

**Minute Item
C71**

02/05/01
W 13001
M. Vosknian
J. Planck

**CITY OF LONG BEACH
(APPLICANT)**

Calendar Item C71 was moved from Consent to Regular. Consider approval of an interim amendment to the dry gas price agreement. After listening to concerns by the public, the Commission unanimously approved the short-term changes to the proposal noting that the Commission would take final action at next meeting.

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MINUTE PAGE <u>0000389</u>

MINUTE ITEM
This Calendar Item No. C71
was approved as Minute Item
No. 71 by the State Lands
Commission by a vote of 3
to 0 of its 2-5-01
meeting

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**CALENDAR ITEM
C71**

A 57, 58

S 29

02/05/01
W 13001
M. Voskanian
J. Planck

**CONSIDER APPROVAL OF INTERIM AMENDMENT OF
1992 LONG BEACH TIDELANDS DRY GAS PRICE AGREEMENT
WILMINGTON OIL FIELD, LOS ANGELES COUNTY**

APPLICANT:

City of Long Beach
Attn.: Mr. Harry Taboada, City Manager
333 West Ocean Blvd.
Long Beach, CA 90802

BACKGROUND:

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

Throughout the past several decades, market changes, regulatory changes and processing changes have precipitated redeterminations of the price to be paid by the City for tidelands dry gas. The latest pricing agreement was made in 1992 and controls the price that the City must pay for the tidelands dry gas it currently receives. Under this 1992 agreement, the City shall pay monthly to the State for all tidelands dry gas taken into the system of its municipal gas department a price per MMBtu equivalent to one hundred and ten percent (110%) of the Long Beach Weighted Average Cost of Gas (Long Beach WACOG) in effect at the time the tidelands dry gas is taken by the City. The Long Beach WACOG is defined in the 1992 agreement as the monthly weighted average cost per MMBtu

CALENDAR ITEM NO. C71 (CONT'D)

of purchases by the City's gas department of interstate gas delivered into the Southern California Gas Company's (SCGC) system and of locally produced offshore gas other than tidelands dry gas. The agreement provides that the price may be renegotiated if throughout a consecutive three-month period, the Long Beach WACOG differs by more than fifteen percent (15%) from comparable short-term, wholesale gas prices prevailing and used in actual sales transactions for substantial quantities of dry gas consumed in the Los Angeles Basin.

Although the agreement's criterion for price negotiation has not been triggered, the City is requesting renegotiation of the price in the 1992 agreement in light of market changes and interruptible tidelands dry gas deliveries that have caused or may cause unanticipated inequities in the 1992 price formula. The City's initial request for price renegotiation came in a letter dated December 19, 2000, in which the City cited the agreement's method for accounting for and sharing the savings on intrastate transportation charges resulting from the delivery of tidelands dry gas in Long Beach. Under the method, the City was to pay a percentage of the Long Beach WACOG, determined to be ten percent (10%). In 1992, ten percent (10%) was a reasonable approximation of half of the transportation savings. Ten percent (10%) of the Long Beach WACOG now far exceeds the transportation savings and imposes an inequity on the City. Two market changes are responsible: (1) the decrease in the intrastate wholesale transportation charge imposed by SCGC on the City's purchases of interstate gas and, (2) the sharp increase in the wholesale market price of gas.

Although the 1992 agreement's criterion for price renegotiation has not been triggered, the Commission staff recommends that the Commission consider revisions to the terms of the 1992 agreement that are causing unanticipated and real inequities to the City. The staff believes that the problem that is causing a real inequity to the City and requires immediate correction is the use of a percentage of the Long Beach WACOG to account for the intrastate transportation cost savings on tidelands dry gas. Therefore, the staff is recommending that the Commission approve an interim amendment to the 1992 dry gas pricing agreement to provide that the City shall pay monthly to the State for tidelands dry gas taken into the system of its municipal gas department a price per MMBtu equivalent to 100% of the Long Beach WACOG, as defined in the 1992 agreement, that is in effect at the time the tidelands dry gas is taken by

CALENDAR ITEM NO. C71 (CONT'D)

the City, plus one-half of the total intrastate transportation costs actually paid by the City to Southern California Gas Company on the gas it purchases from Southern California Gas Company. This amendment is to be effective December 19, 2000, the date of the City's request for such a change, and shall continue in effect for six months from the date of the Commission's action or until a new pricing provision is agreed upon, whichever is earlier. Commission staff also recommends that although the price renegotiation provision of the 1992 price agreement has not been triggered, the Commission direct staff to enter into discussions with the City concerning the price payable by the City for tidelands dry gas. The purpose of these discussions would be to correct actual inequities, if any, being suffered by the City as a consequence of market changes and other factors beyond the control of the City and the Commission that were not reasonably anticipated when they made the 1992 agreement. The staff is to report back to the Commission with the results of these negotiations within six months.

STATUTORY AND OTHER REFERENCES:

Chapter 29, Statutes of 1956, First Extraordinary Session.

OTHER PERTINENT INFORMATION:

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

Authority: Public Resources Code section 21065 and Title 14, California Code of Regulations, section 15378.

EXHIBITS:

- A. Letter from City of Long Beach requesting renegotiation of the 1992 Long Beach Tidelands Dry Gas Price Agreement.
- B. 1992 Long Beach Dry Gas Price Agreement
- C. Comparison of State Transportation Compensation and City Actual Transportation Costs for Dry Gas.

CALENDAR ITEM NO. C71 (CONT'D)

PERMIT STREAMLINING ACT DEADLINE:

N/A

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDINGS

FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY PUBLIC RESOURCES CODE SECTION 21065 AND TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15378.

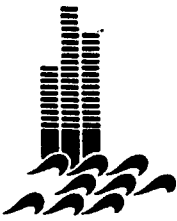
AUTHORIZATION:

1. APPROVE AN INTERIM AMENDMENT TO THE 1992 DRY GAS PRICE AGREEMENT REVISING THE METHOD FOR ACCOUNTING FOR INTRASTATE TRANSPORTATION COST SAVINGS FOR TIDELANDS DRY GAS AS PROVIDED ABOVE.
2. DIRECT STAFF TO CONTINUE DISCUSSIONS WITH THE CITY CONCERNING THE PRICE PAYABLE BY THE CITY FOR TIDELANDS DRY GAS FOR THE PURPOSE OF CORRECTING ACTUAL INEQUITIES, IF ANY, BEING SUFFERED BY THE CITY AS A CONSEQUENCE OF MARKET CHANGES AND OTHER FACTORS BEYOND THE CONTROL OF THE CITY AND THE COMMISSION THAT WERE NOT ANTICIPATED WHEN THEY MADE THE 1992 DRY GAS PRICE AGREEMENT. STAFF SHALL REPORT BACK TO THE COMMISSION WITHIN SIX MONTHS.
3. AUTHORIZE THE EXECUTIVE OFFICER TO EXECUTE THE DOCUMENTS NECESSARY TO MEMORIALIZE THE INTERIM AMENDMENT TO THE 1992 DRY GAS PRICE AGREEMENT.

CITY OF LONG BEACH

W 13901

OFFICE OF THE CITY MANAGER

HENRY TABOADA
CITY MANAGER

333 WEST OCEAN BOULEVARD

LONG BEACH, CALIFORNIA 90802

(562) 570-6711
FAX (562) 570-6583

Mr. P. M. Mount II
 Chief, Division of Mineral Resources Mgmt.
 State of California
 State Land Commission
 200 Oceangate, 12 Floor
 Long Beach, CA 90802

Subject: 1988 and 1992 Long Beach Tidelands Dry Gas Price Agreements between the City of Long Beach and the State Lands Commission

Dear Mr. Mount:

The City of Long Beach (City) requests a renegotiation of the 1992 Long Beach Tidelands Dry Gas Price Agreement (1992 Agreement) with the State Lands Commission (State Tidelands). The City and State Tidelands entered into the 1992 Agreement after the pricing methodology of the 1988 Long Beach Tidelands Dry Gas Price Agreement became obsolete due to industry changes impacting the pricing formula. Recent changes in the industry's intrastate transportation rates and wholesale gas prices have now rendered the pricing methodology of the 1992 Agreement obsolete. We believe that the intent of the referenced Agreements was not to bring economic harm to either party and that the current market situation warrants a renegotiation of the 1992 Agreement.

Section 5 of the 1992 Agreement requires the City's Gas Department to purchase all State Tidelands dry gas that can be economically utilized by the City's Gas Department. The City purchases all of the Tidelands dry gas that it needs to meet City requirements and does not purchase other gas unless the amount of the available Tidelands dry gas is insufficient to meet its requirements.

The 1992 Agreement established that the reasonable wholesale market value of dry gas should include an additional factor to account for savings on intrastate transportation charges resulting from the delivery of Tidelands dry gas in Long Beach. It is this "additional factor" of 10% that is now creating a significantly "higher-than-market" price for the State Tidelands dry gas. The original intent of the 1992 Agreement provided State Tidelands a price that includes a portion of the avoided intrastate transportation charges while providing Long Beach a price that includes partial savings of the equivalent intrastate transportation charges.

1992 Agreement provided
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Mr. P. M. Mount II
Chief, Division of Mineral Resources Mgmt.
State of California
State Land Commission
December 19, 2000
Page 2

Two market conditions have recently converged: (1) a decrease in the intrastate wholesale transportation charges imposed by Southern California Gas Company on the City and (2) a significant increase in the wholesale market value of gas. The 1992 Agreement pricing methodology requires the City to pay State Tideland's 110% of the Long Beach Weighted Average Cost of Gas (WACOG); therefore, the above-mentioned factors have created unreasonably high prices for the State Tideland's dry gas over recent months. During part of 2000, the intrastate transportation charge paid by the City has been below the 10% "additional factor". Thus, the City considers such a price to be an "overpayment" by City to State Tideland's for gas deliveries when compared to other wholesale market interstate purchases, plus actual wholesale intrastate transportation. As a result, the City is requesting that the "additional factor" be renegotiated and then put into effect retroactively to reimburse the City for any excessively high prices paid to the State Tideland's.

The 1992 Agreement also states, in Section 5, that if there is any Tideland's dry gas which cannot be utilized economically by the City's Gas Department then the City shall sell such gas and pay to the State the net receipts from the sale after deducting the City's reasonable costs of handling the gas, including a transportation charge equivalent to the City's tariff rate. Based upon the uneconomical price of the State Tideland's dry gas, the City may exercise this option; however, we believe that it is in the best interest of both the City and State Tideland's to renegotiate the dry gas price as quickly as possible.

Please contact my designated representative, Elizabeth Wright, Acting General Manager of the Gas and Electric Department, at (562) 570-2001 so that contract discussions may begin as soon as possible.

Sincerely,


HENRY TABOADA
CITY MANAGER

EJW:bj
msw/my documents/docs/ej/state land commission

cc: Carol Shaw, Deputy City Attorney
Christopher J. Garner, Acting Director of Public Works
Dennis M. Sullivan, Director of Oil Properties

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1992 LONG BEACH TIDELANDS DRY GAS PRICE AGREEMENT

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

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

The City and the State believe that a fair and workable determination of the reasonable wholesale market value of dry gas in the Los Angeles Basin can be made by using as a base the monthly weighted average cost per MMBtu of purchases by the City's Gas Department of interstate gas delivered into the Southern California Gas Company's system and of

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offshore gas other than Tidelands dry gas. This monthly weighted average cost of gas will be referred to as the Long Beach WACOG. The City and the State believe that the reasonable wholesale market value of dry gas in the Los Angeles Basin should include an additional factor to account for the savings on intrastate transportation charges resulting from the delivery of Tidelands dry gas in Long Beach. That factor shall be a percentage of the Long Beach WACOG.

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

Therefore, the City and the State agree as follows:

1. Beginning August 1, 1991, the City shall pay monthly to the State for Tidelands dry gas taken into the system of its municipal gas department a price per MMBtu equivalent to 110% of the Long Beach WACOG, as defined above, that is in effect at the time the Tidelands dry gas is taken by the City. In the event the actual Long Beach WACOG is not fully ascertainable when the City's payment for Tidelands dry gas is due, the City shall make

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the payment using its best estimate of the Long Beach WACOG and adjust the payment when the Long Beach WACOG has finally been determined. The City shall adjust retroactively the Long Beach WACOG to reflect adjustments made by suppliers or pipelines.

2. The additional payment that will be required from the City by virtue of using 110% of the Long Beach WACOG retroactively to August 1, 1991, shall be made to the State without interest no later than 30 days from the date this agreement is executed by both parties. Any portion of this additional amount that is not paid when due shall bear simple interest from the due date at the rate of 12% per annum.

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

4. If throughout at least a consecutive three-month period, the Long Beach WACOG differs by more than 15% from comparable short-term, wholesale gas prices prevailing

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in actual sales transactions for substantial quantities of dry gas consumed in the Los Angeles Basin, either the City or the State may demand a renegotiation of the price payable for Tidelands dry gas taken by the City. The demand shall be made in writing and shall demonstrate compliance with the grounds provided in the preceding sentence for making the demand. Upon the making of a valid demand for renegotiation of the price, the City and the State shall commence within 30 days of the date of the notice, negotiations in good faith on a new pricing mechanism for Tidelands dry gas. If a new price is agreed upon, 110% of the Long Beach WACOG will be an interim price to be adjusted retroactively to reflect the newly established price from 30 days after the date of the notice demanding a price renegotiation. If no new price is agreed upon, 110% of the Long Beach WACOG will remain as the final price payable by the City for Tidelands dry gas, unless the party proposing the new price obtains a final judicial determination that the other failed to negotiate in good faith, in which case the proposed price will become the new price effective 30 days after the date of the notice to renegotiate the price.

5. The City's Gas Department shall purchase all Tidelands dry gas which can be economically utilized by the City's Gas Department and which is not required for oil field operations in the Long Beach tidelands. The City shall purchase all the Tidelands dry gas that it needs to meet its requirements and

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

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

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

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

DATED: 9-23-92

Jim C. Hankla ASSISTANT CITY MANAGER
FOR: JAMES C. HANKLA
City Manager
City of Long Beach

EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER.

DATED: 9-30-92

Charles Warren
CHARLES WARREN
Executive Officer
State Lands Commission

lbgas:avh 8/24/92

APPROVED AS TO FORM

Sept 21, 1992
JOHN R. CALHOUN, City Attorney

By Carol Ashaw
DEPUTY CITY ATTORNEY

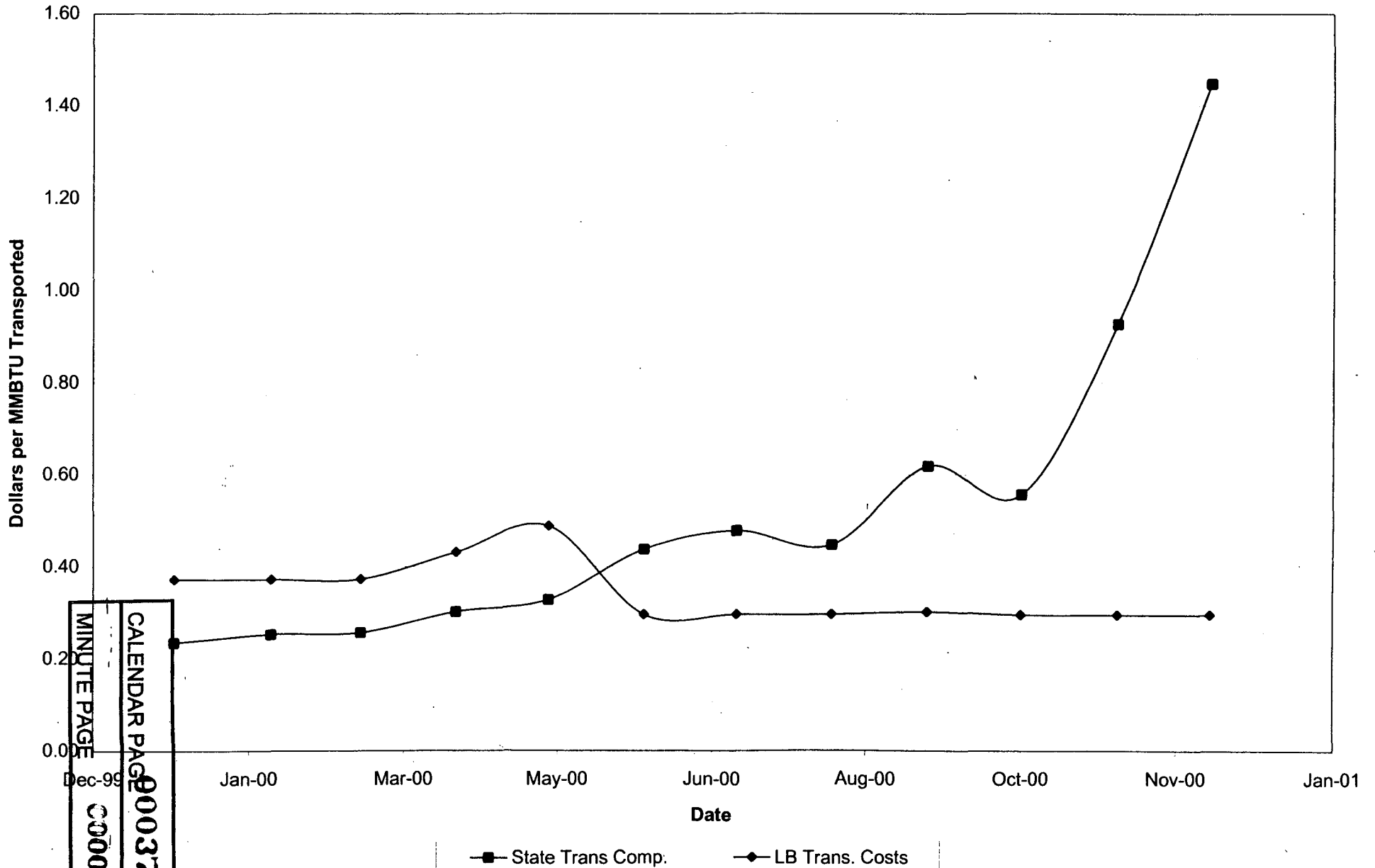
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Long Beach Unit

Comparison of State Trans Comp & City Actual Trans. Costs

Exhibit C
W 13001



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