed June 18, 1985, SoCal and PLGS jointly submit for Commission approval the terms of a gas transportation agreement between SoCal and PLGS (hereinafter referred to as SoCal) and Texaco dated June 6, 1985. The facts are as follows:

1. The transportation provisions of these agreements require Commission approval in order to preserve SoCal's Hinshaw exemptions under the Federal Natural Gas Act (15 U.S.C. § 717 (c)).

2. Section 1. (c) of that Act states that its provisions do not apply to any person or persons who receive natural gas in interstate commerce within or at the boundary of a State if all of the gas is consumed within the State, provided that the applicable rate and service are subject to regulation by a State commission (the Hinshaw exemption).

3. The natural gas which is the subject of this agreement will be transported for use in Texaco's, or its affiliates, facilities within the State of California, subject to the available pipeline capacity as determined in the sole judgment of SoCal. As SoCal determines additional capacity has become available, Texaco will have the right of first refusal for such capacity, up to a maximum of 200 MMcfd.

4. The term of the Agreement is for ten (10) years. Texaco shall have the right annually beginning with the sixth (6th) contract year, to reduce the Daily Contract Capacity established by the Agreement. If Texaco has not tendered for transportation 50% of the Daily Contracted Capacity over any contract year, Texaco will pay to SoCal an amount equal to the shortfall multiplied by the transportation fee in effect at the end of the year, less adjustments. Therefore, there is a positive contribution to margin benefiting all ratepayers. If Texaco used only alternative fuels, or found another way to have gas delivered to its facilities from another source, this margin contribution would be lost to the detriment of all ratepayers. Any capacity paid for but not utilized by Texaco will be subject to make-up by Texaco during the remaining initial term of the Agreement.

5. Deliveries and redeliveries shall be, as nearly as practicable, at uniform hourly and daily rates of flow. SoCal may refuse to accept fluctuations in excess of ten percent (10%) within any operating day. SoCal does not undertake to redeliver to Texaco any of the identical gas accepted by SoCal for transportation. Redelivery shall be by substitution on an MMBtu for MMBtu basis at the pressure and temperature and of the quality existing in the pipelines from which redelivery is made.

6. SoCal may, at its discretion, in order to serve its sales and/or exchange customers, interrupt transportation for Texaco during periods of supply or capacity shortage. SoCal shall give Texaco as much prior notice of any such interruption as circumstances will reasonably permit. Such interruption shall be reflected as a reduction of Texaco's annual transportation obligation.

7. At any time, but at least before 10:00 a.m. local time of the day before deliveries are requested, Texaco will give notice to SoCal of its intention to tender gas for transportation, specifying the points of delivery and the estimated quantities to be delivered. SoCal shall then advise Texaco whether, in SoCal's sole opinion, conditions of SoCal's system will permit such transportation. If it is not possible at that time, SoCal shall advise Texaco of the situation and the date SoCal may be able to accept such gas. Texaco shall use its best efforts to provide SoCal with at least forty-eight (48) hours advance notice of changes in quantities previously scheduled for transportation.

8. Any new or additional facilities required to fulfill the terms of this agreement shall be owned, installed, operated and maintained by SoCal. SoCal shall then either present an itemized statement to Texaco, and Texaco will reimburse SoCal for such costs within 15 days after receipt, or, at SoCal's option, the parties may enter into a separate agreement providing for construction of such facilities.

9. Texaco shall be deemed to be in control and possession of gas delivered and responsible for any damage or injury caused thereby until gas has been delivered at the points of delivery. SoCal shall assume such liability thereafter until gas is redelivered at the points of redelivery unless the damage or injury has been caused by the quality of gas originally delivered to SoCal, for which Texaco shall remain responsible.

10. The initial transportation fee to be paid by Texaco is thirty-five cents ($0.35) for each MMBtu accepted at points of delivery. Provision has been made for the escalation of the transportation fee at regular intervals. In addition, the quality of gas and measurement standards are specified.

11. Billing for transportation fees shall be done by SoCal on or before the fifteenth day of each month. Texaco shall pay the amounts due within

ten days of receipt. Transportation service may be discontinued for non-payment of bills or should the contract be breached by Texaco. In addition, Texaco will reimburse SoCal for any new taxes levied as the result of this transportation agreement. Texaco may terminate the agreement at any time after the sixth month of the fifth contract year.

12. By this filing it is understood that the Transportation Agreement is subject to the Commission's continuing jurisdiction over the transportation agreement between Texaco and PLGS/SoCal.

13. This filing is in accordance with Section X.A. of General Order No. 96-A and Section 532 of the Public Utilities Code. SoCal and PLGS request that this filing be made effective concurrently with PLGS Advice No. 69 and SoCal's Advice Letters Nos. 1524, 1525 and 1526 on 40 days statutory notice.

14. Public notification of these filings have been made by supplying copies of such filings to other utilities, governmental agencies, and to all interested parties who requested such notification.

15. One protest has been received from the Commission's Public Staff Division noting that gas transportation is an issue now being litigated in OII 84-04-079. The SoCal response noted that the delay involved in waiting for the decision in this OII is incompatible with the 60-day period included in their agreement with Texaco.

16. In order to be responsive to the PSD protest, the gas transportation provisions are hereby made subject to modification or termination in order to be consistent with a decision in OII 84-04-079.

17. The terms and conditions for PLGS, SoCal and Texaco are set forth in a GAS TRANSPORTATION AGREEMENT furnished with the Advice Letter filing and made a part of this resolution by reference. These filings have been reviewed by the Evaluation and Compliance staff and approval as submitted is recommended.

18. We find that these filings are just and reasonable and will result in the transportation of gas for Texaco under terms mutually acceptable to all parties and will permit the dismissal of the lawsuit by Texaco against PLGS, SoCal, and their affiliates.

19. We further find that the continuation of the lawsuit and possible loss of such suit by SoCal would be detrimental to all SoCal ratepayers.

THEREFORE:

1. SoCal and PLGS are authorized by Section X.A. of General Order No. 96-A and by Section 532 of the Public Utilities Code to enter into a gas transportation agreement with Texaco. This agreement dated June 6, 1985 may be placed into effect on July 28, 1985 which constitutes regular 40-day statutory notice, as directed by the Commission in its April 17, 1985 order approving certain changes to the tariff filing procedures.

*

2. This resolution may be further modified or terminated as determined by the Commission in OII 84-04-079.

3. These advice letters shall both be marked to show that they were approved for filing by Commission Resolution No. G-2648. This resolution is effective today.

I certify that this resolution was adopted by the Public Utilities Commission at its regular meeting on July 24, 1985. The following Commissioners approved it:

Executive Director

ATTACHMENT A

ADDRESS ALL COMMUNICATIONS TO THE COMMISSION
CALIFORNIA STATE BUILDING
SAN FRANCISCO, CALIFORNIA 94102
TELEPHONE: (415) 557-3447

# Public Utilities Commission

STATE OF CALIFORNIA

July 5, 1985

FILE NO.

Mr. James M. McCraney
Deputy Director
Evaluation and Compliance Division
California Public Utilities Commission
350 McAllister Street, Room 2024
San Francisco, CA 94102

Dear Mr. McCraney:

RE: Advice No. 1527/Advice No. 70

SoCal Gas and PLGS filed Advice No. 1527/Advice No. 70 on June 19, 1985. This advice requested "Commission approval (as part of a comprehensive settlement package of a lawsuit filed by Texaco)" of a Gas Transportation Agreement between SoCal Gas and PLGS (hereinafter referred to as SoCal Gas) and Texaco Inc. (hereinafter referred to as Texaco), dated June 6, 1985.

PSD hereby protests this advice filing. The gas transportation component of this proposed settlement raises fundamental issues concerning carriage which are currently being litigated in OII 84-04-079 et al. The Commission has stated its intent to decide whether to authorize gas carriage in OII 84-04-079. It would be inconsistent for the Commission to approve this advice filing by resolution prior to its decision in the transportation OII. For this reason, PSD recommends that the Commission immediately suspend Advice No. 1527/Advice No. 70 pending the Commission's decision on OII 84-04-079.

Very truly yours,

F. S. Ferraro

F. S. Ferraro, Chief
Rate Design and Economics Branch

ATTACHMENT B

810 SOUTH FLOWER STREET • LOS ANGELES, CALIFORNIA

FREDERICK E. JOHN
Vice President

MAILING ADDRESS: BOX 3249 TERMINAL ANNEX, LOS ANGELES, CALIFORNIA 90051

July 17, 1985
(U-904-G)
(U-0906-G)

Mr. James M. McCraney
Deputy Director
Evaluation and Compliance Division
California Public Utilities Commission
350 McAllister Street, Room 2024
San Francisco, California 94102

Re: Southern California Gas Company Advice Letter No. 1527; Pacific Lighting Gas Supply Company Advice Letter No. 70

Dear Mr. McCraney:

Southern California Gas Company ("SoCalGas") and Pacific Lighting Gas Supply Company ("PLGS") hereby respond to the protest of the Public Staff Division of the Commission dated July 5, 1985, to SoCalGas Advice Letter No. 1527 and PLGS Advice Letter No. 70. The advice letters request Commission approval of gas transportation from the California-Arizona border to points on the SoCalGas system for Texaco, Inc. as part of a package settlement of a lawsuit involving purchases of gas from the Pitas Point field. SoCalGas and PLGS did not receive a copy of the protest until July 12, and are responding as rapidly as possible thereafter.

The only basis stated for the PSD protest is that the advice letters raise "fundamental issues concerning carriage which are currently being litigated in OII 84-04-079, *et. al*." and that the Commission has stated its intent to address gas carriage in the OII. The PSD recommends suspension of the advice letters pending a Commission decision in the OII.

SoCalGas and PLGS request that the Commission disregard the protest and approve the advice letters promptly for the following reasons:

1. Approval of the advice letters will yield substantial benefits by resolving the pending lawsuit by Texaco against SoCalGas, PLGS, Pacific Interstate Offshore Company, and other affiliates. The Commission has previously recognized the value of settling this dispute by approving in Resolution Nos. G-2638 and G-2639 (June 5, 1985) the advice letters necessary to resolve the dispute with the other Pitas Point producer, Union Oil. The settlement with Texaco varies from the Union settlement by the addition of the instant gas transportation agreement, which was insisted upon by Texaco as part of its settlement package. However, as discussed below, the gas transportation agreement of itself yields benefits to California gas consumers and is a very positive aspect of the overall Texaco settlement.

2. The OII into long-term rate design and gas transportation is proceeding so slowly that waiting for its outcome will moot this opportunity to resolve the Texaco lawsuit. In the OII, the Staff has repeatedly acknowledged that its long-term rate design "alternative" to transportation needs further development before it can be presented as a final recommendation. Staff has estimated it will take an absolute minimum of six months to a year to develop and present its final report (Tr. Vol. 37, p. 4338). Because no date is now established in the OII for filing of additional testimony on transportation (Tr. Vol. 43, p. 5007), after cross-examination and briefing it could be well into 1986 before the final Staff recommendation is even submitted to the Commission for decision. Plainly, this is not a schedule which will yield an answer of any use for resolution of the dispute with Texaco. The settlement provides Texaco with walk-away rights if regulatory approvals are not received within 60 days of filing (i.e., August 19, 1985). There is no chance Texaco or the U.S. District Court could be persuaded to postpone litigation for the time necessary to obtain a decision in the OII.

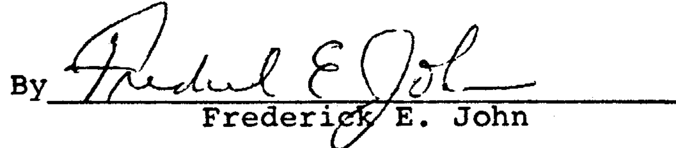
3. The transportation agreement with Texaco will yield substantial benefits to the customers of SoCalGas. Texaco will make a substantial margin contribution of 3.5¢/therm, escalated with changes in SoCalGas' margin, for each unit transported. This will be credited to SoCalGas' sales customers. Moreover, the agreement provides for payment based on 50% of contracted capacity even when no gas is being shipped. Thus, margin contribution will be assured, and Texaco will have a substantial incentive to use this agreement rather than any alternative means to obtain gas service. As the Commission is

aware, one alternative for EOR customers is an interstate pipeline, which will yield no contribution to SoCalGas' margin. Texaco is projected as one of the largest EOR customers, representing up to 25% of the forecast EOR load. A significant portion of Texaco's EOR requirements may be transported under the submitted agreement. If the Commission can demonstrate an ability to meet the needs of a significant EOR customer on a timely basis by approving the instant advice letters, similarly-situated customers may be influenced to opt for utility service as well. However, SoCalGas/PLGS are not seeking approval of the instant transportation agreement as precedent for the outcome of the OII. Rather, this transportation agreement is the product of a unique, negotiated resolution of a complex dispute, and should be considered and approved on an individual basis.

Prompt Commission approval of all advice letters necessary for settlement of the dispute with Texaco is requested before August 19, 1985.

Respectfully submitted,

SOUTHERN CALIFORNIA GAS COMPANY
PACIFIC LIGHTING GAS SUPPLY COMPANY



By ______________________
Frederick E. John

Vice President, SoCalGas, and
Authorized Agent for PLGS

cc: F. S. Ferraro, Chief
Rate Design and Economics Branch

So Cal / Texaco AL 1527 & PacLtg 70
Res. G-2648
Suspended by I&S 85-08-012 D85-08-025
and included in I84-04-079

Advice letters were Approved by:
D85-12-102 12/20/85 I84-04-079

[signature]

As a result of the FERC order and Commission action, PLGS informed PIOC that it would be unable to continue purchases after November 3, 1984, unless the cost of gas billed by PIOC to PLGS, exclusive of facility costs, was reduced to $3.00 per MMBtu. On November 3, 1984, PLGS ceased all purchases of gas from PIOC. PIOC, in turn, ceased purchases from Union and Texaco. PIOC requested Union and Texaco to reduce the price of gas from the then-effective contract price (after exercise of a market-out clause) of $3.5153 per MMBtu to $3.00 per MMBtu. Union and Texaco refused to reduce the price.

On November 29, 1984, Union and Texaco filed suit in U.S. District Court in Los Angeles against PIOC, PLGS, SoCal and other affiliated companies. Union and Texaco alleged breach of contract, antitrust violations and civil conspiracy, and requested treble damages totalling $354 million. The affiliated defendants subsequently filed an answer denying liability and including a counterclaim against the plaintiffs.

In December 1984, the parties reached an interim arrangement whereby PLGS would resume takes from PIOC, but would pay an interim rate of only $3.00 per MMBtu plus PIOC's facility costs. Union and Texaco agreed to make deliveries to PIOC and accept $3.00 per MMBtu "on account" without waiving any rights to a higher price, and without withdrawing their suit. Purchases commenced December 19, 1984 and are continuing.

On June 6, 1985, SoCal, PIOC, PLGS and their affiliated companies reached an agreement with Texaco, represented by the special agreements and the six Advice Letters presented herein. SoCal states that if the necessary Commission approvals are received, within 60 days, this will settle the suit between them and resolve both retroactively and prospectively the dispute over the purchase of gas produced by Texaco at Pitas Point with no monetary damages accruing to any party, and provide Hinshaw protection for the transactions.

Texaco will accept $3.00 per MMBtu as payment in full for gas delivered during the interim period beginning December 19, 1984 (subject to recovery of "excess royalties" possibly payable to the United States of America) and described in greater detail in Advice Letter No. 1526.

ANALYSIS: The terms and related conditions of SoCal's proposed settlement with Texaco can be summarized as follows:

- The present contractual arrangements for the sale of gas by Texaco to PIOC and by PIOC to PLGS will remain undisturbed. Thus, no Commission action required.

- A new exchange agreement has been entered into between SoCal, PLGS and Texaco for exchange of gas at Goleta, California. The exchange fee charged by PLGS will be 35¢ per decatherm, with an escalation factor. Advice Letters Nos. 69 and 1524 are combined in Resolution No. G-2645.

- To facilitate the Goleta exchange agreement above, SoCal requests Commission authorization for a deviation from current purchase sequencing policy and that the cost of gas purchased and resold to Texaco and the revenues therefrom be excluded from the Consolidated Adjustment Mechanism (CAM) procedure. SoCal's revenues from exchange services would continue to be credited to SoCal's gas margin. Advice Letter No. 1525, Resolution No. G-2646.

- The agreements contain the potential for additional costs to SoCal and PLGS during the interim period from November 3, 1984 and the dismissal of the lawsuit by Texaco should the United States Government determine to impose its one-sixth royalty on Texaco's offshore production under the terms of its lease. SoCal has filed for Commission authorization to recover this "excess royalty payment" if it should be incurred by PIOC depending on the basis calculated by the U.S government. The excess royalty payment could be as much as $768,000 through April 30, 1985. Advice Letter No. 1526, Resolution No. G-2647.

- Finally, SoCal, PLGS and Texaco have also executed a Gas Transportation Agreement which provides for the initial transportation of 50 MMcfd from the California-Arizona border to delivery points in the San Joaquin Valley. As additional transportation capacity becomes available (up to 200 MMcfd), it will be offered to Texaco. Texaco will have sixty days to indicate whether it will elect to add any of the additional capacity. Any capacity refused by Texaco will be waived forever. The initial transportation fee will be 35¢ per decatherm. SoCal will credit such revenues to SoCal's gas margin. Texaco will be obligated at a minimum to transport or pay for fifty percent (50%) of the transportation capacity which it has elected. Advice Letter Nos. 1527/70, Resolution No. G-2648.

DISCUSSION

A. By Advice Letters No. 1524 and No. 69, Southern California Gas Company (SoCal) requests Commission approval of an exchange service provided by SoCal with Pacific Lighting Gas Supply Company (PLGS) under its filed Service Agreement. Specifically, SoCal seeks Commission authorization of its participation in the exchange service arrangement with PLGS for the delivery by exchange of natural gas for Texaco, Inc. ("Texaco") under the terms and conditions outlined.

PLGS and SoCal have previously sought and obtained Commission approval of exchange arrangements which involve outer continental shelf (OCS) gas, in order to preserve their respective Hinshaw exemptions under the Federal Natural Gas Act. Section 1(c) of the Act (15 U.S.C. Sec. 717(c)) states that its provisions do not apply to any person who receives natural gas in interstate commerce within or at the boundary of a state if all the gas is consumed within the state, provided that the applicable rates and services are subject to regulation by a state commission.

PLGS has concurrently filed Advice Letter No. 69 with the Commission requesting approval of the exchange service and exchange fee for purchased gas attendant to the Gas Sale and Purchase Agreement dated June 6, 1985, between PLGS and Texaco.

The quantities of gas to be exchanged for the account of Texaco may utilize facilities of SoCal. Details of the agreements are described in the Advice Letters and Resolution No. G-2645.

In recognition of the fact that exchange agreements between SoCal or PLGS and various gas producers such as these are negotiated agreements which form an integral part of gas purchase contracts undertaken by SoCal and PLGS to increase the system's supply, the Evaluation & Compliance Division staff sees no need to subject such arrangements to regulatory review and public disclosure. It is within the management discretion of SoCal and PLGS to contract for adequate supplies of gas under the most advantageous terms available.

Having conducted such a review, and considering the terms received by SoCal and PLGS as part of the exchange and purchase contracts, the Evaluation & Compliance Division concludes that the contracts are fair and reasonable and warrant Commission approval. (Resolution No. G-2645)

B. By Advice Letter No. 1525, Southern California Gas Company (SoCal) submits for Commission approval an agreement between Texaco Inc. (Texaco) and SoCal for the Sale of Gas, dated June 6, 1985, whereby SoCal has agreed to sell to Texaco, and Texaco has agreed to purchase from SoCal a volume of gas equivalent to that portion of the gas available to the SoCal system at PLGS Meter No. 5507 located in Carpenteria, California. The price for the gas will be equal to the rate paid by PLGS for purchases from Texaco at PLGS Meter No. 5507. In turn, Texaco will deliver such gas to PLGS either for sale at the same price or for exchange delivery to Texaco elsewhere on the PLGS/SoCal system. The specific details of the pricing formula of the Texaco-PLGS agreement are described more fully by PLGS Advice Letter No. 69, which has been filed concurrently, and discussed above.

The effect of the Agreement for the Sale of Gas by SoCal to Texaco of whatever gas SoCal has available to its system at PLGS Meter No. 5507, located in Carpenteria, California, which it determines is unneeded by its system at that time, at a price equal to SoCal's acquisition costs at that point, is to make the purchase from PLGS by SoCal at that point and the sale by SoCal to Texaco at Goleta a revenue neutral transaction with respect to the cost of such gas to SoCal (to the extent actual sales are made to Texaco). Therefore, SoCal requests that the Commission authorize SoCal to sequence takes of gas so that volumes available to it at PLGS Meter No. 5507 are actually taken (to the extent gas is in fact taken by Texaco at Goleta).

Additionally, SoCal requests that, from and after the date of Commission action herein and solely for purposes of gas sequencing and determination of system average cost of gas, the cost of gas purchased by SoCal at that point and resold to Texaco and the revenues resulting therefrom be excluded from the Consolidated Adjustment Mechanism procedure. SoCal will continue to credit revenues from exchange services to SoCal's gas margin.

Pursuant to PLGS's agreement with Texaco, Texaco will deliver to PLGS 100% of the gas purchased from SoCal. PLGS will have the right, but not the obligation, to purchase up to 25% of the gas purchased by Texaco from SoCal. PLGS seeks authorization for inclusion and review of the purchase of such optional gas in the Consolidated Adjustment Mechanism.

The Evaluation & Compliance Division has concluded that this agreement and the provision to modify the gas purchase sequencing in this case are reasonable and warrant Commission approval. (Resolution No. G-2646)

C. By Advice Letter No. 1526, SoCal submits for Commission approval a request to recover in rates any "excess royalty payments" incurred by Pacific Interstate Offshore Company (PIOC) and passed on by it to Pacific Lighting Gas Supply Company (PLGS) and SoCal.

There is a potential cost to PLGS and SoCal during the interim period between November 3, 1984 through the date of dismissal of the lawsuit filed by Texaco Inc. (Texaco) against SoCal, PLGS, PIOC and certain of their affiliates. Section 8.2 of the Pitas Point Gas Sale and Purchase Agreement between Pacific Interstate Offshore Company (PIOC) and Texaco provides that PIOC will reimburse Texaco for all "excess royalty payments" which Texaco is required to pay under the terms of its Federal Leases. The term "excess royalty payments" is defined as the amount by which actual royalty payments by Texaco to the United States government exceed the amount such payment would have been if the royalty value had been calculated upon the price Texaco actually received for the gas.

The United States government has a one-sixth royalty on all revenues received by Texaco for the sale of hydrocarbons. Since PIOC and Texaco have agreed that the price shall be $3.00/MMBtu from November 3, 1984 through and including the date of approval by the Commission of the new agreements, there is a potential for "excess royalty payments". The United States government may determine, at some future date, that regardless of the interim agreement between PIOC and Texaco, royalties should not be calculated on the basis of $3.00/MMBtu but rather on (1) the $3.5153/MMBtu market-out price, or (2) the full contract price. The amount has been estimated to be as much as $768,000 through April 30, 1985.

These excess royalty costs, if incurred by PIOC, will be passed through to PLGS under terms of PIOC's FERC Gas Tariff, Original Volume No. 1, Rate Schedule G-10. PLGS will pass these costs through to SoCal under the terms of PLGS's Tariff Schedule No. G-62. PLGS and SoCal therefore join in requesting that the Commission approve the recovery through the Consolidated Adjustment Mechanism of any and all "excess royalty payment" obligations incurred by PIOC and ultimately passed on to PLGS and SoCal during the fixed period from November 3, 1984 through and including the date of receipt of all necessary Commission approvals of the new agreements between SoCal, PLGS and Texaco. (Resolution No. G-2647)

D. By Advice Letters No. 1527 and No. 70, SoCal and PLGS have submitted for Commission approval a Gas Transportation Agreement between SoCal, PLGS and Texaco as a part of the comprehensive agreement to settle the pending lawsuit.

The transportation provisions of this agreement are being submitted for Commission approval in order to preserve SoCal's/PLGS' Hinshaw exemptions under the federal Natural Gas Act. The natural gas which is the subject of this agreement will be produced outside the State of California and be moved from there into California and into the pipeline facilities of PLGS and SoCal. The gas will be received in interstate commerce. PLGS and SoCal will deliver the gas to Texaco facilities within SoCal's service territory, and the gas will be wholly consumed within California.

*

Pursuant to the agreement, SoCal will transport certain quantities of natural gas for use in Texaco's, or its affiliates' facilities within the State of California, subject to the available pipeline capacity as determined in the sole judgment of SoCal. As SoCal determines additional capacity has become available, Texaco will have the right of first refusal for such capacity, up to a maximum of 200 MMcfd.

The term of the agreement is for ten (10) years. Texaco shall have the right annually beginning with the sixth (6th) contract year, to reduce the Daily Contract Capacity established by the agreement. If Texaco has not tendered for transportation 50% of the Daily Contracted Capacity over any contract year, Texaco will pay to SoCal an amount equal to the shortfall multiplied by the transportation fee in effect at the end of the year, less adjustments. Therefore, there is a positive contribution to margin benefitting the ratepayers. Any capacity paid for but not utilized by Texaco will be subject to makeup by Texaco during the remaining initial term of the agreement.

SoCal may, at its discretion, in order to serve its sales and/or exchange customers, interrupt transportation for Texaco during periods of supply or capacity shortage. SoCal shall give Texaco as much prior notice of any such interruption as circumstances will reasonably permit. Such interruption shall be reflected as a reduction of Texaco's annual transportation obligation.

The initial transportation fee to be paid by Texaco is thirty-five cents ($0.35) for each MMBtu accepted at points of delivery. Provision has been made for the escalation of the transportation fee at regular intervals. In addition, the quality of gas and measurement standards are specified. Texaco may terminate the agreement at any time after the sixth month of the fifth contract year.

SoCal acknowledges that by this filing, the Transportation Agreement between SoCal/PLGS and Texaco is subject to the Commission's continuing jurisdiction. (Resolution No. G-2648)

The Evaluation & Compliance Division staff recognizes that a transportation agreement such as described above represents a departure from normal operations of the California gas utilities. However, under the circumstances described above, we believe that approval by the Commission, with the understanding that it is not to be precedent setting, will be in the best interests of the utility and its ratepayers. It is recommended that approval of this transportation agreement be with the proviso that it is subject to modification or termination should the Commission so determine in the current proceeding OII 85-04-079.

PROTEST: On July 5, 1985, F. S. Ferraro of the Public Staff Division (PSD) protested SoCal and PLGS Advice Letters Nos. 1527/70 (Attachment A). The basis of the protest is that the gas transportation component raises fundamental issues currently being litigated in OII 84-04-079. On July 17, SoCal responded to the PSD protest and indicated that the expected 6- to 12-month delay for completion of OII 84-04-079 is incompatible with SoCal's agreement to settle the suit with Texaco in 60 days (Attachment B).

In our view, the PSD protest is taken care of by the provision in proposed Resolution G-2648 that the gas transportation tariff is subject to modification or termination according to the Commission's decision in OII 84-04-079.

CONCLUSION: Commission approval of the advice letters will permit the termination of the suit by Texaco against PLGS, SoCal, PIOC and their affiliates without payment of any damages to Texaco and provide Hinshaw protection for these transactions. Texaco will accept $3.00 per MMBtu as payment in full for gas delivered during the interim period beginning December 19, 1984 (subject to recovery of "excess royalties" possibly payable to the United States of America) and described in greater detail in Advice Letter No. 1526.

The Evaluation & Compliance Division submits that the settlement as a whole is in the interest of the ratepayers. The settlement will assure a contribution to margin from transportation and from exchange deliveries to Texaco, and will maintain a significant volume of gas available to high-priority customers when it is needed.

Approval will, however, be subject to final modification or termination according to the Commission's findings in OII 85-04-079.

Prompt Commission approvals of the attached Advice Letters will be in the public interest because Texaco has the right to terminate the agreements if Commission approvals are not received within 60 days of the filing date, June 18, 1985.

Attachments: (A) Protest to Advice Letters Nos. 1527 and 70 by Public Staff Division.

(B) Reply to protest by SoCal.