interstate properties, and then deducted therefrom the accrued depreciation. The Commission rejected, as being without merit, the observed-depreciation method employed by the Company, and instead applied the economic-service-life principle to the cost of the property, resulting in a figure of $22,328,016 for accrued depreciation and depletion (R. I, 10, 45, 50).

The lower court condemned these findings of the Commission on the grounds that they were based on cost rather than present value of the property, and that they neglected the actual condition of the property for "theoretical formulas" (R. IV, 189).

At this point we argue that the formulas condemned by the lower court are in accord with the accepted views as to the nature of depreciation and the proper method of accounting therefor. The propriety of the cost basis used for this purpose is discussed in detail in Point V of this brief, pp. 99–108 *infra.*

The economic-service-life principle for determining accrued depreciation reflects the view, now accepted by almost all informed opinion, that depreciation is the diminution of the service capacity of the property or, in terms of the monetary measure of the original service capacity, the diminution in service value. See *Proceedings of the National Association of Railroad and Utilities Commissioners,* 1938, pp. 441–443; *id.* 1943 (Report of Committee on Depreciation) p. 30; *Depre-*

ciation Charges of Telephone and Steam Railroad Companies, 177 I. C. C. 351, 372–382. This is the uniform conclusion of all rate-making agencies, both federal and state.[40] It is also the view

[40] *Uniform System of Accounts for Natural Gas Companies* promulgated by the Federal Power Commission, effective January 1, 1937, defines depreciation as "the loss in service value not restored by current maintenance, incurred in connection with the consumption or prospective retirement of gas plant in the course of service from causes which are known to be in current operation and against which the utility is not protected by insurance. Among the causes to be given consideration are wear and tear, decay, action of the elements, inadequacy, obsolescence, changes in the art, changes in demand and requirements of public authorities, and, in the case of natural gas companies, the exhaustion of natural resources." Service value is defined as "the difference between original cost and net salvage value." See also *Uniform System of Accounts for Class A and Class B Telephone Companies* promulgated by the Federal Communications Commission, effective January 1, 1937; *Uniform System of Accounts for Electric Utilities* promulgated by the Federal Power Commission, effective January 1, 1937; *Uniform System of Accounts for Electric Utilities* recommended by the National Association of Railroad and Utilities Commissioners (1936); *Uniform System of Accounts for Natural Gas Companies*, recommended by the National Association of Railroad and Utilities Commissioners. Twenty-seven States have adopted the Federal Communications Commission system for Class A and Class B telephone companies identically; eight have adopted it substantially; no system is prescribed in the other States. See Federal Communications Commission Release, August 18, 1941, *Accounting Systems Prescribed by the States for Use of Telephone Companies.* Similar systems have been adopted by the majority of States for electric and gas utilities. See *State Commission Jurisdiction and Regulation of Electric and Gas Utilities*, published by the Federal Power Commission, January 1941, pp. 11, 35.

expressed by this Court in *Lindheimer* v. *Illinois Bell Telephone Co.,* 292 U. S. 151, 167. This view of depreciation is based on the simple principle that the economic value of property—its ability to earn a return—consists of the total units of useful service which it is capable of producing. Thus, investments are made in physical property solely because of the economic service which it will render, and the investments represent cost of stored-up services. It is the using up of these economic services, referred to as service capacity, service life, or economic life, that is depreciation (R. I, 375–377). Paton and Littleton, *An Introduction to Corporate Accounting Standards,* p. 84; Porter and Fiske, *Accounting,* p. 406; Taussig, *Principles of Economics,* Vol. I, p. 70; *Proceedings of the National Association of Railroad and Utilities Commissioners* (1938) pp. 444–445; *id.* (1943) p. 91; *Depreciation Charges, of Telephone and Steam Railroad Companies, loc. cit. supra,* pp. 90–91.

The annual depreciation is thus the amount of the service capacity which has been consumed in any one year. Such consumption is as much a cost of operation as fuel or any other property which is totally consumed, physically and economically, during the year; and the annual depreciation cost is thus an operating charge properly to be met from current revenues. Cf. *Illinois Central Railroad* v. *Interstate Commerce Commission,* 206 U. S. 441, 462.

"It is for this reason that in fixing reasonable rates there should be included in "operating expenses, that is, in the cost of producing the service, an allowance for consumption of capital * * *." *Lindheimer* v. *Illinois Bell Telephone Co.*, 292 U. S. 151, 167.

The main purpose of depreciation accounting is to determine as accurately as possible the cost of property consumed in operations during a given period such as a year. The annual allowance for depreciation therefore compensates for the economic consumption of capital during that year and maintains the integrity of the investment in the service rendered. The reserve requirement on any selected date should be a measure of the extent to which the service lives of the properties have expired and therefore is properly the total

of the annual provisions for depreciation less actual retirements of property. The preferred depreciation method is known as the "straight-line-basis". See

Report of the Committee on Depreciation, National Association of Railroad and Utilities Commissioners, 1943, p. 91.

The method is equally applicable to both depreciation and depletion, and to ascertain the depreciation and depletion reserve requirements of Hope, the Commission utilized this "straight-line-basis". The Commission obtained estimates of the over-all or average service lives of the property by classes, from a qualified staff engineer who made a detailed inspection of the present

physical condition of the property as an aid to these determinations (R. I, 42; R. III, 157–158);[41] those average service lives were converted into depreciation rates and then applied to the "service value" of the property[42] to determine the por-

[41] The lower court, in condemning the Commission's findings as to accrued depreciation for allegedly failing to reflect the present condition of Hope's properties (R. IV, 189–193), overlooked this inspection of these properties. As pointed out in the minority opinion, the consideration given to present condition "as a guide for estimating the property's service life" and the annual depreciation expense to be allowed is clearly adequate (R. IV, 205). *Federal Power Commission* v. *Natural Gas Pipeline Co.*, 315 U. S. 575, 593–595; see Brief for the Federal Power Commission and Illinois Commerce Commission, Nos. 265 and 268, October Term, 1941, p. 86 *et seq.* Moreover, there is substantial evidence in the record to show that studies were made of Hope's retirement experience and maintenance policies over its entire history, to aid in the determination of accrued depreciation (R. III, 158 *et seq.*). Cf. *Depreciation Charges of Telephone and Steam Railroad Companies*, 177 I. C. C. 351, 406–408; *Smith* v. *Illinois Bell Tel. Co.*, 282 U. S. 133. The resulting determinations thus "meet the controlling test of experience." *Lindheimer* v. *Illinois Bell Telephone Co.*, 292 U. S. 151, 170.

[42] The depreciation rates are not applied to the original cost of the property, but rather against its "service value." The latter is determined by subtracting from original cost the salvage value of the property, that is, the amount which would be received for property retired after the expiration of its service life (R. III, 155). Thus property which cost $1,000 originally, with a salvage value of $100 at the expiration of its full service life, would have a "service value" of $900. Hence, if 90% of its service life has expired, the property would be valued at $190 (i. e., 10% of its service value, or $90, plus its ultimate salvage value of $100). Nevertheless, the lower court found that the Commission had in some cases determined depreciated value to be less

tion of the cost which had expired in rendering service (R. I, 41–43; R. III, 157–174, 184–197). To illustrate the application of this formula to compute depreciation and depletion: If a well which will produce 10,000,000 M. C. F. during its life had already produced 1,000,000 M. C. F., 1/10 of the investment in such production facilities has been consumed in operation, requiring that 1/10 of its cost be recorded as an expense, and be deducted from cost as depreciation. So also, if a pipeline which will last 20 years had been in use for one year, 1/20 of its economic life is considered expired; accordingly, 1/20 of the cost should be recorded as an expense and deducted from the cost of the pipeline as depreciation.[43]

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than "salvage value." Aside from the methematical impossibility of such a result, the so-called "salvage value" used by the lower court represented the value of property "when removed from its wells or lines and held for further use" (R. IV, 189). The application of the term "salvage" to the value of such property is a misnomer, for since its service life had not expired, its value at that time represented more than salvage value. Moreover, in condemning the Commission's results, the court relied on figures obtained from Hope's "per cent condition" study, which had already been demonstrated by the Commission to be defective and unreliable (R. I, 37–38). Cf. *Los Angeles* v. *Southern California Telephone Co.*, 14 P. U. R. (N. S.) 252, 273; *Re Rochester Gas & Electric Corp.*, 33 P. U. R. (N. S.) 393, 468–490; 1 Bonbright, *The Valuation of Property*, 205.

[43] As a natural consequence of these methods, depreciation expense and accrued depreciation are harmonized. Failure to insist on such correlation frequently results in depreciation reserve in excess of the amount required to restore or

The formula used by the Commission to determine accrued depreciation and depletion and annual allowance therefor has been analyzed and approved by this Court. *Lindheimer* v. *Illinois Bell Telephone Co.*, 292 U. S. 151, 167, 168; *Federal Power Commission* v. *Natural Gas Pipeline Co.*, 315 U. S. 575. The latter decision specifically approved use by the Commission, under the Natural Gas Act, of the so-called amortization method of depreciation, and upheld an "annual amortization allowance [which] if applied over the entire twenty-three-year life of the business, is sufficient to restore the total capital investment, at the end," from earnings. 315 U. S. at 594.[44]

The formula espoused by the Commission finds a wealth of administrative and expert support. The Interstate Commerce Commission and the Bureau of Internal Revenue have also approved the

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replace the equipment. *Louisiana R. R. Comm.* v. *Cumberland Tel. & Tel. Co.*, 212 U. S. 414; *Lincoln Gas Company* v. *Lincoln*, 223 U. S. 349; *Clark's Ferry Co.* v. *Commission*, 291 U. S. 227; *Lindheimer* v. *Illinois Bell Telephone Co.*, 292 U. S. 151; *St. Joseph Stock Yards Co.* v. *United States*, 298 U. S. 38; *Federal Power Commission* v. *Natural Gas Pipeline Co.*, 315 U. S. 575.

[44] Fundamentally, both amortization as used by the Commission in the *Pipeline* case, and straight line depreciation as used by the Commission in the instant case, involve application of the economic-service-life principle. There is likewise no difference in the ultimate result. See Bauer & Gold, *Public Utility Valuation*, p. 199 *et seq.*; Barnes, *The Economies of Public Utility Regulation*, p. 263 *et seq.*

"straight-line" depreciation method.[45] The Special Committee on Depreciation of the National Association of Railroad and Public Utilities Commissioners has recommended it for accounting and regulatory purposes because it is practical and "equitable to the utility, the customer and the investor." Report of Committee on Depreciation, National Association of Railroad and Utilities Commissioners (1943) p. 91. And most utility commissions have adopted, with the approval of the courts, the Commission's methods of determining actual accrued depreciation and depletion.[46]

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[45] *Depreciation Charges of Telephone and Steam Railroad Companies*, 177 I. C. C. 351, 408, 413. The Bureau of Internal Revenue sanctions the straight-line and unit-of-production methods, because they are accurate, simple, self-correcting, administratively desirable and facilitate verification. U. S. Treasury Department, Bureau of Internal Revenue, Bulletin "F" (January 1931, revised January 1942), pp. 4–5.

[46] *Joplin Gas Co.* v. *Public Service Commission*, 296 Fed. 271, 278 (W. D. Mo.); *New York Telephone Co.* v. *Prendergast*, 36 F. (2d) 54, 66 (S. D. N. Y.); *International Railway Co.* v. *Prendergast*, 1 F. Supp. 623, 629 (W. D. N. Y.); *Pacific Gas & Electric Co.* v. *Devlin*, 203 Pac. 1058, 1062 (Cal.); *State ex rel. Oregon-Washington Water Service Co.* v. *Hoquiam*, 286 Pac. 286, 290 (Wash.); *Long Island Lighting Co.* v. *Maltbie*, 292 N. Y. S. 807, 809 (App. Div.); *Yonkers Railroad Co.* v. *Maltbie*, 296 N .Y. S. 411, 416 (App. Div.); *Depreciation Charges of Telephone and Steam Railroad Companies*, 118 I. C. C. 295, 356; *Re Interstate Power Company*, (F. P. C.) 32 P. U. R. (N. S.) 1, 11; *Re Chicago District Electric Generating Corp.*, (F. P. C.) 39 P. U. R. (N. S.) 263, 275; *Re Canadian River Gas Co.*, (F. P. C.) 43 P. U. R.

If additional argument were needed to justify the Commission's depreciation and depletion formula, it is to be found in the fact that Hope had set up in its reserve for depreciation and depletion an amount ($45,930,668) which was substantially greater than the actual depreciation and depletion as determined by the Commission in accordance with the straight-line method.[47]

(N. S.) 205, 219; *Detroit* v. *Panhandle Eastern Pipe Line Co.*, (F. P. C.) 45 P. U. R. (N. S.) 203; *Re Los Angeles Gas & E. Corp.*, (Cal.) P. U. R. 1931A, 132, 152; *Re Hawaiian Electric Co. Ltd.*, (Ha.) 33 P. U. R. (N. S.) 161, 170; *Louisiana Pub. Serv. Comm.* v. *Southern Bell Tel. & Tel. Co.*, (La.) 8 P. U. R. (N. S.) 1, 12; *Re Central Light & Power Co.*, (N. D.) 37 P. U. R. (N. S.) 106, 112; *Re Northwestern Bell Telephone Co.*, (Neb.) 11 P. U. R. (N. S.) 337, 345; *Re Upstate Telephone Corp. of N. Y.*, (N. Y.) 13 P. U. R. (N. S.) 134, 153; *Re New York Telephone Co.*, (N. Y.) P. U. R. 1926 E, 1, 39; P. U. R. 1930C, 325, 337, 345; 14 P. U. R. (N. S.) 443, 448; *Re Long Island Lighting Co.*, (N. Y.) 18 P. U. R. (N. S.) 65, 137, 191; *Re Rochester Gas & Electric Corp.*, (N. Y.) 33 P. U. R. (N. S.) 393, 489, 503; *Re Southwestern Bell Telephone Co.*, (Okla.) 9 P. U. R. (N. S. 113, 138; *Re Northwestern Electric Co.*, (Ore.) P. U. R. 1933A, 493, 512. See also Report of the Federal Communications Commission on the Investigation of the Telephone Industry in the United States, House Document No. 340, 76th Cong., 1st Sess., p. 347 (1939); Wheat, *The Regulation of Interstate Telephone Rates*, 51 Harv. L. Rev. 846, 866 (1938); Mason, *Principles of Public Utility Depreciation*, p. 103 (1937; *Depreciation—A Review of Legal and Accounting Problems*, Wisconsin Public Service Commission, pp. 109–121 (1933); 2 Bonbright, *The Valuation of Property* (1937), p. 1140; Proceedings of National Association of Railroad and Utilities Commissioners (1938), pp. 472–474.

[47] Hope, by the end of 1940, had accumulated a depreciation reserve of $45,930,668 (including $7,552,918 transferred to

Inasmuch as the amount found by the Commission came to some $24,000,000 less than the reserve accrued on Hope's books—a reserve representing Hope's own judgment as to the amount of investment which has been returned on account of depreciation and depletion—the Commission's result is hardly arbitrary or confiscatory.

V

THE COMMISSION PROPERLY USED A PRUDENT INVESTMENT BASE IN DETERMINING THE ANNUAL ALLOWANCE FOR DEPRECIATION AND DEPLETION

Applying the economic-service-life principle discussed above to the cost of Hope's properties, the Commission recognized an annual depreciation and depletion allowance of $1,460,037 as an operating expense (R. I, 36–45, 51–53). That annual

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surplus) (R. I, 81; R. III, 176). The Commission, however, deducted only $22,328,016, roughly $24,000,000 less. One of the Commissioners dissented, asserting that the full amount accrued by the Company should be deducted. *New York Telephone Co.* v. *Prendergast*, 36 F. (2d) 54, 66 (S. D. N. Y.); *Re Southwestern Bell Tel. Co.*, 9 P. U. R. (N. S.) 113, 118, 138, affirmed, 71 P. (2d) 747, 751; *Louisiana Pub. Serv. Comm.* v. *Southern Bell Tel. & Tel. Co.*, 8 P. U. R. (N. S.) 1, 12, affirmed, 174 So. 180, 189; *Re Northwestern Electric Co.*, P. U. R. 1933 A, 493, 512. However, the Commission's action is consistent with its policy in rate regulation, of deducting only actual accrued depreciation irrespective of the past provisions made by the company (R. I, 39–40). On this view, since accrued depreciation is the criterion, business and accounting practice in making provision for the cost of operation represented by the consumption of service life is immaterial.

allowance was determined by the same methods used to ascertain the accrued depletion and depreciation actually existing in the properties: depreciation expense was computed by the straight-line method; depletion expense was computed by the unit-of-production method, thus varying with the actual amount of gas produced. The annual rates thus obtained for depreciation and depletion were then applied to the actual legitimate cost of the property (the investment) to give the annual allowance for depreciation and depletion. As the Commission stated, it was necessary to use the same method and base for computing the accrued depreciation and depletion, and for computing the future annual allowance therefor, because the annual allowance measures the economic-service-life of the utility's property consumed in one year, whereas accrued depreciation, being the sum of the depreciation allowances made in the past, measures on a given date the expiration of the service-life of the property. Consequently, the annual depreciation and depletion allowance must be correlated with the accrued depreciation and depletion in order to avoid injustice both to the utility and to the rate payer. (R. I, 37, 52.)

Relying on *United Railways* v. *West,* 280 U. S. 234, 253–254, the court below condemned the Commission's action in computing the annual allowance upon the basis of actual legitimate cost, and held that the allowance should have been based

upon the "present fair value" of Hope's physical property (R. IV, 192–198). This holding is indefensible, we submit, whether or not we are right in our view that the rule of *Smyth* v. *Ames* is no longer law.

If the doctrine of *Smyth* v. *Ames* is no longer controlling, as we have argued above (pp. 49–70), there can be no possible doubt as to the validity of the Commission's use of a prudent investment base to determine accrued depreciation and annual depreciation allowance, just as it may be used for the computation of a fair return. However, we submit that under the decisions of this Court, the Commission's action in this respect is proper even if the rule of *Smyth* v. *Ames* is still applicable to the rate base.

In *Federal Power Commission* v. *Natural Gas Pipeline Co.,* 315 U. S. 575, this Court approved the Commission's use of the actual cost, rather than the reproduction cost, of the utility's property as the base to be amortized by annual allowances in operating expenses. This Court agreed with the Commission, that "to make an allowance of amortization in excess of cost * * * would not be the computation of a proper expense but instead the allowance of additional profit over and above a fair return. Manifestly such an additional return would unjustly penalize consumers" (315 U. S. at 593).

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The majority below sought to distinguish the *Pipeline* case in this connection on the ground that Hope is not a "wasting-asset business of limited life," as was the utility considered in the *Pipeline* case, but is rather "an ordinary public utility which is required by law to continue its service to the public" (R. IV, 195). This purported distinction, besides being insubstantial, ignores the controlling principles recognized by this Court in the *Pipeline* case.

Although, unlike the *Pipeline* case, there is no stipulation in the instant case as to the time when Hope will be forced out of business for lack of reserves, it would be the first to concede that its present available natural gas reserves are not unlimited. The record establishes that the Company is contemplating an extension of its pipeline to new sources of supply, in order to meet its requirements (R. I, 47; R. III, 149). If Hope does not build such a pipeline extension, sooner or later, but inevitably, it must be forced out of business for lack of reserves. For it is common knowledge that as natural gas is consumed, reserves are depleted and the ultimate exhaustion of the supply is inevitable. This was equally true of the company involved in the *Pipeline* case, which expected to terminate business in 1954 for lack of reserves but will unquestionably be able to continue in business after 1954 if it obtains additional reserves. The company in the *Pipeline*

case was not a sport within the class of extractive industries; it was a "wasting asset business of limited life" solely because it was engaged in producing natural gas. All such companies are in the same position, and if an amortization allowance may be grounded upon cost for the natural gas company involved in the *Pipeline* case it is equally permissible for Hope. Certainly, the mere absence of an accord as to the precise year in which Hope's reserves will be exhausted, present in the *Pipeline* case, should not endow Hope with a constitutional right to have its depreciation allowance computed on a reproduction cost basis—a basis which will compel ratepayers to return more than the amount invested.

But the propriety of an annual depreciation allowance based on cost does not depend upon the nature of the utility's business. In *Lindheimer* v. *Illinois Bell Telephone Co.,* 292 U. S. 151, involving a telephone company, which is clearly not a "wasting asset business of limited life," this Court approved an annual depreciation allowance based on cost, pointing out that where the annual depreciation allowance is excessive, "to that extent subscribers for the telephone service are required to provide, in effect, capital contributions, not to make good losses incurred by the utility in the service rendered and thus to keep its investment unimpaired, but to secure additional plant and equipment upon which the utility expects a

return" (*supra* at 169).[48] See also *United States* v. *Ludey,* 274 U. S. 295, 300–302. Indeed, by recognizing cost as a permissible basis of computing the depreciation allowance, the *Lindheimer* case modifies the contrary holding in the earlier *West* case, 280 U. S. 234, on which the instant court below relied. See Mr. Justice Butler, concurring in *Lindheimer* v. *Illinois Bell Telephone Co.,* 292 U. S. 151, 176; *Alexandria Water Company* v. *City Council of Alexandria,* 163 Va. 512. This is the view uniformly accepted by regulatory bodies, for despite the *West* case, the federal and state utility commissions, almost without exception, have continued to follow cost accounting for depreciation.[49]

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[48] Even if it is assumed that the purpose of annual depreciation allowances is to replace in the future the property which is currently being consumed, the fluctuation in price level would destroy any predictable relation between present value and future replacement cost. "To use as a measure of the year's consumption of plant a depreciation charge based on fluctuating present values substitutes conjecture for experience. Such a system would require the consumer of today to pay for an assumed operating expense which has never been incurred and which may never arise." *United Railways* v. *West*, 280 U. S. 234, 278 (Brandeis, J., dissenting). See also *Excess Income of St. Louis & O'Fallon Ry. Co.*, 124 I. C. C. 3, 29, 41. The price level at the time of replacement being unpredictable, present replacement cost is certainly no more reliable a basis for annual depreciation allowance than original cost. *United Railways* v. *West*, *supra*, at 290 (Stone, J., dissenting).

[49] *Depreciation Charges of Telephone and Steam Railroad Companies*, 177 I. C. C. 351, 374; *Re Interstate Power Co.*, (F. P. C.) 32 P. U. R. (N. S.) 1; *Re Chicago District Electric Generating Corp.*, (F. P. C.) 39 P. U. R. (N. S.) 263;

Regardless of the nature of Hope's business, since the annual allowance provided by the Commission is based upon a reasonable determination of the life of Hope's existing investment and will reimburse Hope to the amount of that investment, the constitutional requirements are met. Hope's investment is continually being consumed in service and under the Commission's method the Company is reimbursed for the cost concurrently with the consumption. The funds supplied by the customers in the form of rates to cover annual depreciation and depletion are immediately available to Hope for investment in additions and replacements, enabling Hope to earn without delay an annual return and annual depreciation allow-

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Re Canadian River Gas Co., (F. P. C.) 43 P. U. R. (N. S.) 205; *Detroit* v. *Panhandle Eastern Pipe Line Co.*, (F. P. C.) 45 P. U. R. (N. S.) 203; *Re Alabama Water Service Co.*, (Ala.) 32 P. U. R. (N. S.) 129, 130; *Re Patrons of Lakeville Water Co.*, (Conn.) P. U. R. 1932D, 138, 143; *Re Peoples Gas Light & Coke Co.*, (Ill.) 19 P. U. R. (N. S.) 177, 257; *Re Lincoln Tel. & Tel Co.*, (Neb.) 6 P. U. R. (N. S.) 81, 90; *Re Central Light & Power Co.*, (N. D.) 37 P. U. R. (N. S.) 106, 112; *Re North Dakota Power & Light Co.* (N. D.) 31 P. U. R. (N. S.) 26, 29; *Re Northern Power & Light Co.* (N. D.) 30 P. U. R. (N. S.) 1, 5; *Re Northern States Power Co.* (N. D.) 22 P. U. R. (N. S.) 364, 370; *Re Otter Tail Power Co.* (N. D.) 33 P. U. R. (N. S.) 301, 307; *Re Long Branch Sewer Co.* (N. J.) P. U. R. 1931A, 467, 473; *Re Yonkers Railroad Co.* (N. Y.) P. U. R. 1933B, 61, 84; *Re Yonkers Railroad Co.* (N. Y.) 9 P. U. R. (N. S.) 337, 365; *Re Swan Creek Electric Co.* (Utah) 35 P. U. R. (N. S.) 315, 316; *Re Mondovi Tel. Co.* (Wis.) P. U. R. 1933B, 319, 330; *Re Mondovi Tel. Co.* (Wis.) P. U. R. 1933D, 142; *Re Wisconsin Tel. Co.* (Wis.) 13 P. U. R. (N. S.) 224, 251.

ance upon that new property. The utility is therefore made whole and the integrity of its investment maintained.[50] Obviously, the Company ceases to have a right to a return upon the portion of the investment which has been consumed, and which is recouped from the rate payers through revenues covering annual depreciation allowances. See *Depreciation Charges of Telephone and Steam Railroad Companies,* 118 I. C. C. 295, 355; 177 I. C. C. 351, 410; Barnes, *The Economics of Public Utility Regulation* (1942), 261.

Accepted practice sanctions the Commission's choice of original cost as a basis for computing the depreciation allowance. To base the depreciation charge on cost is "the rule sanctioned by the universal practice of businessmen and governmental departments." (See Brandeis, J., dissenting in *United Railways* v. *West,* 280 U. S. 234, 275, citing an impressive array of authority drawn from all relevant data.) The practice of basing the depreciation charge on cost has been adopted and is being followed not only by non-

[50] No injustice to the Company would result from the fact that when property is retired, the cost of the replacing property may exceed the original cost of the retired property. For the new capital invested would be included in the rate base, and the Company entitled to a return thereon. Moreover, under the cost basis of depreciation, the depreciation allowance for the replacing property would be computed on its cost, and not on the cost of the retired property. Cf. *United Railways* v. *West,* 280 U. S. 234, 279 (Brandeis, J., dissenting).

utility enterprises,[51] but also in all the systems of accounts established by governmental rate-making agencies, federal and state.[52] The use of original cost in determining the depreciation charge is justified, as Mr. Justice Brandeis has demonstrated, by every relevant consideration of prudent business and accounting practice.

The universal business practice of basing depreciation on cost has significance for reasons other than the weight to be accorded to commercial custom. We are dealing here with the constitutional guarantee of due process; in its application to the present case, that guarantee, as we show above in discussing the underlying principle of *Smyth* v.

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[51] Gilman, *Accounting Concepts of Profit*, 348–349, 493; Sanders, Hatfield, and Moore, *A Statement of Accounting Principles* (1938), 31–32, 58–59, 60–65; Saliers, *Depreciation Principles and Applications*, 63, 68–69, 110; Montgomery, *Auditing Theory and Practice* (6th ed. 1940), 480; Paton and Littleton, *An Introduction to Corporate Accounting Standards*, 66, 89; see also Peloubet, *Special Problems in Accounting for Capital Assets*, 61 Journal of Accountancy 185; May, *The Influence of Accounting on the Development of an Economy*, 61 Journal of Accountancy 15–16; Bell and Jones, *Auditing* (1941), 245. Eonomists and accountants have likewise insisted that cost is the only proper basis of utility depreciation accounting. Mosher and Crawford, *Public Utility Regulation* (1933), 160–162; Jones and Bigham, *Principles of Public Utilities* (1937 ed.), 491 et seq.; Wilson, Herring and Eutsler, *Public Utility Regulation* (1938), 196 et seq.; see also Haun, *Inconsistencies in Public Utility Depreciation*, 38 Mich. L. Rev. 160, 479.

[52] The systems of account referred to in n. 40, p. 91, *supra*, all adopt cost as the basis of depreciation.

Ames, means simply that there will be no arbitrary governmental interference with property rights. To limit a utility to a depreciation charge which is the same as that universally made by all business men, even though they are completely free of regulation, cannot in any realistic sense be characterized as arbitrary governmental action. To the contrary, the Commission would be guilty of arbitrary conduct if it blinded itself to the practical experience of business men and thereby saddled upon consumers a charge having no basis in business realities.[53]

In the light of these considerations, we submit that even under the rule of *Smyth* v. *Ames,* rates which provide for a full return of the original investment satisfy all constitutional requirements in this respect.

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[53] The court below held that the Commission should have made an annual allowance for depreciation and depletion on capital added to the rate base after 1940 (R. IV, 196). But the Commission was under no legal obligation to make any allowance whatever for future capital additions. *Federal Power Commission* v. *Natural Gas Pipeline Co.*, 315 U. S. 575, 592. Hence in allowing almost $1,400,000 for net future capital additions for the years 1941–43 (R. I, 50), the Commission was conferring a benefit to which Hope was not entitled as a matter of law. It can hardly demand the additional boon of a depreciation allowance on this gratuity. Moreover, the amount properly to be allowed for depreciation will depend on future operations, which cannot easily be forecast.

VI

HOPE WAS NOT HARMED BY THE EXCLUSION FROM 1940 OPERATING EXPENSES OF $165,963 FOR AN EXPERIMENTAL DEEP-TEST WELL

In accordance with the conservative practice of natural-gas companies, Hope had followed the practice of charging all exploration and development costs to operating expenses. The Commission approved of this practice and found that Hope's exploration and development costs for 1940 were $407,920, but excluded from such costs the sum of $165,963 for an experimental deep-test well which was completed dry in 1941 and charged by Hope on its books as an operating expense for 1941. The court below upheld Hope's contention that this sum should have been included in 1940 operating expenses. However, the court observed that "the matter can have little bearing in future hearings, as the test period will doubtless cover 1941 as well as 1940 and it will be immaterial which year carries the charge" (R. IV, 198).

Without discussing the propriety of excluding these costs from operating expenses for 1940, it is clear that Hope has not been harmed. The Commission delved into the details of Hope's transactions for 1940 solely to provide a basis for estimating its future expenses. Although the Commission found Hope's exploration and development costs to be $407,920 for 1940, it allowed $600,000 as the proper and reasonable annual

future allowance for exploration and development expenses, which represented a substantial increase in the expenses experienced by the Company in 1940. Since the amount found by the Commission ($407,920) plus the additional amount claimed by Hope ($165,963) is roughly $25,000 less than the $600,000 allowed by the Commission as the annual future allowance for such purposes, Hope cannot validly claim to have been harmed by this exclusion from its exploration and development costs for 1940.

VII

THE COMMISSION'S FINDINGS AS TO THE LAWFULNESS OF PAST RATES WERE PROPER AND, IF REVIEWABLE, SHOULD BE UPHELD

As early as July 1938 the Cities of Cleveland and Akron had filed complaints with the Commission, charging that the rates collected by Hope from the East Ohio Gas Company were excessive and unreasonable (R. II, 1, 7). Cleveland prayed specially for a determination by the Commission that Hope's collected rates from East Ohio were unreasonable and therefore unlawful, and for a determination of the just and reasonable rates from June 30, 1939, to the date of the Commission's decision. Such determinations were requested "in the aid of State regulation" and to afford the Public Utilities Commission of Ohio a proper basis for disposition of a fund collected by East Ohio under bond from

Cleveland consumers since June 30, 1939 (R. II, 14).[54]

The Commission, when it entered its order on May 26, 1942, reducing the rates to be charged by Hope after July 1, 1942, also made "Findings As To The Lawfulness Of Past Rates" (R. I, 8–13). It found that the rates charged by Hope during the period from June 30, 1939, to the effective date of the order were unjust and unreasonable and therefore "unlawful," and that the charges to East Ohio were excessive in the amount of $830,892 in 1939, $3,219,551 during 1940 and $2,815,789 on an annual basis since 1940 (R. I, 12–13). These findings were made as "an aid to state regulation" pursuant to the complaints of the Cities of Cleveland and Akron (R. I, 67–69; R. II, 1–2, 7–8, 14–15).

The court below set aside the Commission's findings as to past rates, holding that rates filed with the Commission pursuant to Section 4 (c) of the Act "become the only lawful rates which the utility could charge or accept" until changed by a Commission order prescribing rates for the future, and that the Commission could make findings with respect to past rates only as a step in the process of fixing rates for the future, and not "as an aid

[54] This fund represents the difference between East Ohio's previous rates and the lower rates established by ordinance of the City of Cleveland, which East Ohio is collecting pending its appeal from the ordinance to the Public Utilities Commission of Ohio.

to state regulation" (R. IV, 199–203). The court also held that if viewed as an incident of the Commission's power to fix future rates, the findings as to past rates were invalid for the same reasons as the future rate order and for the further reason that the Commission based these findings on experience for the years in question rather than on estimates taken from the experience of a prior period (R. IV, 200, 202).

We submit that this action was error since the findings were within the statutory power of the Commission and were proper for the reasons advanced above to sustain the order prescribing future rates. While we have serious doubts as to whether the findings as to past rates present a matter for judicial review, we believe that if they are reviewable, their propriety should be sustained in this Court.

A. THE COMMISSION'S "FINDINGS AS TO THE LAWFULNESS OF PAST RATES" MAY NOT BE REVIEWABLE HERE

Section 19 (b) of the Natural Gas Act vests in the courts of appeals jurisdiction to review any "order" of the Commission upon the petition of a party "aggrieved" by the order. In the exercise of this jurisdiction, courts reviewing a rate order of the Commission would necessarily have the right to review all findings made by the Commission in connection therewith, including findings as to the reasonableness of past rates made in the course of issuing such rate order.

However, it is doubtful whether there may be judicial review of findings as to past rates, when made independently of a rate order, for example as an aid to state regulation, which was here the case. The fact that these findings are not designated as an order is of course immaterial to the question of reviewability for "it is the substance of what the Commission has purported to do and has done which is decisive. *Powell* v. *United States,* 300 U. S. 276, 284–285; *A. F. of L.* v. *Labor Board,* 308 U. S. 401, 408." *Columbia Broadcasting System* v. *United States,* 316 U. S. 407, 416.

But considering the substance and the legal effect of the findings, we entertain substantial doubts whether the findings standing alone have the legal impact upon Hope which this Court has hitherto deemed necessary for judicial review. The findings declare that rates charged by Hope since June 30, 1939, are unlawful, but they do not require or inhibit any action by Hope as a result thereof. It is not contended that the Commission has threatened to impose any legal sanctions as a result of the findings, or has attempted to enforce them in any way, or that as a result of these findings any of Hope's customers have refused to deal with the Company (cf. *Columbia Broadcasting System* v. *United States, supra*), and there is no evidence of any other substantial adverse effect therefrom.

It is true that the findings in question were made "as an aid to state regulation," and may furnish the basis for an order by a state regulatory body or court for repayment of excessive rates. At present, however, these findings are merely a preliminary to possible future action in proceedings brought before totally independent governmental bodies, proceedings whose outcome may hinge upon many factors unrelated to the Commission's findings and whose result might conceivably leave Hope unharmed. For these reasons, we incline to the view that the findings do not have such effect upon Hope's legal rights nor such legal or substantial impact upon Hope's interests to make them reviewable under the principles enunciated by this Court. *Rochester Tel. Corp.* v. *United States,* 307 U. S. 125, 130; *United States* v. *Los Angeles & S. L. R. Co.,* 273 U. S. 299, 309, 310.

We do not mean to imply that the state commission is at liberty to ignore the findings. They are plainly admissible in the state proceedings (see *United States* v. *Los Angeles & S. L. R.,* 273 U. S. 299, 312), and their effect is strengthened by the fact of affiliation between respondent and the local distributing companies. Cf. *Houston* v. *Southwestern Tel. Co.,* 259 U. S. 318, 323. We recognize, moreover, the practical advantage of permitting judicial review in proceedings to which the Federal Power Commission is a party. The Commission has no desire to avoid review, and

for that reason did not press below the non-reviewability of the findings. But since the question goes to the statutory authority of the court below, we feel obliged to raise the issue.

B. THE COMMISSION HAS AUTHORITY TO MAKE FINDINGS AS TO LAWFULNESS OF PAST RATES "AS AN AID TO STATE REGULATION"

The authority granted to the Commission in the Natural Gas Act to fix rates "to be thereafter observed and in force" (Sec. 5 (a)) admittedly does not include authority to *fix* past rates. But there is clearly power under the Act to determine and make findings as to the *lawfulness* of past rates. Section 14 (a) empowers the Commission to investigate any matter in order to determine whether any person *has* violated any provision of the Act, and Section 4 (a) explicitly forbids and declares unlawful the charging of unjust and unreasonable rates. Since the charging of such rates is an unlawful act and in violation of Section 4 (a), an investigation of the lawfulness of Hope's past rates is clearly within the ambit of the investigatory power granted the Commission by Section 14 (a).[55] Moreover, the Commission may, upon its own motion or at the request of a state commission, investigate and determine the

[55] The Interstate Commerce Commission has made similar determinations under an analogous provision of the Motor Carrier Act of 1935 (Secs. 216, 217). See *W. A. Barrows Porcelain Enamel Co.* v. *Cushman Motor Delivery Co.*, 11 M. C. C. 365, 366; *Dixie Mercerizing Co.* v. *ET & WNC Motor Transportation Co.*, 21 M. C. C. 491, 492.

cost of production or transportation of natural gas in cases where it may not establish rates (Section 5 (b)), and is required by Section 17 (c) to "make available to the several State commissions such information and reports as may be of assistance in State regulation of natural gas companies." The findings as to past rates fall within the contemplation of these provisions, constituting not only determinations as to cost but also "information and reports" as to lawful and reasonable rates for the period in question, as an aid to State regulation.

The court below discerned jurisdictional objections to the findings because rates filed by companies with the Commission pursuant to Section 4 (c) of the Act become the "lawful" rates until changed by Commission order, and such rates, it thought, may not be found to be "unlawful" (R. IV, 200, 202). The court's error, we suggest, consists in overlooking the clearly established distinction between "legal" and "lawful" rates. Companies subject to the Act must "file with the Commission" and "keep open * * * for public inspection, schedules showing all rates and charges for any transportation or sale subject to the jurisdiction of the Commission" (Section 4 (c)). These are the "legal" rates which must be charged to all consumers. Cf. *Arizona Grocery Co.* v. *Atchison, Topeka & Santa Fe Ry. Co.*, 284

U. S. 370, 384; *Louisville & N. R. Co.* v. *Maxwell,* 237 U. S. 94. But in addition to the requirement as to filing of rates, the Act imposes a duty on all companies subject to the jurisdiction of the Commission to charge only "just and reasonable" rates, and declares unlawful "any such rate or charge that is not just and reasonable" (Section 11 (a)). The distinction is plain: the filed rates are the "legal" rates, but only just and reasonable rates are the "lawful" rates. "In other words, the legal rate was not made by the statute a lawful rate—it was lawful only if it was reasonable." *Arizona Grocery Co.* v. *Atchison, Topeka & Santa Fe Ry. Co.,* 284 U. S. 370, 384; see *Re Home Gas Co.,* 39 P. U. R. (N. S.) 102. 109.

The holding below, that rates filed under Section 4 (c) become the only "lawful" ones, would deprive Section 4 (a) of all meaning. For if rates once filed become "lawful" under Section 4 (a), no matter how unjust or unreasonable they may be, and if the Commission is powerless to consider and determine whether they meet the standards of justness and reasonableness imposed by Section 4 (a), the statutory declaration of their "unlawfulness" becomes an empty phrase, and the rate payers may be left without a forum in which to challenge the lawfulness of interstate wholesale gas rates prevailing between the date of the Act's

passage and the effective date of a Commission rate-fixing order.

Even in the absence of the Natural Gas Act, state regulatory commissions would appear to be without power to regulate interstate wholesale rates for natural gas. *Public Utilities Comm. of Ohio* v. *United Fuel Gas Co.,* 317 U. S. 456, 468; *Illinois Natural Gas Co.* v. *Central Illinois Public Service Co.,* 314 U. S. 498, 506; *Missouri* v. *Kansas Natural Gas Co.,* 265 U. S. 298; *Public Utilities Commission* v. *Attleboro Steam & Electric Co.,* 273 U. S. 83. It is clear, at all events that after the effective date of the Act, the state regulatory commissions do not have power to determine the lawfulness of Hope's interstate wholesale rates since "Congress by that Act * * * preempted the regulatory power over transportation and sale of natural gas in interstate commerce". *Public Utilities Comm. of Ohio* v. *United Fuel Gas Co., supra* at 466; cf. *Illinois Natural Gas Co.* v. *Central Illinois Public Service Co., supra.* While a state commission may call for data in Hope's possession to aid in determining the lawfulness of a distributor's local rates (*Public Utilities Comm. of Ohio* v. *United Fuel Gas Co., supra,* at 468, 470), this power falls short of a full-scale investigation necessary to determine the reasonableness of Hope's interstate rates.

The courts, whether state or federal, are also without power to determine the lawfulness of

interstate wholesale rates for natural gas, and, in order to maintain a uniform standard of rates, must refer proceedings involving the reasonableness of such rates to the regulatory commission concerned, for primary consideration. Cf. *Texas & Pacific Ry. Co.* v. *Abilene Cotton Oil Co.,* 204 U. S. 426; *Board of R. R. Comm'rs* v. *Great Northern Ry. Co.,* 281 U. S. 412, 422; *U. S. Navigation Co.* v. *Cunard S. S. Co.,* 284 U. S. 474. The determination of a question such as whether past rates were "just and reasonable" and hence "lawful" involves intricate and technical matters of fact requiring "comprehensive study of an expert body continuously engaged in administrative supervision." *Board of R. R. Comm'rs* v. *Great Northern Ry. Co., supra,* at 422; *Great Northern Ry. Co.* v. *Merchants Elevator Co.,* 259 U. S. 285, 291. Jurisdiction in the courts or in a state regulatory body over these issues would pave the way for inconsistent adjudications by a variety of tribunals—the very "confusion of functions" which the Act was designed to avoid (*Public Utilities Comm. of Ohio* v. *United Fuel Gas Co., supra,* at 467) and which this Court long ago condemned in the *Abilene* case, *supra,* at 440.

On the other hand, recognition of the Commission's jurisdiction to determine the lawfulness of interstate wholesale rates charged since the effective date of the Act will effectuate the Congres-

sional objective of "a harmonious, dual system of regulation of the natural gas industry—federal and state regulatory bodies operating side by side, each active in its own sphere. See H. Rep. No. 2651, 74th Cong., 2d Sess., pp. 1–3; H. Rep. No. 709, 75th Cong., 1st Sess., pp. 1–4; Sen. Rep. No. 1162, 75th Cong., 1st Sess." *Public Utilities Comm. of Ohio* v. *United Fuel Gas Co., supra,* at 467.

The lower court's rationale that because the Commisison lacks authority to award reparations it may not inquire into the lawfulness of past rates (R. IV, 200–202) conflicts sharply with the decisions of this Court. Thus, the lack of power in the Interstate Commerce Commission to grant reparations for intrastate rates charged and collected which discriminated unduly against interstate commerce does not deprive it of power "to inquire whether injustice had been done and to make report accordingly" to the District Court where a shipper's suit for restitution was pending. *Atlantic Coast Line Co.* v. *Florida,* 295 U. S. 301, at 312. And in *United States* v. *Morgan,* 307 U. S. 183, proceedings for the distribution of the fund collected under an invalid order of the Secretary of Agriculture were restrained pending a determination by the Secretary of the just and reasonable rates during the period covered by the fund. This Court pointed out that the lack of authority in the

Secretary to award reparation in that proceeding did not affect his power to investigate and decide the reasonableness of past rates. *United States* v. *Morgan, supra,* at 192.

While we believe the conclusion would be the same if the findings in question were made by the Commission on its own motion, they take on additional significance from the fact that the Cities of Cleveland and Akron had expressly requested an investigation as to the lawfulness of these past rates, to afford the Public Utilities Commission of Ohio a basis for determining reasonable rates charged by East Ohio to its intrastate customers. Cf. *United States* v. *Morgan, supra,* at 193.

For these reasons, we submit that the findings as to past rates were well within the Commission's statutory powers.

C. THE COMMISSION'S FINDINGS THAT PAST RATES WERE UNREASONABLE ARE SUPPORTED BY SUBSTANTIAL EVIDENCE AND ARE OTHERWISE PROPER

No extended argument is warranted to demonstate the propriety of the findings on past rates, considered as a rate-making determination. The Commission adopted the same principles for its "Findings as to Lawfulness of Past Rates" as it did in fixing rates for the future, and the constitutional and statutory validity of those principles has already been discussed. To the extent that the court below condemned the findings for the

reasons which led it to overturn the Commission's order prescribing rates, we suggest that the court's action was erroneous for the reasons already stated.

The court below, however, also advanced the objection that the Commission, in formulating its findings as to past rates, had used actual experience as to Hope's expenses rather than reasonable estimates of expenses based on prior experience (R. IV, 200, 202). We believe that this ruling was erroneous.

In making its findings as to past rates, the Commission employed Hope's actual experience as to expenses and sales for 1939 and for each of the subsequent years. While a forecast may be requisite when the reasonable operation of future rates is in question, it is impossible to conceive of a sounder test for determining whether rates were more reasonable and lawful in the past than the actual operating experience of the Company during the years in question. Indeed, as this Court has held, it would have been arbitrary for the Commission to prefer prophecy to a survey when the actual facts were available. *West Ohio Gas Co.* v. *Public Utilities Commission,* 294 U. S. 63, 79, 82. The lower court's observation that it is "impractical to conduct a wholesale natural-gas business on the basis of annual changes in rates" (R. IV, 203) overlooks the fact that many whole-

sale contracts for utility service provide for the annual adjustment of rates. As a rule, a utility has only a few wholesale customers, and when the major customers, like Hope's, are its affiliates the periodic change in rates is facilitated. Following the practice of the utilities in each case, provision has been made by regulatory bodies for periodic changes in wholesale rates. *Re Chicago District Electric Generating Corp.,* 39 P. U. R. (N. S.) 263, 281; *Re Safe Harbor Water Power Corp.,* 34 P. U. R. (N. S.) 236, 247.

In finding the lawful rates for 1939, 1940, 1941, and up to the date of the Commission's order fixing rates for the future, the Commission determined the investment base for each period, and allowed a 6½% rate of return thereon, in addition to all operating expenses plus the amount of tax required under lawful rates (R. I, 11–13). It was only the excess over this liberal allowance which the Commission found to be the result of excessive and unreasonable charges, a method which can hardly be deemed unreasonable or arbitrary.

There is substantial evidence to support each basic and ultimate finding made by the Commission as to the lawfulness of past rates (R. I, 225–341, 373–390; R. III, 25–81, 175–201, 224–365, 373–394, 397–489), and we submit that the findings are entitled to the finality provided for by Section 19 (b) of the Act.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the judgment below should be reversed.

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APPENDIX A

The pertinent provisions of the Natural Gas Act of 1938, c. 556, 52 Stat. 821 (15 U. S. C. § 717) are as follows:

SECTION 1. (a) As disclosed in reports of the Federal Trade Commission made pursuant to S. Res. 83 (Seventieth Congress, first session) and other reports made pursuant to the authority of Congress, it is hereby declared that the business of transporting and selling natural gas for ultimate distribution to the public is affected with a public interest, and that Federal regulation in matters relating to the transportation of natural gas and the sale thereof in interstate and foreign commerce is necessary in the public interest.

(b) The provisions of this Act shall apply to the transportation of natural gas in interstate commerce, to the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use, and to natural-gas companies engaged in such transportation or sale, but shall not apply to any other transportation or sale of natural gas or to the local distribution of natural gas or to the facilities used for such distribution or to the production or gathering of natural gas.

SEC. 2. When used in this Act, unless the context otherwise requires—

(1) "Person" includes an individual or a corporation.

(2) "Corporation" includes any corporation, joint-stock company, partnership, association, business trust, organized group of

persons, whether incorporated or not, receiver or receivers, trustee or trustees of any of the foregoing, but shall not include municipalities as hereinafter defined.

(3) "Municipality" means a city, county, or other political subdivision or agency of a State.

(4) "State" means a State admitted to the Union, the District of Columbia, and any organized Territory of the United States.

(5) "Natural gas" means either natural gas unmixed, or any mixture of natural and artificial gas.

(6) "Natural-gas company" means a person engaged in the transportation of natural gas in interstate commerce, or the sale in interstate commerce of such gas for resale.

(7) "Interstate commerce" means commerce between any point in a State and any point outside thereof, or between points within the same State but through any place outside thereof, but only insofar as such commerce takes place within the United States.

(8) "State commission" means the regulatory body of the State or municipality having jurisdiction to regulate rates and charges for the sale of natural gas to consumers within the State or municipality.

(9) "Commission" and "Commissioner" means the Federal Power Commission, and a member thereof, respectively.

* * * * *

RATES AND CHARGES; SCHEDULES; SUSPENSION OF NEW RATES

SEC. 4. (a) All rates and charges made, demanded, or received by any natural-gas company for or in connection with the

transportation or sale of natural gas subject to the jurisdiction of the Commission, and all rules and regulations affecting or pertaining to such rates or charges, shall be just and reasonable, and any such rate or charge that is not just and reasonable is hereby declared to be unlawful.

(b) No natural-gas company shall, with respect to any transportation or sale of natural gas subject to the jurisdiction of the Commission, (1) make or grant any undue preference or advantage to any person or subject any person to any undue prejudice or disadvantage, or (2) maintain any unreasonable difference in rates, charges, service, facilities, or in any other respect, either as between localities or as between classes of service.

(c) Under such rules and regulations as the Commission may prescribe, every natural-gas company shall file with the Commission, within such time (not less than sixty days from the date this Act takes effect) and in such form as the Commission may designate, and shall keep open in convenient form and place for public inspection, schedules showing all rates and charges for any transportation or sale subject to the jurisdiction of the Commission, and the classifications, practices, and regulations affecting such rates and charges, together with all contracts which in any manner affect or relate to such rates, charges, classifications, and services.

* * * * *

FIXING RATES AND CHARGES; DETERMINATION OF COST OF PRODUCTION OR TRANSPORTATION

SEC. 5. (a) Whenever the Commission, after a hearing had upon its own motion or upon complaint of any State, municipality,

State commission, or gas distributing company, shall find that any rate, charge, or classification demanded, observed, charged, or collected by any natural-gas company in connection with any transportation or sale of natural gas, subject to the jurisdiction of the Commission, or that any rule, regulation, practice, or contract affecting such rate, charge, or classification is unjust, unreasonable, unduly discriminatory, or preferential, the Commission shall determine the just and reasonable rate, charge, classification, rule, regulation, practice, or contract to be thereafter observed and in force, and shall fix the same by order: *Provided, however,* That the Commission shall have no power to order any increase in any rate contained in the currently effective schedule of such natural gas company on file with the Commission, unless such increase is in accordance with a new schedule filed by such natural gas company; but the Commission may order a decrease where existing rates are unjust, unduly discriminatory, preferential, otherwise unlawful, or are not the lowest reasonable rates.

(b) The Commission upon its own motion, or upon the request of any State commission, whenever it can do so without prejudice to the efficient and proper conduct of its affairs, may investigate and determine the cost of the production or transportation of natural gas by a natural-gas company in cases where the Commission has no authority to establish a rate governing the transportation or sale of such natural gas.

ASCERTAINMENT OF COST OF PROPERTY

SEC. 6. (a) The Commission may investigate and ascertain the actual legitimate cost

of the property of every natural-gas company, the depreciation therein, and, when found necessary for rate-making purposes, other facts which bear on the determination of such cost or depreciation and the fair value of such property.

(b) Every natural-gas company upon request shall file with the Commission an inventory of all or any part of its property and a statement of the original cost thereof, and shall keep the Commission informed regarding the cost of all additions, betterments, extensions, and new construction.

* * * * *

ACCOUNTS, RECORDS, AND MEMORANDA

SEC. 8. (a) Every natural-gas company shall make, keep, and preserve for such periods, such accounts, records of cost-accounting procedures, correspondence, memoranda, papers, books, and other records as the Commission may by rules and regulations prescribe as necessary or appropriate for purposes of the administration of this Act: *Provided, however,* That nothing in this Act shall relieve any such natural gas company from keeping any accounts, memoranda, or records which such natural-gas company may be required to keep by or under authority of the laws of any State. The Commission may prescribe a system of accounts to be kept by such natural-gas companies, and may classify such natural-gas companies and prescribe a system of accounts for each class. The Commission, after notice and opportunity for hearing, may determine by order the accounts in which particular outlays or receipts shall be entered, charged, or credited. The burden of proof to justify every accounting entry

questioned by the Commission shall be on the person making, authorizing, or requiring such entry, and the Commission may suspend a charge or credit pending submission of satisfactory proof in support thereof.

* * * * *

RATES OF DEPRECIATION

SEC. 9. (a) The Commission may, after hearing, require natural-gas companies to carry proper and adequate depreciation and amortization accounts in accordance with such rules, regulations, and forms of account as the Commission may prescribe. The Commission may from time to time ascertain and determine, and by order fix, the proper and adequate rates of depreciation and amortization of the several classes of property of each natural-gas company used or useful in the production, transportation, or sale of natural gas. Each natural-gas company shall conform its depreciation and amortization accounts to the rates so ascertained, determined, and fixed. No natural-gas company subject to the jurisdiction of the Commission shall charge to operating expenses any depreciation or amortization charges on classes of property other than those prescribed by the Commission, or charge with respect to any class of property a percentage of depreciation or amortization other than that prescribed therefor by the Commission. No such natural-gas company shall in any case include in any form under its operating or other expenses any depreciation, amortization, or other charge or expenditure included elsewhere as a depreciation or amortization charge or otherwise under its operating or

other expenses. Nothing in this section shall limit the power of a State commission to determine in the exercise of its jurisdiction, with respect to any natural-gas company, the percentage rates of depreciation or amortization to be allowed, as to any class of property of such natural-gas company, or the composite depreciation or amortization rate, for the purpose of determining rates or charges.

* * * * *

COMPLAINTS

SEC. 13. Any State, municipality, or State commission complaining of anything done or omitted to be done by any natural-gas company in contravention of the provisions of this Act may apply to the Commission by petition, which shall briefly state the facts, whereupon a statement of the complaint thus made shall be forwarded by the Commission to such natural-gas company, which shall be called upon to satisfy the complaint or to answer the same in writing within a reasonable time to be specified by the Commission.

INVESTIGATIONS BY COMMISSION; ATTENDANCE OF WITNESSES; DEPOSITIONS

SEC. 14. (a) The Commission may investigate any facts, conditions, practices, or matters which it may find necessary or proper in order to determine whether any person has violated or is about to violate any provision of this Act or any rule, regulation, or order thereunder, or to aid in the enforcement of the provisions of this Act or in prescribing rules or regulations thereunder, or in obtaining information to serve as a basis for

recommending further legislation to the Congress. The Commission may permit any person to file with it a statement in writing, under oath or otherwise, as it shall determine, as to any or all facts and circumstances concerning a matter which may be the subject of investigation. The Commission, in its discretion, may publish in the manner authorized by section 312 of the Federal Power Act, and make available to State commissions and municipalities, information concerning any such matter.

* * * * *

ADMINISTRATIVE POWERS OF COMMISSION; RULES, REGULATIONS, AND ORDERS

SEC. 16. The Commission shall have power to perform any and all acts, and to prescribe, issue, make, amend, and rescind such orders, rules, and regulations as it may find necessary or appropriate to carry out the provisions of this Act. Among other things, such rules and regulations may define accounting, technical, and trade terms used in this Act; and may prescribe the form or forms of all statements, declarations, applications, and reports to be filed with the Commission, the information which they shall contain, and the time within which they shall be filed. Unless a different date is specified therein, rules and regulations of the Commission shall be effective thirty days after publication in the manner which the Commission shall prescribe. Orders of the Commission shall be effective on the date and in the manner which the Commission shall prescribe. For the purposes of its rules and regulations, the Commission may classify persons and matters within its jurisdiction and prescribe different require-

ments for different classes of persons or matters. All rules and regulations of the Commission shall be filed with its secretary and shall be kept open in convenient form for public inspection and examination during reasonable business hours.

USE OF JOINT BOARDS; COOPERATION WITH STATE COMMISSIONS

SEC. 17. (a) The Commission may refer any matter arising in the administration of this Act to a board to be composed of a member or members, as determined by the Commission, from the State or each of the States affected or to be affected by such matter. Any such board shall be vested with the same power and be subject to the same duties and liabilities as in the case of a member of the Commission when designated by the Commission to hold any hearings. The action of such board shall have such force and effect and its proceedings shall be conducted in such manner as the Commission shall by regulations prescribe. The Board shall be appointed by the Commission from persons nominated by the State commission of each State affected, or by the Governor of such State if there is no State commission. Each State affected shall be entitled to the same number of representatives on the board unless the nominating power of such State waives such right. The Commission shall have discretion to reject the nominee from any State, but shall thereupon invite a new nomination from that State. The members of a board shall receive such allowances for expenses as the Commission shall provide. The Commission may, when in its discretion sufficient

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reason exists therefor, revoke any reference to such a board.

(b) The Commission may confer with any State commission regarding rate structures, costs, accounts, charges, practices, classifications, and regulations of natural-gas companies; and the Commission is authorized, under such rules and regulations as it shall prescribe, to hold joint hearings with any State commission in connection with any matter with respect to which the Commission is authorized to act. The Commission is authorized in the administration of this Act to avail itself of such cooperation, services, records, and facilities as may be afforded by any State commission.

(c) The Commission shall make available to the several State commissions such information and reports as may be of assistance in State regulation of natural-gas companies. Whenever the Commission can do so without prejudice to the efficient and proper conduct of its affairs, it may, upon request from a State commission, make available to such State commission as witnesses any of its trained rate, valuation, or other experts, subject to reimbursement of the compensation and traveling expenses of such witnesses. * * *

* * * * *

REHEARINGS; COURT REVIEW OF ORDERS

SEC. 19. (b) Any party to a proceeding under this Act aggrieved by an order issued by the Commission in such proceeding may obtain a review of such order in the circuit court of appeals of the United States for any circuit wherein the natural-gas company to which the order relates is located

or has its principal place of business, or in the United States Court of Appeals for the District of Columbia, by filing in such court, within sixty days after the order of the Commission upon the application for rehearing, a written petition praying that the order of the Commission be modified or set aside in whole or in part. A copy of such petition shall forthwith be served upon any member of the Commission and thereupon the Commission shall certify and file with the court a transcript of the record upon which the order complained of was entered. Upon the filing of such transcript such court shall have exclusive jurisdiction to affirm, modify, or set aside such order in whole or in part. No objection to the order of the Commission shall be considered by the court unless such objection shall have been urged before the Commission in the application for rehearing unless there is reasonable ground for failure so to do. The finding of the Commission as to the facts, if supported by substantial evidence, shall be conclusive. If any party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the proceedings before the Commission, the court may order such additional evidence to be taken before the Commission and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The Commission may modify its findings as to the facts by reason of the additional evidence so taken, and it shall file with the court such modified or new findings, which if supported by sub-

stantial evidence, shall be conclusive, and its recommendation, if any, for the modification or seting aside of the original order. The judgment and decree of the court, affirming, modifying, or setting aside, in whole or in part, any such order of the Commission, shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in sections 239 and 240 of the Judicial Code, as amended (U. S. C., title 28, secs. 346 and 347).

APPENDIX B

HOPE NATURAL GAS COMPANY

COMPARATIVE STATEMENTS, 1939–1942

TABLE 1.—*Hope Natural Gas Company, comparative statement of revenues and expenses, per books, years ended December 31, 1939–1942, inclusive*

(1)	Gas revenue at old rates				1942 revenue at new rates for full year
	1939 (2)	1940 (Commission test period) (3)	1941 (4)	1942 [2] (5)	(6)
REVENUES					
Interstate sales					
The East Ohio Gas Co	$12,359,500	$14,726,736	$16,078,934	$18,570,950	$15,009,398
The Peoples Nat. Gas Co.[1]	1,371,757	3,457,207	5,722,362	5,634,367	4,523,365
Fayette County Gas Co	264,725	270,618	284,748	260,718	235,888
The River Gas Co	83,174	136,063	119,595	133,036	133,036
Manufacturers Lt. & Ht. Co	787,738	706,130	629,701	630,712	570,644
Total Interstate	14,866,894	19,296,755	22,835,340	25,229,783	20,472,331
Other revenues	3,472,972	5,099,663	5,296,788	3,988,036	
Total revenues—per books	18,339,866	24,396,418	28,132,128	29,217,819	
OPERATING EXPENSE					
Production expenses	1,439,971	1,651,862	1,790,100	2,322,256	
Gas purchased	7,746,854	8,629,481	10,432,993	10,666,307	
Transmission expenses [1]	1,791,070	2,303,831	2,730,636	2,869,637	
Distribution expenses	201,929	218,760	240,684	269,369	
Cust. acctg. & coll. expenses	160,288	160,265	160,768	179,154	
Sales promotion	5,982	6,089	1,617	30	
Administrative & general	1,593,814	1,727,314	1,858,625	1,576,012	
Taxes (except Fed. income)	1,211,732	1,464,514	1,540,105	1,509,639	
Subtotal	14,151,549	16,162,116	18,755,528	19,392,404	
Depreciation & depletion	1,224,769	1,469,582	1,551,001	1,455,009	
Exploration and dev. costs	455,179	427,233	761,568	552,704	
Total except Fed. income tax	15,831,497	18,058,931	21,068,097	21,400,117	
Net operating income (before Fed. income tax)	2,508,369	6,337,487	7,064,031	7,817,702	
Federal income tax	225,000	1,000,000	1,750,000	2,020,000	
Net operating income	2,283,369	5,337,487	5,314,031	5,797,702	
Source	R. III, p. 233	R. III. p. 295	Annual report, p. 301	Annual report, p. 301	

[1] Reduced by refund of 3¢ per MCF $115,923 $292,158 $483,580

[2] Includes $1,952,606 of revenues not received due to rate reduction effective July 15, 1942. See computation on following schedule.

TABLE 1–A.—*Hope Natural Gas Company, statement of M. c. f. of gas sold during 1942 showing (a) actual revenues for 1942 (6½ months at old rates and 5½ months at new rates), (b) revenues for 1942 computed at old rates for full year, (c) revenues for 1942 computed at new rates for full year*

(1)	M. C. F.	Revenue 1942 [1]	1942 revenue computed at—		1942 revenue computed at—		Reduction in revenues based on full year 1942
			Average rate before F. P. C. order	Amount	Average rate after F. P. C. order	Amount	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
INTERSTATE SALES			*Cents*		*Cents*		
The East Ohio Gas Company	50, 879, 314	$17, 143, 714	36. 5	$18, 570, 950	29. 5	$15, 009, 398	$3, 561, 552
The Peoples Natural Gas Company	15, 871, 455	5, 143, 108	35. 5	5, 634, 367	28. 5	4, 523, 365	1, 111, 002
Fayette County Gas Company	827, 678	250, 666	31. 5	260, 718	28. 5	235, 888	24, 830
The River Gas Company	380, 103	133, 036	35. 0	133, 036	35. 0	133, 036	----------
Manufacturers Light & Heat Company	2, 002, 261	606, 653	31. 5	630, 712	28. 5	570, 644	60, 068
	69, 960, 811	23, 277, 177	----------	25, 229, 783	----------	20, 472, 331	4, 757, 452
INTRASTATE SALES							
Residential	4, 618, 887	1, 726, 740	No change		No change		----------
Commercial	708, 477	265, 350					----------
Industrial	6, 341, 049	1, 584, 144					----------
Pub. St. and Highway Ltg	470	173					----------
Other sales to public authorities	676	225					----------
Other sales	445, 894	124, 419					----------
Intrastate sales to other gas utilities	231, 091	37, 980					----------
Total	12, 346, 544	3, 739, 031	----------	3, 739, 031	----------	3, 739, 031	----------
Total gas service revenues	----------	----------	----------	----------	----------	----------	----------
Other gas revenues	----------	249, 004	----------	249, 004	----------	249, 004	----------
Total operating revenues	82, 307, 355	27, 265, 212	----------	29, 217, 818	----------	24, 460, 366	----------

[1] Reflects rate reduction as of July 15, 1942 ordered by Federal Power Commission in its opinion.

TABLE 2.—*Hope Natural Gas Company, comparative statement of M. C. F. of gas sales, per books, years ended December 31, 1939–1942, inclusive*

	1939	1940	1941	1942
INTERSTATE SALES—M. C. F.				
The East Ohio Gas Company	33,907,672	40,376,091	44,320,966	50,879,314
The Peoples Natural Gas Company	3,864,104	9,738,612	16,119,330	15,871,455
Fayette County Gas Company	840,398	859,106	903,962	827,678
The River Gas Company	237,640	388,750	341,699	380,103
Manufacturers Light & Heat Company	2,500,755	2,241,684	1,999,052	2,002,261
Total interstate sales—M. C. F	41,350,569	53,604,243	63,685,009	69,960,811
Other sales—M. C. F	10,011,412	15,451,527	16,251,484	12,346,544
Total sales—M. C. F	51,361,981	69,055,770	79,936,493	82,307,355
Source	R. III, p. 257	R. III, p. 307	Annual report, p. 425	Annual report, p. 425

TABLE 3.—*Hope Natural Gas Company, comparative statement of normal tax net income, per income tax returns*

	1939	1940	1941	1942
Normal tax net income, per income tax return [1]	$1,160,733	$3,916,999	$5,127,652	$4,397,436
5½ months' rate reduction reflected in 1942 income				1,952,606
Comparative normal tax net income	1,160,733	3,916,999	5,127,652	6,350,042

[1] Federal income tax returns have not been closed since 1933.

TABLE 4.—*Hope Natural Gas Company, comparative statement of gas plant and other assets—per books*

	(R. III, p. 17) Dec. 31, 1939	(R. III, p. 17) Dec. 31, 1940	(Annual report, p. 200) Dec. 31, 1941	(Annual report, p. 200) Dec. 31, 1942
Total utility plant	$64, 250, 655	$65, 193, 287	$66, 698, 621	$67, 392, 658
Reserves for depl., depr., and amort	46, 041, 155	46, 737, 713	47, 296, 193	48, 079, 707
Net investment in plant	18, 209, 500	18, 455, 574	19, 402, 428	19, 312, 951
Net current assets (principally temporary cash investments)	14, 678, 387	17, 377, 408	16, 780, 619	18, 805, 973
Fund and miscellaneous accounts	334, 903	295, 489	2, 504, 547	3, 568, 169
Total net investment in assets, etc	33, 222, 790	36, 128, 471	38, 687, 594	41, 687, 093
Represented by:				
Common stock	27, 969, 300	27, 969, 300	27, 969, 300	27, 969, 300
Surplus	5, 253, 490	8, 159, 171	10, 718, 294	13, 717, 793
Invested capital—per books	33, 222, 790	36, 128, 471	38, 687, 594	41, 687, 093
Invested capital—per tax returns, as adjusted		31, 658, 887	33, 821, 749	36, 562, 811

TABLE 5.—*Hope Natural Gas Company, indicated rate reduction based on findings of the Commission for the year 1939 and reported changes in plant, revenues, and expenses to December 31, 1942*

	1939 per commission findings	Increase per books	1942
Operating revenues from interstate sales	$14,866,894	$10,362,889	$25,229,783
Operating deductions:			
Operating expenses, except Federal income tax	11,805,933	5,053,556	16,859,489
Federal income tax	191,521	2,348,496	[1] 2,540,017
Total	11,997,454	7,402,052	19,399,506
Net operating revenues from interstate sales	2,869,440	2,960,837	5,830,277
Return at 6½%	2,101,216	219,516	[2] 2,320,732
Excess earnings before income tax saving	768,224	2,741,321	3,509,545
Income tax saving	151,805	2,187,892	2,339,697
Total indicated rate reduction	920,029	4,929,213	5,849,242

[1] Normal tax net income, per book accruals, 1942 ..... $4,397,436
Add: 5½ months rate reduction reflected in 1942 income 1,952,606

Total 6,350,042
Normal tax (24%) and surtax (16%) $2,540,017

[2] Rate base—1939 ..... $32,326,398
Net increase, per books 3,377,171

Rate base—1942 35,703,569
6½% return 2,320,732

Net increase 1939–1942

	Jan. 1, 1939	*Increase*	*Dec. 31, 1942*
Total utility plant, per books	$56,649,799	$10,742,859	$67,392,658
Reserves for depl., depr. and amort	40,714,019	7,365,688	48,079,707
Net investment per books	15,935,780	3,377,171	19,312,951

NOTE.—Includes former Reserve Gas Company property.

APPENDIX C

TABULATION OF STATE STATUTES CONCERNING THE ACCOUNTS AND THE ISSUANCE OF SECURITIES OF ELECTRIC OR GAS UTILITIES

AUTHORITY TO REGULATE ISSUANCE OF SECURITIES

The following State statutes authorize public service commissions to regulate the issuance of securities by electric or gas utilities:

States	*Statutory Reference*
Alabama	Secs. 9744–9753 Code of Ala., 1923.
Arizona	Sec. 708, Rev. Code of Ariz., 1928.
Arkansas	Act 324, Acts of Gen. Assembly of Ark., for 1935, Sects. 58 and 59.
California	L. 1915, Ch. 91, Sec. 52 (a).
Connecticut	Ch. 191, Public Acts of 1935.
District of Columbia	D. C. Code, T. 26, Sec. 99.
Georgia	Sec. 2665, 1926 Code.
Illinois	R. S. 1933, Ch. 111a, Sec. 35.
Indiana	Ch. 5, Pub. Serv. Acts, Secs. 54–503, 54–504.
Kansas	Sec. 66–125, Gen. Sts. of Kans., 1935.
Kentucky	Sec. 3959–24, Ky. Stats.
Maine	Sec. 41, Ch. 62, Rev. Stats.
Maryland	Sec. 392, Art. 23, Ann. Code of P. G. L. of Md.
Massachusetts	Ch. 222, Mass. Acts of 1935.
Michigan	Sec. 11077, Compiled Laws of 1929.
Missouri	Secs. 5196–5198, Rev. St., 1929.
Nebraska	Secs. 75–1201, C. S., 1929.
New Hampshire	Ch. 24, Sec. 1, P. L. of N. H.
New Jersey	Sec. 167–24 (e) & (f), Supp.
New Mexico	Sec. 18, Chap. 84 (H. B. 29) Laws 1941.
New York	Sec. 69, Public Service Law.
North Carolina	C. S. 1112 (18); Sec. 18, Ch. 307 P. L. 1933.
North Dakota	Sec. 4609c 20; Supp. C. L. of N. D.
Ohio	Secs. 614–53–54–55, Gen. Code of Ohio.
Oregon	Ch. 441, Ore. L. 1933.
Pennsylvania	Art. VI, Secs. 601–604, L. 1937.
Rhode Island	Ch. 2345 P. L. of 1926.
South Carolina	1932 Reg. Act, Sec. 1 (i), Sec. 2 (m) & (s).
Tennessee	Sec. 5452 (d), Code of Tenn.
Vermont	Sec. 5953, P. L. Vt. Also Secs. 5991 & 6106.
Virginia	Ch. 160A, Secs. 4073 (1)–4073 (16).
Washington	Sec. 2, Ch. 540, L. 1933.
Wisconsin	Ch. 184, Wisc. Stats.

The following States have no such statute:

Colorado	Montana
Delaware [1]	Nevada
Florida [2]	Oklahoma
Idaho	South Dakota [2]
Iowa [3]	Texas [2]
Louisiana	Utah
Minnesota [2]	West Virginia
Mississippi [2]	Wyoming

AUTHORITY TO PRESCRIBE UNIFORM SYSTEM OF ACCOUNTS

The following State statutes authorize public service commissions to prescribe a uniform system of accounts for electric or gas utilities:

States	Statutory Reference	Date of First Order Adopting Uniform System of Accounts
Alabama	Secs. 9786–9788, Code of Ala., 1923	February 6, 1924.
Arizona	Sec. 3, Const. Art. XV	1926.
Arkansas	Act 324, Acts of Gen. Assembly of Ark., 1925, Secs. 22 (a) & 8 (c)	January 1, 1943.
California	Sec. 48, Act 6386, G. L.	January 10, 1916.
Colorado	Sec. 33, p. 480, L. 1913	November 1, 1923.
Connecticut	Sec. 3602, Gen. Sts. Rev. 1930	1930.
District of Columbia	Sec. 32–37, T. 26, D. C. Code	October 24, 1923.
Georgia	Sec. 2663, Code 1926	October 27, 1913.
Idaho	Sec. 59–524, —525, Id. Code Ann.	1919.
Illinois	Secs. 11–15, Ch. 111 2/3, R. S. 1933	
Indiana	Sec. 54–209, P. S. C. Acts	May 1, 1913.
Kansas	Secs. 66–122, 123, R. S.	October 27, 1922.
Kentucky	Sec. 4 (i), p. 580, L. 1934	1935.
Louisiana [1]	(See note)	
Maine	Secs. 17–21, Ch. 62, R. S.	July 1, 1915.
Maryland	Sec. 388, Art. 23, Ann. Code, P. G. L. of Md.	June 12, 1911.
Massachusetts	Ch. 382, Mass. Acts of 1887	1887.
Michigan	Sec. 11098, Ch. 209, C. L.	December 18, 1914.

[1] The Louisiana Commission advises that it has adopted the gas and electric systems of accounts prescribed by the National Association of Railroad and Utilities Commissioners which systems of accounts have been used by the Louisiana Commission for a number of years.

See, "State Commission Jurisdiction and Regulation of Electric and Gas Utilities" (F.P.C., Jan. 1941).

States	Statutory Reference	Date of First Order Adopting Uniform System of Accounts
Missouri	Sec. 5190, Mo. Stats. Ann	January 1, 1915.
Montana	Sec. 3885, Code of 1921	1913.
Nebraska	Sec. 1, Const. Art. X	None adopted.
Nevada	Sec. 6109, C. L	1923.
New Hemisphere	Sec. 7, Ch. 240, Public Laws	1914.
New Jersey	Sec. 167-17 (d), Supp	December 3, 1912.
New Mexico	Secs. 28 and 30 of P. U. Act, Chap. 84, Laws of 1941.	January 1, 1942.
New York	Sec. 66, subd. 4, P. S. L	October 21, 1908.
North Carolina	C. S. 1112 (13); Sec. 13, Ch. 307, P. L. 1933	November 18, 1931.
North Dakota	Ch. 192, L. 1919	July 29, 1921.
Ohio	Sec. 614-10. Gen, Code	January 1, 1915.
Oklahoma	Okla. Stats. 3620	July 1, 1914.
Oregon	Or. C., Sec. 61-211-212	June 16, 1913.
Pennsylvania	Sec. 1404, Art. V, P. U. Law	November 19, 1918.
Rhode Island	Sec. 58, Ch. 253, G. L. 1923	January 1, 1937.
South Carolina	Sec. 2 (o), 1932 Reg. Act	January 1, 1931.
Tennessee	Sec. 5451, Tenn. Code	December 28, 1922.
Utah	Sec. 76-4-22, R. S	December 26, 1922.
Vermont	Sec. 6096, P. L. of Vt	May 27, 1929.
Virginia	Sec. 4070, Va. Code	December 11, 1920.
Washington	Sec. 2, Ch. 151, L. 1933	January 29, 1913.
West Virginia	Sec. 8, Art. 2, Ch. 24, Code of W. Virginia	March 6, 1923.
Wisconsin	Sec. 196.06 Wisc. Stats	December 15, 1908.
Wyoming	Sec. 94-144, R. S. 1931	March 13, 1923.

The following States have no such statute:

Delaware [1]
Florida [2]
Iowa [3]
Minnesota [2]
Mississippi [2]
South Dakota [2]
Texas [2]

[1] Delaware has no regulatory commission.

[2] Regulatory Commission of this State has no jurisdiction over electric or gas utilities.

[3] Regulatory Commission of this State has no jurisdiction over valuation or rates of electric utilities.

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