

BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

IN THE MATTER OF THE APPEAL OF,)
)
COAST WASTE MANAGEMENT, INC.,) OTA NO. 18063386
)
APPELLANT.)
)
_____)

IN THE MATTER OF THE APPEAL OF,)
)
G.I. INDUSTRIES, INC.,) OTA NO. 18063387
)
APPELLANT.)
)
_____)

IN THE MATTER OF THE APPEAL OF,)
)
USA WASTE MANAGEMENT OF) OTA NO. 18063388
CALIFORNIA, INC.,)
)
APPELLANT.)
)
_____)

IN THE MATTER OF THE APPEAL OF,)
)
VALLEY GARBAGE AND RUBBISH) OTA NO. 18063389
CO., INC.)
)
APPELLANT.)
)
_____)

BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

IN THE MATTER OF THE APPEAL OF,)
)
WASTE MANAGEMENT COLLECTION &) OTA NO. 18063390
RECYCLING, INC.,)
)
APPELLANT.)
)

IN THE MATTER OF THE APPEAL OF,)
)
WASTE MANAGEMENT OF ALAMEDA) OTA NO. 18063391
COUNTY, INC.,)
)
APPELLANT.)
)

IN THE MATTER OF THE APPEAL OF,)
)
WASTE MANAGEMENT OF CALIFORNIA,) OTA NO. 18063392
INC.,)
)
APPELLANT.)
)

TRANSCRIPT OF PROCEEDINGS
Los Angeles, California
Wednesday, February 20, 2019

Reported by:
ERNALYN M. ALONZO
HEARING REPORTER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BEFORE THE OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

IN THE MATTER OF THE APPEAL OF,)
)
COAST WASTE MANAGEMENT, INC.,) OTA NO. 18063386
)
APPELLANT.)
)
_____)

IN THE MATTER OF THE APPEAL OF,)
)
G.I. INDUSTRIES, INC.,) OTA NO. 18063387
)
APPELLANT.)
)
_____)

IN THE MATTER OF THE APPEAL OF,)
)
USA WASTE MANAGEMENT OF) OTA NO. 18063388
CALIFORNIA, INC.,)
)
APPELLANT.)
)
_____)

IN THE MATTER OF THE APPEAL OF,)
)
VALLEY GARBAGE AND RUBBISH CO.,) OTA NO. 18063389
INC.,)
)
APPELLANT.)
)
_____)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

IN THE MATTER OF THE APPEAL OF,)
)
WASTE MANAGEMENT COLLECTION &) OTA NO. 18063390
RECYCLING, INC.,)
)
APPELLANT.)
)

IN THE MATTER OF THE APPEAL OF,)
)
WASTE MANAGEMENT OF ALAMEDA) OTA NO. 18063391
COUNTY, INC.,)
)
APPELLANT.)
)

IN THE MATTER OF THE APPEAL OF,)
)
WASTE MANAGEMENT OF CALIFORNIA,) OTA NO. 18063392
INC.,)
)
APPELLANT.)
)

Transcript of Proceedings, taken at
355 South Grand Avenue, South Tower, 23rd Floor,
Los Angeles, California, 90012,
commencing at 7:50 a.m. and concluding
at 8:15 a.m. on Wednesday, February 20, 2019,
reported by Ernalyn M. Alonzo, Hearing Reporter,
in and for the State of California.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APPEARANCES:

Panel Lead: Hon. JEFF ANGEJA

Panel Members: Hon. MICHAEL GEARY
Hon. DANIEL CHO

For the Appellant: MARSHAL SULAYMAN,
Representative
JEFFERY MARKS, Attorney
KARRI ROZARIO, Attorney

For the Respondent: State of California
Franchise Tax Board
By: KEVIN SMITH
STEPHEN SMITH
DAMIAN ARMITAGE

TAX COUNSEL
Legal Division
P.O. Box 1720
Rancho Cordova, CA 95741
916-845-2498

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

OPENING STATEMENT

PAGE

By Mr. Marks	11
By Mr. K. Smith	18

1 Los Angeles, California; Wednesday, February 20, 2019

2 7:50 a.m.

3

4 ADMINISTRATIVE LAW JUDGE ANGEJA: We'll go on the
5 record for the Office of Tax Appeal's hearings for these
6 consolidated appeals of Coast Waste Management. Bear with
7 me, I want to read all of the Appellants as well as OTA
8 case numbers for the record.

9 Coast Waste Management, Inc., 180663386;
10 G.I. Industries, Inc., 18063387; USA Waste Management of
11 California, Inc., 18063388; Valley Garbage and
12 Rubbish Co., Inc., 18063389; Waste Management Collection &
13 Recycling, Inc., 18063390; Waste Management of Alameda
14 County, Inc., 18063391; and Waste Management of
15 California, Inc., 180063392.

16 Did I miss any? I don't think that I did. We're
17 in Los Angeles, California. The date is
18 February 20th, 2019, and it's 7:52 according to my clock.
19 My name is Jeff Angeja. I'm the lead administrative law
20 judge for this hearing. My co-panelist today are Mike
21 Geary and Daniel Cho.

22 Can I have the Appellants identify themselves for
23 the record?

24 MR. MARKS: Yes. My name is Jeff Marks, Deloitte
25 Tax, representing the Appellants.

1 MS. ROZARIO: Karri Rozario, Deloitte Tax,
2 representing the Appellants.

3 ADMINISTRATIVE LAW JUDGE ANGEJA: And for CDTFA?

4 MR. K. SMITH: Kevin Smith, CDTFA, representing
5 the Department.

6 MR. ARMITAGE: Damian Armitage with CDTFA.

7 MR. S. SMITH: Steven Smith, CDTFA.

8 ADMINISTRATIVE LAW JUDGE ANGEJA: And
9 Mr. Armitage, what's your position?

10 MR. ARMITAGE: Technical adviser.

11 ADMINISTRATIVE LAW JUDGE ANGEJA: Okay. Is it
12 business tax --

13 MR. ARMITAGE: Specialist III.

14 ADMINISTRATIVE LAW JUDGE ANGEJA: I always forget
15 until I get back up to headquarters. Okay.

16 So the parties have agreed that the issue of
17 these consolidated appeals is whether Appellants have
18 established that they are entitled to a refund of a
19 portion of the annual flat rate fuel tax, which is imposed
20 pursuant to Section 8651.7.

21 So my first order of business is to usually turn
22 to the evidence. So this is the spot where this will fit
23 any place else, or better than any place else. During the
24 prehearing conference, Appellants indicated they have one
25 exhibit that has been previously provided to CDTFA. CDTFA

1 had no objection.

2 We marked it, distributed it yesterday while
3 traveling down here. I got a copy of an e-mail that there
4 were four additional exhibits. They weren't identified on
5 the -- during the prehearing conference. So I want to
6 hear a good reason why they should be introduced last
7 minute. And we had sent an e-mail response that we
8 weren't inclined to admit it because they are last minute.
9 So go ahead.

10 MR. MARKS: Yes, I saw it. And we understand
11 that the 35 percent safe harbor exemption rate is --
12 certainly can be used, so I believe we have a solid
13 argument for a refund provision. But we want to provide
14 a -- some additional information related to that safe
15 harbor exemption rate to help the OTA in its
16 decision-making process.

17 The four exhibits, three of them are Board of
18 Equalization memorandum and other notices around the 14 --
19 regulation 1432 rule-making process. Therefore, I believe
20 the CDTFA has seen these before. And then the Exhibit 5
21 is a -- just a list of states at -- in the different PTO
22 exemption rates.

23 ADMINISTRATIVE LAW JUDGE ANGEJA: The reason
24 why -- and I did look at them. The dates from those are
25 from 2015 and 2016. We have had the prehearing conference

1 on January 31st. Any reason why we couldn't have had that
2 identified prior?

3 MR. MARKS: No. There's no -- no specific reason
4 why we shouldn't have added it prior, but after further
5 deliberation we thought that it would be helpful in the
6 process.

7 ADMINISTRATIVE LAW JUDGE ANGEJA: And I don't
8 want to belabor this point, but CDTFA, I don't know if you
9 have an objection or not?

10 MR. K. SMITH: We do object to the admission.

11 ADMINISTRATIVE LAW JUDGE ANGEJA: Okay. All
12 right. So my concern is we've got one of our Rules of Tax
13 Appeals, Rule 30428: Parties should exchange copies and
14 their exhibits 15 calendars days before the hearing or
15 earlier as directed to by OTA.

16 And the prehearing conference, part of the
17 prehearing conference is for an efficient full hearing.
18 Everybody has advanced notice of the exhibits. So I'm
19 going to exclude those, based on our regulations and per
20 our prehearing conference and minutes ordered as a result
21 of that.

22 You can still make the argument, but I'm not
23 going to have the exhibit.

24 MR. MARKS: Okay.

25 ADMINISTRATIVE LAW JUDGE ANGEJA: And my

1 understanding is neither party has witnesses for today?

2 MR. K. SMITH: Correct.

3 ADMINISTRATIVE LAW JUDGE ANGEJA: Part of why I'm
4 harping on that a little bit is there's two parts to a
5 hearing. We get the evidence in, and then we have the
6 arguments. So to have evidence dropped at the last minute
7 today sort of disrupts that. So I want to turn to the
8 arguments. We would begin with Appellants' argument. You
9 guys had agreed in the prehearing conference it should
10 take approximately 15 minutes.

11 CDTFA will be allowed to ask questions as well as
12 the judges, if we have any. CDTFA can then make its
13 presentation. They said they could do it in 10 minutes.
14 Appellants as well as judges can ask questions. And then
15 you guys would be allowed approximately a five-minute
16 rebuttal, if needed.

17 With that, that's enough out of me. Let's get
18 started and have the Appellants tell us your side of the
19 story.

20

21 OPENING STATEMENT

22 MR. MARKS: Absolutely. Good morning. My name
23 is Jeff Marks, and this Karri Rozario representing the
24 Appellants. As part of these consolidated appeals, the
25 Appellants are in the waste and sanitation business and

1 operate throughout California. In providing these
2 services, Appellants maintain a fleet of vehicles that are
3 powered by diesel fuel, compressed natural gas or CNG,
4 liquefied natural gas or LNG. And some of these vehicles
5 are equipped with powered takeoff or PTO equipment.

6 PTO equipment allows engine power to be
7 transferred to outside devices, such as compactors on
8 garbage trucks. The examples of the types of the power
9 takeoff equipment used in Appellants' fleet is referenced
10 on pages 8 through 12 of Exhibit 1, if you want to have
11 more information as to that, or having discussions as to
12 that.

13 As to the taxes involved, California imposes a
14 use fuel tax on compressed natural gas and liquefied
15 natural gas in Division 2, Part 3 of the Revenue and
16 Taxation Code. It provides two mechanisms to pay the use
17 fuel tax. The first mechanism is to pay a per-gallon tax
18 that's collected from the operator of the CNG or LNG
19 vehicle by a registered vendor and then remitted to the
20 Department. The per gallon tax mechanism is described in
21 Revenue and Taxation Code Section 8651.6.

22 The second mechanism is the annual flat rate tax.
23 The annual flat rate tax allows vehicle operators to
24 prepay an annual flat rate tax to the Department. In
25 turn, the CNG and LNG vehicle operators do not pay the

1 per-gallon tax to the venders. The annual flat rate tax
2 provides a graduated tax rate schedule that's dependent on
3 the vehicle's weight. It ranges from \$36.00 a vehicle to
4 \$168.00 per vehicle.

5 The annual flat rate tax is a mechanism which is
6 prescribed in Revenue and Taxation Code Section 8651.7(a).
7 As stipulated and agreed to by both parties, Appellants
8 paid the annual flat rate tax for the vehicles that are
9 subject to this refund. Appellants also annually file a
10 user use fuel tax return, wherein, the vehicles for which
11 the annual flat rate tax has been paid. In essence, this
12 is an informational return.

13 Appellants claim a consolidated overpayment of
14 \$209,701.80 in use fuel tax paid, and it was subsequently
15 applied by the Department Tax and Fee Administration. The
16 refund is treatable to the percentage of fuel used in PTO
17 equipment, and for which the annual flat rate tax paid.
18 It is the Appellants' position that the statutory
19 construction for the use fuel tax statutes unambiguously
20 provide for refund of the annual flat rate tax.

21 Specifically, Revenue and Taxation Code Section
22 8652(c), provides that, "No tax shall be imposed upon any
23 user with respect to that fuel which the user establishes
24 satisfaction of the board is used for purpose other than
25 generation of power to compel a motor vehicle in this

1 state."

2 I want to reemphasize a portion of Section
3 8652(c). It states, "No tax shall be imposed upon any
4 use."

5 Subsection 8652 makes no distinction between the
6 annual flat rate tax imposed under Section 8651.7 and the
7 per gallon tax imposed under 8651.6. The Department even
8 concedes as much in its decision dated, May 10th, 2018, in
9 a subsequent brief that OTA dated August 2nd, 2018.
10 Quoting from page 6, the decision, the Department states,
11 "That" -- and I quote, "We agree the claimant's statement
12 that the annual flat rate fuel tax is a tax in our fee,"
13 end quote.

14 It is Appellant's contention that the termination
15 of the annual flat rate tax paid by Appellants is a tax in
16 the May 10, 2018, denial letter is the defining point at
17 issue. The Department makes two contentions that are
18 based on the statute of construction use fuel tax law,
19 that the Appellants are not entitled to a refund.

20 First, by corporation of the May 10th, 2018,
21 decision. The Department asserts that Claimants' election
22 to pay the annual flat rate tax, which results in less tax
23 paid than Appellants would have had paid per gallon tax,
24 prohibits the refund overpayment prescribed in Sections
25 8652 and 9151. From a statutory perspective, this

1 rationale is mistaken.

2 In the footnote 6 of the May 10th, 2018,
3 decision, Department provides further rationale. I'm
4 quoting, "The business tax and fee division stated at the
5 appeals conference that claimants cannot obtain a refund
6 if they reported the use fuel tax on an annual basis.

7 "And we do not agree with that statement because
8 section 9151 states an amount paid excess of the amount
9 due shall be credited on any amounts then due and payable
10 and the balance refunded. The mere fact that claimants
11 reported on an annual basis does not preclude a refund
12 from being issued if claimants were to show that they
13 overpaid the tax.

14 "However, as these appeals demonstrate, it seems
15 unlikely that CNG or LNG fuel users, non-propulsion uses,
16 would ever be high enough to warrant a refund of taxes
17 paid on the annual flat rate tax basis," end quote.

18 Further, the Department's denial ends with a
19 statement summarizing its position by stating at the
20 bottom of page 7 and top of page 8, and I quote, "The mere
21 fact that the annual flat rate fuel tax is a tax does not
22 mean refund issued on the basis of exempt use without any
23 regard as to whether the amount of tax reported exceeds
24 the amount legally due," end quote.

25 The Department's assertion that a refund is only

1 available so long as the amount of tax reported exceeds
2 the amount of tax legally due is erroneous. Payments paid
3 the amount of use fuel tax weekly do, pursuant to the
4 annual flat rate tax as statutorily and legally prescribed
5 in Section 8651.6(b)(2) and Section 8651.7.

6 If Appellants elected to pay the per gallon tax
7 instead of the annual flat rate tax, then not only would
8 Appellants have a higher tax liability, but they would
9 also have a higher refund claim as well. The Department's
10 second contention that the Appellant's are not entitled to
11 a refund is because the amount owed under the annual flat
12 rate tax based on the weight of the vehicle and not the
13 gallons of fuel used. And that is impossible to calculate
14 the amount of fuel used in that manner without first
15 determining the amount of fuel used. We respectfully
16 disagree with this contention.

17 8651.7(a) provides, and I quote, "The owner or
18 operator of a vehicle propelled by a system using
19 liquefied natural gas or compressed natural gas may pay
20 the fuel tax for the fuel use of those fuels by paying an
21 annual flat rate fuel tax." And I want to again
22 reemphasize the language, "May pay the fuel tax for the use
23 of those fuels."

24 If the general assembly intended for the annual
25 flat rate tax to be unrelated to fuel usage, it would have

1 instead only be based on the weight of the vehicle. And
2 the general assembly would have excluded the "for the use
3 of those fuels" language in the drafting of
4 Section 8651.7. Instead by specifically incorporating
5 such language, the general assembly intended that the
6 payment of the annual flat rate tax is also strictly
7 statutorily speaking the payment of a fuel tax for the use
8 of those fuels.

9 Accordingly, because Appellants paid the annual
10 flat rate tax in Section 8651.7 for the use of compressed
11 natural gas and liquefied natural gas, Appellants also
12 paid for the fuel tax for the use of those fuels and in
13 turn are entitled to a refund claim.

14 Furthermore, the general assembly's enactment of
15 higher rates for heavier vehicles, in any case, the
16 general assembly's intention to enact a tax similar to the
17 per gallon tax. That is taxing less fuel efficient
18 vehicles at a higher rate. Accordingly, even the annual
19 flat rate tax structure is congruent to the statutory
20 language in that it is a tax for the use of those fuels.

21 The second issue at contention is appellant's
22 method to calculate the refund over payment amount.
23 Appellant's California Regulation Title 18 Section
24 1432(a)(2), Regulation 1432 provides safe harbor
25 exemption; 35 percent for garbage trucks. The 35 percent

1 safe harbor exemption is a reasonable exemption percentage
2 for CNG trucks.

3 And the key here is there's no difference between
4 the gallons of fuel attributable to auxiliary or PTO
5 equipment and the proposal functionality of the equipment
6 no matter whether that truck is a CNG truck, and LNG
7 truck, or diesel fuel truck. While it may not be an exact
8 number, it is reasonable. And there is no disputing the
9 fact that it's certainly -- the safe harbor exemption
10 percentage is not zero percent.

11 ADMINISTRATIVE LAW JUDGE ANGEJA: Does that
12 conclude your presentation?

13 MR. MARKS: Yes.

14 ADMINISTRATIVE LAW JUDGE ANGEJA: All right. Any
15 questions.

16 ADMINISTRATIVE LAW JUDGE CHO: No, I don't have
17 any questions.

18 ADMINISTRATIVE LAW JUDGE ANGEJA: Okay. CDTFA?

19

20 OPENING STATEMENT

21 MR. K. SMITH: Good morning. I'm Kevin Smith
22 from the CDTFA legal Department with Stephen Smith and
23 Damian Armitage, ask the claims for refund be denied.

24 Claimants cannot use the 35-percent safe harbor
25 amount Regulation 1432 because that regulation applies to

1 the use of diesel fuel and not fuels tax and use tax law.
2 While we agree that a refund may be given for fuel not
3 used in propulsion because the amount owed under the
4 annual flat rate fuel tax is based on the weight of the
5 vehicle, not the amount of fuel used. It's impossible to
6 calculate the amount of fuel use in an exempt manner
7 without first determining the total amount of fuel used.

8 And as Claimants have conceded, the end result in
9 this calculation is that no refund would be due.
10 Regarding Claimant's argument that they should be able to
11 apply the safe harbor amount to the flat rate amount it
12 pays, this argument is filed for two reasons. First, as
13 stated previously, the safe harbor amount is for diesel
14 fuel use, not field tax under the use fuel tax law.

15 And second, the amount paid as the flat rate for
16 fuel use encompasses all the use of the field and would
17 not be appropriate to apply to safe harbor percentages, so
18 flat rate. Because that rate already takes into account
19 all uses of fuel, including any use of --

20 ADMINISTRATIVE LAW JUDGE ANGEJA: I hate to stop
21 you, but I missed your first point. Can you repeat that?
22 You said for two reasons. I got the second one.

23 MR. K. SMITH: Okay. Sure. Arguments filed for
24 two reasons. First, as stated previously, the safe harbor
25 amounts apply to diesel fuel use, not fuels tax under the

1 use fuel tax law.

2 ADMINISTRATIVE LAW JUDGE ANGEJA: Okay. Thank
3 you.

4 MR. K. SMITH: That's all I have.

5 ADMINISTRATIVE LAW JUDGE ANGEJA: Okay. You guys
6 have nine minutes left. Any questions of the Department?

7 ADMINISTRATIVE LAW JUDGE GEARY: No.

8 ADMINISTRATIVE LAW JUDGE ANGEJA: Appellants, do
9 you have questions of them?

10 MR. MARKS: Can you repeat your second --

11 MR. K. SMITH: Sure. Sure. The second -- the
12 amount paid for the flat rate fuel use encompasses all
13 uses of the fuel. That would not be appropriate to apply
14 to safe harbor percentages, that flat rate, because that
15 rate already takes into account all uses of fuel.

16 MS. ROZARIO: I have just one quick question.

17 MR. SMITH: Sure.

18 MS. ROZARIO: There was a statement that you were
19 talking about the Claimant agreed. I didn't get the
20 entire statement. It was something to the effect it was
21 not -- a refund is not applicable.

22 MR. K. SMITH: We agree that a refund may be
23 given for fuel not used for propulsion.

24 MR. MARKS: Was that the tax would be higher if
25 they paid the per-gallon tax?

1 MR. K. SMITH: Right. And I believe you guys
2 conceded previously that you paid per gallon. You
3 calculated your total fuel usage, and then take a 35
4 percent cut off of that. You would owe more than a flat
5 rate.

6 MR. MARKS: That would be correct, but the refund
7 would still be more than under the --

8 MR. K. SMITH: Right. But you would end up
9 paying more total tax.

10 ADMINISTRATIVE LAW JUDGE ANGEJA: I had that as
11 one of the stipulation from prehearing conference.

12 MR. MARKS: Yeah.

13 ADMINISTRATIVE LAW JUDGE ANGEJA: So all right.
14 I have one question, but I'll hold it until the end. Do
15 you want to do a rebuttal?

16 MR. MARKS: No. I think we addressed everything.

17 ADMINISTRATIVE LAW JUDGE ANGEJA: So I want to --
18 I realize the analogy won't be perfect because I'm going
19 to borrow from the income tax, but it's an intuitive
20 concept that helps me apply here. Isn't this sort of if
21 one were to take the standard deduction and then subtract
22 from that itemized expenses, that's sort of the mixture of
23 the two different methods here, or am I missing something?

24 MR. MARKS: No. I think that it's two -- this is
25 not a deduction of -- there's two different mechanisms to

1 pay the use fuel tax. It's not a -- necessarily a
2 deduction. They are two separate -- two wholly separate
3 mechanisms. One is a per-gallon tax, and the other is an
4 annual flat rate tax. So they are, while you are still
5 paying the use fuel tax, they are two separate sub-taxes,
6 if you will.

7 ADMINISTRATIVE LAW JUDGE ANGEJA: Okay.

8 MS. ROZARIO: Also the statute does not
9 preclude -- I mean, the statute defines what the exempt
10 use is. The exempt use happens no matter which
11 methodology you elect in terms of payment. And so to kind
12 of follow the analogy, if we would have paid per gallon,
13 we would have paid more in our refund under exempt use,
14 which is still a lot. You know, that is still covered by
15 statute. It would be significantly higher.

16 I think we all agreed to that. And had the
17 assembly wanted this to be an all-encompassing to use as
18 all uses of fuels, that would have been in the statute and
19 they would have addressed the exempt use for provisions.

20 ADMINISTRATIVE LAW JUDGE ANGEJA: Okay. I
21 understand both sides, and we have some homework to do.
22 Do my colleagues have questions?

23 ADMINISTRATIVE LAW JUDGE GEARY: No.

24 ADMINISTRATIVE LAW JUDGE CHO: Just a quick one.
25 Mr. Smith, you said that the annual flat rate encompasses

1 all used, including the use for PTO equipment. Do you
2 have any support for that? It's the first I've heard of
3 that, actually.

4 MR. K. SMITH: It's just our understanding of
5 when this was enacted. I think it was in 1975. That was
6 the understanding what, you know, you're paying. So you
7 can pay on a per-gallon basis, or you can pay a flat rate.

8 The ease with the flat rate is that you're just
9 paying one amount, and that amount encompasses all, you
10 know, off-road, and any kind of exempt use. It's all just
11 sort of worked into that flat rate, and you usually pay a
12 lot less because of that.

13 ADMINISTRATIVE LAW JUDGE CHO: Understood. Thank
14 you.

15 MR. K. SMITH: Thank you.

16 ADMINISTRATIVE LAW JUDGE ANGEJA: Anybody have
17 further questions or responses?

18 MR. MARKS: Yeah. To that, there are certainly
19 with -- another piece of that would be to allow, for
20 instance, for nonconventional uses or nonconventional fuel
21 such as compressed natural gas, liquefied natural gas.
22 There's use here. So that is -- that certainly was a
23 consideration for the implementation of the annual flat
24 rate tax, and the less tax liability that would be paid
25 under -- using that mechanism. But again, going back to

1 the idea that while there may be less tax liability, there
2 is also less refund of the liability.

3 ADMINISTRATIVE LAW JUDGE ANGEJA: Okay. Okay.
4 If no one has additional questions, we will close the
5 record and conclude this hearing. I want to thank the
6 party for coming today. Following this hearing, my
7 co-panelist and I will discuss the evidence and arguments,
8 and we will issue a written opinion within 100 days. I
9 hope to be faster than that.

10 With that, this hearing is now close.

11 (Proceedings adjourned at 8:15 a.m.)
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HEARING REPORTER'S CERTIFICATE

I, Ernalyne M. Alonzo, Hearing Reporter in and for the State of California, do hereby certify:

That the foregoing transcript of proceedings was taken before me at the time and place set forth, that the testimony and proceedings were reported stenographically by me and later transcribed by computer-aided transcription under my direction and supervision, that the foregoing is a true record of the testimony and proceedings taken at that time.

I further certify that I am in no way interested in the outcome of said action.

I have hereunto subscribed my name this 13th day of March, 2019.

ERNALYN M. ALONZO
HEARING REPORTER