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**COMPLAINT OF CITY OF CLEVELAND AGAINST HOPE NATURAL
GAS COMPANY**

Filed July 6, 1938—F. P. C. Docket No. G-100

1 The City of Cleveland brings this its complaint against Hope Natural Gas Company and for its cause of action avers:

First: Complainant, the City of Cleveland (hereinafter for convenience termed "Cleveland"), is a municipal corporation duly organized and existing under the laws and Constitution of the State of Ohio, and is a municipality within the meaning of the Natural Gas Act.

Second: Defendant, Hope Natural Gas Company (hereinafter for convenience designated as "Hope"), is a corporation duly organized and existing under the laws of the State of West Virginia, has its principal place of business in the City of Pittsburgh in the State of Pennsylvania, and is a natural gas company engaged in the transportation of natural gas in interstate commerce and the sale in interstate commerce of such gas for resale and is a public utility within the meaning of the Natural Gas Act.

2 Third: The only company distributing natural gas in Cleveland is The East Ohio Gas Company (hereinafter for convenience termed "East Ohio"), a wholly owned subsidiary of the Standard Oil Company (New Jersey), which purchases approximately 70 percent of the gas which it merchandises in Ohio from the defendant Hope, likewise a wholly owned subsidiary of the Standard Oil Company (New Jersey), said gas being produced in the State of West Virginia and delivered to East Ohio at the Ohio River.

Fourth: The price charged by defendant Hope to East Ohio for resale to consumers in Cleveland and elsewhere for all gas including domestic, commercial and regular industrial gas, and except only certain gas sold for resale to large industrial consumers under special contract, is 38½ cents per M. c. f. A copy of the Hope-East Ohio contract is filed herewith and made a part hereof as fully as though physically incorporated herein. Under said Hope-East Ohio contract, East Ohio pays to Hope annually a total of approximately \$13,000,000.

Fifth: The price charged by defendant Hope to East Ohio for natural gas for resale to domestic, commercial and small indus-

trial consumers in Cleveland and elsewhere is excessive, unjust, unreasonable, greatly in excess of the price charged by Hope to nonaffiliated companies at wholesale for resale to domestic, commercial, and small industrial consumers, and greatly in excess of the price charged by Hope to East Ohio for resale to certain favored industrial consumers in Ohio, and therefore is further unduly discriminatory between customers and between classes of service.

Sixth: On May 20, 1937, the City of Cleveland passed a rate ordinance No. 106556, regulating and fixing the prices and terms upon which East Ohio shall furnish natural gas for and during the period from June 30, 1937 until July 1, 1939. East Ohio has appealed from said ordinance to The Public Utilities Commission of Ohio, and has suspended the ordinance rates by the filing of a bond to refund to its customers in Cleveland the
3 excess collected in the interim over and above the ordinance rate or any other rate found to be fair by The Public Utilities Commission of Ohio. In this proceeding, now pending before The Public Utilities Commission of Ohio and known as Case No. 10202 on its docket, East Ohio seeks to include in operating expenses said price of 38½ cents per M. c. f. paid by it to its affiliate, the defendant Hope, at the rate fixed in said intercorporate contract between Hope and East Ohio for natural gas delivered at the Ohio River for transportation to and resale in Cleveland and elsewhere, commonly known as the River Rate.

A determination by this Honorable Commission of the fair, just, and reasonable rate for gas sold by Hope to East Ohio at the Ohio River should be of assistance in the cases of Cleveland and other Ohio municipalities now pending before The Public Utilities Commission of Ohio and is essential to the determination of a fair, just, and reasonable rate for natural gas in Cleveland after the expiration of the present ordinance approximately one year hence.

Seventh: The filing of this petition has been authorized and directed by resolution of the Council of the City of Cleveland adopted July 1, 1938.

Wherefore, Complainant prays for an investigation by the Federal Power Commission, a finding that said River Rate is excessive, unreasonable, and unjustly discriminatory, and for the fixing of a just, fair and reasonable rate.

**ANSWER OF HOPE NATURAL GAS COMPANY TO COMPLAINT
OF THE CITY OF CLEVELAND**

Filed August 18, 1938—F. P. C. Docket No. G-100

1 Hope Natural Gas Company, hereinafter called "Hope,"
for its answer to the petition herein filed—

1. Admits the allegations contained in paragraph First of the petition.

2. Admits the allegations contained in paragraph Second of the petition.

3. Admits the allegations contained in paragraph Third of the petition.

4. Admits that the copies of its contracts with The East Ohio Gas Company, hereinafter called "East Ohio," filed with the petition, are true copies and begs leave to refer thereto for an exact statement of the price and the other terms and conditions of these contracts. Admits that under said contracts East Ohio paid to Hope for natural gas delivered thereunder during the year 1937 the sum of \$12,757,670 for 35,074,416 M. c. f. of natural gas or an average price of 36.37¢ per M. c. f.

5. (a) Denies the allegations of paragraph Fifth of the petition in their entirety.

(b) As to the charge that the contract price between Hope and East Ohio for natural gas for resale to domestic, commercial and small industrial consumers is excessive and unreasonable, Hope avers that said price does and not has not in any recent
2 years been sufficient to yield more than a fair return on the fair value of its property devoted to that service; that this price since 1921 has been repeatedly investigated by the cities of Cleveland and Akron, Ohio, and by The Public Utilities Commission of Ohio, all of whom have made valuations of Hope's property, audited its operating expenses and otherwise investigated its property and operations, and that said price was recently approved by said Commission for the years 1933 to 1937 *In re East Ohio Gas Company*, 17 P. U. R. (N. S.) 433, and is now being reexamined by said Commission in the present controversy between East Ohio and the City of Cleveland arising out of the ordinance of May 20, 1937, referred to in the petition.

(c) As to the charge that this contract price to East Ohio is "greatly in excess of the price charged by Hope to nonaffiliated companies" and others and is therefore discriminatory, Hope avers that the differences in prices provided by its contracts with

East Ohio and with nonaffiliated companies arise solely out of differences in the terms and conditions of service; that Hope's contracts with nonaffiliated companies are expressly subordinated to the rights of the domestic consumers of East Ohio, among others, in the event of a shortage; that these contracts with nonaffiliated companies specify yearly, monthly and daily deliveries with limited variations therefrom and provide for deliveries principally at points in Hope's producing fields at low pressures, any further work of compression and transmission in West Virginia being performed by the purchasers. In the case of Hope's contract with East Ohio the requirements of the domestic consumers of that company are given preference over the consumers of all non-affiliated purchasers; Hope's obligation is to deliver to East Ohio the requirements of the latter's domestic consumers in Ohio, whatever these requirements may be, and to deliver gas at the Ohio River at pressures sufficient to carry the gas to consumers' burner tips throughout the territory served by East Ohio. The latter company is not required to and does not maintain compressing stations for the transmission and distribution of this gas in Ohio. These substantial differences and others in the terms and conditions of service under Hope's contracts with East Ohio and with nonaffiliated companies are the basis for the differences in prices specified therein.

(d) As to the charge that this contract price is "greatly in excess of the price charged by Hope to East Ohio for resale to certain favored industrial consumers in Ohio" and is therefore unduly discriminatory, Hope avers that said industrial gas is not sold by East Ohio to favored consumers but under con-
3 tracts and schedules duly filed with and approved by The Public Utilities Commission of Ohio, such schedules being applicable to all consumers using the specified quantities and willing to accept service under the terms offered; that such gas is sold subject to interruption when necessary to furnish a full supply to other consumers and under a high load factor; that East Ohio receives for this gas as much as it can be sold for in competition with other fuels; that the sale of such gas by East Ohio and Hope at the prices received enables both companies to sell regular gas at lower prices than would otherwise be possible; that the discount thereon provided in said Hope-East Ohio contract is based on the special terms and conditions of service applicable to such gas, and is not unduly discriminatory.

6. (a) As to paragraph Sixth of the petition, Hope admits that on May 20, 1937, the City of Cleveland passed an ordinance as stated in the petition; admits that East Ohio has appealed from said ordinance to The Public Utilities Commission of Ohio; avers that the average rate previously in effect for domestic consumers in the City of Cleveland was substantially 57¢ per M. c. f., whereas the ordinance of May 20, 1937 fixes a rate that would average approximately 55½¢ per M. c. f.; avers that upon appealing to said Public Utilities Commission in accordance with the provisions of the Public Utilities Act of Ohio, East Ohio filed a bond to refund to consumers in Cleveland such part, if any, of the 1½¢ difference between said two rates as the Commission might subsequently find to be excessive; admits that in said proceeding now pending before The Public Utilities Commission of Ohio, East Ohio has included in operating expenses the sums paid by it to Hope for gas at the Ohio River at the present rate fixed in said contracts heretofore referred to.

(b) Hope denies that a determination by this Honorable Commission of the fair rate for gas sold by Hope to East Ohio at the Ohio River will be of any assistance in the case of the City of Cleveland now pending before The Public Utilities Commission of Ohio, averring that said Commission is required to determine the fairness of said contract price as of June 30, 1937, the effective date of said ordinance; that said Commission has had submitted to it and is checking and investigating complete inventories, valuations, operating expenses and other pertinent information relating to Hope; that such evidence has been submitted not only by East Ohio but much of it by the representatives of the City of Cleveland; and that both the representatives of
4 the City of Cleveland and of The Public Utilities Commission of Ohio have had access at all times to the books, records and property of Hope in so far as said Commission deemed pertinent. Hope respectfully suggests that while this Honorable Commission is given the power to determine interstate rates prospectively, it is not given the power to determine whether the rate in effect on June 30, 1937 was or was not unreasonable or unlawful.

(c) Hope denies that a determination of a fair contract price between East Ohio and Hope by this Honorable Commission is essential to the determination of a fair and reasonable rate for natural gas in Cleveland either now or after the expiration of the present ordinance in June, 1939. It avers that in repeated rate

controversies between the Cities of Cleveland and Akron and East Ohio since 1921 the Ohio courts or Public Utilities Commission hearing such controversy has in each instance imposed upon East Ohio the burden of proving that the prices at the time paid to Hope and reflected in its operating expenses were fair and reasonable prices; that in connection with the trial of said cases the engineers, accountants and attorneys of the respective cities have had access to the properties, books and records of Hope in so far as these were essential in determining Hope's costs; that the City of Cleveland had reports of its own engineers and accountants on Hope's properties and operations as of 1921, again as of 1928, again as of 1931 and again as of 1937, and additionally that the City of Akron had similar reports as of 1932. Because of the common ownership of the stock of Hope and East Ohio The Public Utilities Commission of Ohio, the City of Cleveland and East Ohio have all assented to the position in the present controversy pending before said Commission that the contract price between the two affiliated companies at the river is not even prima facie evidence of its fairness and both parties introduced evidence as to, and the Commission itself is investigating, the value of the properties of Hope, its operations and its operating expenses in as complete detail as for East Ohio. Moreover, the Commission in former cases involving East Ohio rates has allowed as an operating expense to East Ohio the sums paid to Hope on account of gas delivered at the Ohio River only to the extent that it found them to be fair and reasonable. In the present Cleveland case the matter is being submitted to the Commission by all parties on the assumption that the Commission will again decide and allow in East Ohio's operating expenses whatever it finds to be the fair and reasonable river rate as of June 30, 1937, not exceeding, however, the price actually paid. In view of the facts hereinabove stated Hope

5 avers that the properties, records, and operations of East Ohio and Hope, and their relations, have been under almost continuous investigation by the Cities of Cleveland and Akron for the past ten years and by The Public Utilities Commission of Ohio for the past seven years and denies that the exercise by this Commission of its jurisdiction as sought in the petition is necessary to enable either the City of Cleveland or said Commission to fix a fair rate for natural gas service in Cleveland or elsewhere.

7. Admits the allegations contained in paragraph Seventh of the petition.

**COMPLAINT OF THE CITY OF AKRON AGAINST HOPE
NATURAL GAS COMPANY**

Filed July 25, 1938—F. P. C. Docket No. G-101

1 The city of Akron, Ohio, brings this its complaint against Hope Natural Gas Company and for its cause of action avers:

First: Complainant, the City of Akron (hereafter for convenience termed "Akron"), is a municipal corporation duly organized and existing under the laws and Constitution of the State of Ohio, and is a municipality within the meaning of the Natural Gas Act.

Second: Defendant, Hope Natural Gas Company (hereinafter for convenience designated as "Hope"), is a corporation duly organized and existing under the laws of the State of West Virginia, has its principal place of business in the City of Pittsburgh in the State of Pennsylvania, and is a natural gas company engaged in the transportation of natural gas in interstate commerce and the sale in interstate commerce of such gas for resale and is a public utility within the meaning of the Natural Gas Act.

Third: The only company distributing natural gas in Akron is The East Ohio Gas Company (hereinafter for convenience termed "East Ohio"), a wholly owned subsidiary of the Standard Oil Company (New Jersey), which purchases approximately 70 per cent of the gas which it merchandises in Ohio from the
2 defendant Hope, likewise a wholly owned subsidiary of the Standard Oil Company (New Jersey), said gas being produced in the State of West Virginia and delivered to East Ohio at the Ohio River.

Fourth: The price charged by defendant Hope to East Ohio for resale to consumers in Akron and elsewhere for all gas including domestic, commercial and regular industrial gas, and except only certain gas sold for resale to large industrial consumers under special contract, is 38½ cents per M. c. f. A copy of the Hope-East Ohio contract is filed herewith and made a part hereof as fully as though physically incorporated herein. Under said Hope-East Ohio contract, East Ohio pays to Hope annually a total of approximately \$13,000,000.

Fifth: The price charged by defendant Hope to East Ohio for natural gas for resale to domestic, commercial and small industrial consumers in Akron and elsewhere is excessive, un-

just, unreasonable, greatly in excess of the price charged by Hope to nonaffiliated companies at wholesale for resale to domestic, commercial, and small industrial consumers, and greatly in excess of the price charged by Hope to East Ohio for resale to certain favored industrial consumers in Ohio, and therefore is further unduly discriminatory between customers and between classes of service.

Sixth: On May 11, 1937, the City of Akron passed a rate ordinance, No. 136-1937, regulating and fixing the prices and terms upon which East Ohio shall furnish natural gas for and during the period from June 10, 1937 until July 10, 1941.

East Ohio has appealed from said ordinance to The Public Utilities Commission of Ohio, and has suspended the ordinance rates by the filing of a bond to refund to its customers in Akron the excess collected in the interim over and above the ordinance rate or any other rate found to be fair by The Public Utilities Commission of Ohio. In this proceeding, now pending before The Public Utilities Commission of Ohio and known as Case No. 10162 on its docket, East Ohio seeks to include in operating expenses said price of 38½ cents per M. c. f. paid by it to its affiliate, the defendant Hope, at the rate fixed in said intercorporate contract between Hope and East Ohio for natural gas delivered at the Ohio River for transportation to and resale in Akron and elsewhere, commonly known as the River Rate.

A determination by this Honorable Commission of the fair, just, and reasonable rate for gas sold by Hope to East Ohio at the Ohio River should be of assistance in the cases of Akron and other Ohio municipalities now pending before The Public Utilities Commission of Ohio and is essential to the determination of a fair, just, and reasonable rate for natural gas in Akron after the expiration of the present ordinance.

Seventh: The filing of this petition has been authorized and directed by resolution of the Council of the City of Akron adopted July 5, 1938.

Wherefore, Complainant prays for an investigation by the Federal Power Commission, a finding that said River Rate is excessive, unreasonable, and unjustly discriminatory, and for the fixing of a just, fair, and reasonable rate.

**ANSWER OF HOPE NATURAL GAS COMPANY TO COMPLAINT
OF THE CITY OF AKRON**

Filed August 26, 1938—F. P. C. Docket No. G-101

1 Hope Natural Gas Company, hereinafter called "Hope,"
for its answer to the petition herein filed—

1. Admits the allegations contained in paragraph First of the petition.

2. Admits the allegations contained in paragraph Second of the petition.

3. Admits the allegations contained in paragraph Third of the petition.

4. Admits that the copies of its contracts with The East Ohio Gas Company, hereinafter called "East Ohio," filed with the petition, are true copies and begs leave to refer thereto for an exact statement of the price and the other terms and conditions of these contracts. Admits that under said contracts East Ohio paid to Hope for natural gas delivered thereunder during the year 1937 the sum of \$12,757,670 for 35,074,416 M. c. f. of natural gas or an average price of 36.37¢ per M. c. f.

5. (a) Denies the allegations of paragraph Fifth of the petition in their entirety.

(b) As to the charge that the contract price between Hope and East Ohio for natural gas for resale to domestic, commercial, and small industrial consumers is excessive and unreasonable, Hope avers that said price does not and has not in any recent years
2 been sufficient to yield more than a fair return on the fair value of its property devoted to that service; that this price since 1921 has been repeatedly investigated by the cities of Cleveland and Akron, Ohio, and by The Public Utilities Commission of Ohio, all of whom have made valuations of Hope's property, audited its operating expenses and otherwise investigated its property and operations, and that said price was recently approved by said Commission as more particularly set forth in paragraph 6 (a) hereof, and is now being reexamined by said Commission in the present controversy between East Ohio and the City of Akron arising out of the ordinance of May 11, 1937, referred to in the petition and upon East Ohio's appeal to said Commission from an ordinance of the City of Cleveland passed May 20, 1937, prescribing East Ohio's rates in Cleveland for a period of two years from June 30, 1937. Said Cleveland ordinance and said

proceeding thereon before said Commission are fully described in the petition and answer of the parties in *City of Cleveland vs. Hope Natural Gas Company*, No. G-100 before this Honorable Commission. Hope begs leave to refer to said petition and answer for a more complete statement of said Cleveland ordinance and said proceeding.

(c) As to the charge that this contract price to East Ohio is "greatly in excess of the price charged by Hope to nonaffiliated companies" and others and is therefore discriminatory, Hope avers that the differences in prices provided by its contracts with East Ohio and with nonaffiliated companies arise solely out of differences in the terms and conditions of service; that Hope's contracts with nonaffiliated companies are expressly subordinated to the rights of the domestic consumers of East Ohio, among others, in the event of a shortage; that these contracts with nonaffiliated companies specify yearly, monthly, and daily deliveries with limited variations therefrom and provide for deliveries principally at points in Hope's producing fields at low pressures, any further work of compression and transmission in West Virginia being performed by the purchasers. In the case of Hope's contract with East Ohio the requirements of the domestic consumers of that company are given preference over the consumers of all nonaffiliated purchasers; Hope's obligation is to deliver to East Ohio the requirements of the latter's domestic consumers in Ohio, whatever these requirements may be, and to deliver gas at the Ohio River at pressures sufficient to carry the gas to consumers' burner tips throughout the territory served by East Ohio. The latter
3 company is not required to and does not maintain compressing stations for the transmission and distribution of this gas in Ohio. These substantial differences and others in the terms and conditions of service under Hope's contracts with East Ohio and with nonaffiliated companies are the basis for the differences in prices specified therein.

(d) As to the charge that this contract price is "greatly in excess of the price charged by Hope to East Ohio for resale to certain favored industrial consumers in Ohio" and is therefore unduly discriminatory, Hope avers that said industrial gas is not sold by East Ohio to favored consumers but under contracts and schedules duly filed with and approved by The Public Utilities Commission of Ohio, such schedules being applicable to all consumers using the specified quantities and willing to accept service under the terms offered; that such gas is sold subject to interruption when neces-

sary to furnish a full supply to other consumers and under a high load factor; that East Ohio receives for this gas as much as it can be sold for in competition with other fuels; that the sale of such gas by East Ohio and Hope at the prices received enables both companies to sell regular gas at lower prices than would otherwise be possible; that the discount thereon provided in said Hope-East Ohio contract is based on the special terms and conditions of service applicable to such gas, and is not unduly discriminatory.

6. (a) As to paragraph Sixth of the petition Hope avers that prior to May 19, 1932, East Ohio was collecting in the City of Akron, pursuant to an ordinance contract between East Ohio and Akron, a domestic rate averaging a little more than 64¢ per M. c. f. Effective May 19, 1933, the electors of the City of Akron enacted an initiated ordinance for a four-year period ending May 19, 1937, which provided a domestic rate averaging about 50¢ per M. c. f.

East Ohio appealed to The Public Utilities Commission of Ohio from this latter ordinance and in accordance with the statutes of Ohio elected to collect under bond the rate theretofore in effect. The City of Akron employed the same engineers, accountants and geologists who had theretofore and have since represented the City of Cleveland in rate controversies with East Ohio and presented to the Commission, as did East Ohio, complete testimony as to the value of Hope's property, its operating expenses and its operations. For this purpose they were given access to Hope's properties, books, and records insofar as these bore on Hope's costs of gas.

4 On February 1, 1937, said Commission made its findings and order and thereby found the rate fixed by said ordinance effective May 19, 1933, to be unjust and unreasonable and fixed a rate to be substituted therefor averaging 62.35¢ per M.c.f. In its findings said Commission valued the property of Hope and determined its operating expenses in precisely the same detail as it did for East Ohio. It further found that the contract price of 38½¢ paid by East Ohio to Hope and here under attack, was a fair and reasonable price and allowed the same in the amount paid by East Ohio as a part of its operating expenses. The findings and order of said Commission are published in *Re East Ohio Gas Company*, 17 P. U. R. (N. S.) 433, and Hope begs leave to refer to the extensive and detailed findings there made insofar as here material.

Both East Ohio and the City of Akron prosecuted error from said findings and final order of the Commission to the Supreme Court of Ohio which affirmed said order of the Commission setting aside said 1933 ordinance rate as unreasonable and unlawful, but reversed said order and finding fixing a new rate and directed said Commission to modify the same in certain minor respects, the effect of which Hope avers will be to increase the rate to be finally fixed by said Commission. For a more complete statement Hope begs leave to refer to the report of said case, *East Ohio Gas v. Public Utilities Commission*, 133 O. S. 212.

Notwithstanding that said Public Utilities Commission had theretofore held said 1933 Akron ordinance rate to be grossly unreasonable, the City of Akron proceeded, as alleged in its petition, on May 11, 1937, to pass a new ordinance effective for another four-year period, fixing precisely the same rate as that stricken down. East Ohio has likewise appealed from said last ordinance, elected to continue the former rate under bond and said appeal is now pending before the Public Utilities Commission of Ohio. Hope admits that East Ohio will include in operating expense and ask the Commission to allow the sums paid to Hope for the purchase of gas at the Ohio River under the Hope-East Ohio contract.

(b) Hope denies that a determination by this Honorable Commission of the fair rate for gas sold by Hope to East Ohio at the Ohio River will be of any assistance in the case of the City of Akron now pending before The Public Utilities Commission of Ohio, averring that said Commission is required to determine the fairness of said contract price as of approximately June 10, 1937, the effective date of said ordinance. Hope respectfully suggests that while this Honorable Commission is given the power to determine interstate rates prospectively, it is not given the power to determine whether the rate in effect on or about June 10, 1937 was or was not unreasonable or unlawful.

(c) Hope denies that a determination of a fair contract price between East Ohio and Hope by this Honorable Commission is essential to the determination of a fair and reasonable rate for natural gas in Akron either now or after the expiration of the present ordinance in June 1941. It avers that in repeated rate controversies between the Cities of Cleveland and Akron and East Ohio since 1921 the Ohio court or Public Utilities Commission hearing such controversy has in each instance imposed upon East Ohio the burden of proving that the prices at the time

paid to Hope and reflected in its operating expenses were fair and reasonable prices; that in connection with the trial of said cases the engineers, accountants and attorneys of the respective cities have had access to the properties, books, and records of Hope insofar as these were essential in determining Hope's costs; that the City of Cleveland had reports of its own engineers and accountants on Hope's properties and operations as of 1921, again as of 1928, again as of 1931, and again as of 1937, and that the City of Akron had access to the Cleveland reports and additionally had similar reports as of 1932. Because of the common ownership of the stock of Hope and East Ohio, The Public Utilities Commission of Ohio, the Cities of Cleveland and Akron and East Ohio have all assented to the position in rate controversies that the contract price between the two affiliated companies at the river is not even prima facie evidence of its fairness. All parties have introduced evidence as to, and the Commission itself has investigated, the value of the properties of Hope, its operations and its operating expenses in as complete detail as for East Ohio. Moreover, the Commission in former cases involving East Ohio rates has allowed as an operating expense to East Ohio the sums paid to Hope on account of gas delivered at the Ohio River only to the extent that it found them to be fair and reasonable. In view of the facts hereinabove stated Hope avers that the properties, records, and operations of East Ohio and Hope, and their relations, have been under almost continuous investigation by the Cities of Cleveland and Akron for the past ten years and by

6 The Public Utilities Commission of Ohio for the past seven years and denies that the exercise by this Commission of its jurisdiction as sought in the petition is necessary to enable either the City of Akron or said Commission to fix a fair rate for natural gas service in Akron or elsewhere.

7. Admits the allegations contained in paragraph Seventh of the petition.

**AMENDMENT TO COMPLAINT OF THE CITY OF CLEVELAND
AGAINST HOPE NATURAL GAS COMPANY**

Filed January 6, 1939—F. P. C. Docket No. G-100

1 The City of Cleveland, with leave of the Federal Power Commission first obtained, amends its petition and complaint herein by the addition of the following allegations, averments, and prayer:

 First: Pursuant to the Natural Gas Act, Public No. 688, 75th Congress, Chapter 556, Third Session, approved June 21, 1938, and effective June 21, 1938, your Honorable Commission has authority to 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 said Natural Gas Act. (Sec. 14 (a).)

 Second: Pursuant to said Natural Gas Act, your Honorable Commission has authority to make available to state commissions and municipalities, information concerning any such matter. (Sec. 14 (a).)

 Third: Pursuant to said Natural Gas Act, 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 must be just and reasonable and nondiscriminatory and any such rate or
2 charge that is not just and reasonable and nondiscriminatory is unlawful, and has been unlawful ever since the effective date of said Natural Gas Act on June 21, 1938. (Sec. 4 (a) and (b).)

 Fourth: Pursuant to said Natural Gas Act, your Honorable Commission has authority to investigate and determine whether the charges made by Hope Natural Gas Company and payments received from The East Ohio Gas Company were unjust, unreasonable, unduly discriminatory and preferential and therefore contrary to Federal law, as of June 21, 1938, the effective date of the Natural Gas Act, and at all times subsequent thereto. (Natural Gas Act, Sec. 14 (a), (b).) (Sec. 4 (a).)

 Fifth: Pursuant to said Natural Gas Act, your Honorable 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 and 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. (Natural Gas Act, Sec. 5 (b).)

Sixth: The price charged by defendant Hope to East Ohio for natural gas was on June 21, 1938, and has been at all times since excessive, unjust, unreasonable, and discriminatory, at least in so far as said price has exceeded an average of 30 cents per M. c. f., and therefore was as of June 21, 1938, and has been at all times since, unlawful and contrary to the laws of the United States.

Seventh: A determination by your Honorable Commission in accordance with the prayer of this amendment should be of assistance in the cases of Cleveland and other Ohio municipalities now pending before The Public Utilities Commission of Ohio, in that the reasonableness of the ordinance rate in Cleveland for the two year period ending on or about June 30, 1939, is ultimately dependent upon the lawfulness of the charge made by Hope Natural Gas Company to The East Ohio Gas Company at the Ohio River; and the only body which can determine whether the price charged by Hope to East Ohio and received by Hope from East Ohio has been unlawful and contrary to the laws of the United States is your Honorable Commission (Natural Gas Act, Sec. 1 (b)); and in the case of The East Ohio Gas Company v. Cleveland, now pending before The Public Utilities Commission of Ohio and known as Case No. 10,202 on the docket of said commission, no allowance can be made in the operating expenses of The East Ohio Gas Company which is unlawful either for the buyer to pay, or for the seller to charge or receive.

Wherefore, the City of Cleveland prays that the order of investigation of the Federal Power Commission dated October 14, 1938, and docketed as No. G-113, be modified to include an investigation whether Hope Natural Gas Company has violated the Natural Gas Act by charging to and receiving from The East Ohio Gas Company an unreasonable, unjust, and discriminatory rate for natural gas delivered at the Ohio River on and since June 21, 1938, at least in so far as the average charge made by Hope Natural Gas Company and payment received from The East Ohio Gas Company has exceeded 30 cents per M. c. f.; further prays for a determination that the Natural Gas Act has been so violated by defendant Hope ever since June 21, 1938; and further prays that the information concerning such matter be made available to The Public Utilities Commission of Ohio and to the City of Cleveland.

**ANSWER OF HOPE NATURAL GAS COMPANY TO AMEND-
MENT TO COMPLAINT OF THE CITY OF CLEVELAND**

Filed February 6, 1939—F. P. C. Docket No. G-100

1 Hope Natural Gas Company, hereinafter called "Hope," for its answer to the "Amendment to Petition and Complaint" filed herein by the City of Cleveland—

1. Admits that the Natural Gas Act was approved and became effective as set forth in paragraph First of said amendment and that said Act contains Sections 1 (b), 4 (a) and (b), 5 (b) and 14 (a) and (b) as set forth in paragraphs First, Second, Third, Fourth, Fifth and Seventh of said amendment, but denies that the statements of the terms and provisions of said Act and said sections thereof as set forth in said paragraphs are either accurate, correct or complete and refers to said Act and said sections thereof for an accurate, correct and complete statement of the law attempted to be summarized in said amendment.

2. (a) Denies the allegations of paragraph Sixth of said amendment in their entirety.

(b) As to the claim that the contract price charged for natural gas by Hope to The East Ohio Gas Company, hereinafter called "East Ohio," was on June 21, 1938 and at all times thereafter excessive, unjust, unreasonable and discriminatory, Hope avers that said price at said times did not and has not in any 2 recent years been sufficient to yield more than a fair return on the fair value of its properties devoted to that service; that since 1921 the price between Hope and East Ohio has repeatedly been investigated by the cities of Cleveland and Akron, Ohio, and by The Public Utilities Commission of Ohio, all of whom have made valuations of Hope's properties, audited its operating expenses and otherwise investigated its properties and operations; that said price was recently approved by said Commission for the years 1933 to 1937 *In re East Ohio Gas Company*, 17 P. U. R. (N. S.) 433; and that after further exhaustive hearings and a comprehensive investigation, including determinations of the value of Hope's properties as of June 30, 1937 and June 30, 1938, analyses of its operations, the ascertainment of its reasonable operating expenses and the fixing of a fair rate of return, said Commission on January 10, 1939 in the case of East Ohio's appeal from the City of Cleveland ordinance referred to in paragraph Seventh of said amendment, known as Cause No. 10,202 on the

docket of said Commission, found that said Hope-East Ohio price, as existing on June 21, 1938 and at all times since, was fair and reasonable and should properly be allowed in the operating expenses of East Ohio for the two-year period of said City of Cleveland ordinance ending June 30, 1939. The conclusion of said Commission hereon is set forth in its order of January 10, 1939 in said Cause No. 10,202, based on its findings and opinion of such date, as follow:

"That the fair and reasonable price to be paid by the East Ohio Ohio Gas Company to The Hope Natural Gas Company for gas supplied and furnished for distribution in the said City of Cleveland, Ohio, is the price of 38.5¢ per one thousand cubic feet, provided by the contract now existing by and between the said Companies, adjusted as provided in said contract for special industrial sales to average 36.15¢ and 36.82¢ per one thousand cubic feet for the years ended June 30, 1937, and June 30, 1938, respectively;"

3. (a) Denies the allegations of paragraph Seventh of said amendment in their entirety.

(b) As to the claim that a determination by this Honorable Commission in accordance with the prayer of said amendment will be of assistance in the case of the City of Cleveland pending before said Public Utilities Commission of Ohio, Hope avers that since the filing of said amendment said Commission on January 10, 1939 rendered its final decision and order in said case,

3 Cause No. 10,202, referred to in paragraph Seventh of said amendment and in the preceding paragraph 2 (b) of this answer. The inquiry and determination requested by the prayer of said amendment will be of no assistance to either the City of Cleveland or said Public Utilities Commission of Ohio in connection with said Cause No. 10,202.

COMPLAINT OF PENNSYLVANIA PUBLIC UTILITY COMMISSION AGAINST HOPE NATURAL GAS COMPANY

Filed March 23, 1939—F. P. C. Docket No. G-127

1 Pennsylvania Public Utility Commission, complaining of the Hope Natural Gas Company, respectfully alleges for a first ground of complaint:

1. Pennsylvania Public Utility Commission, the Complainant here, is the regulatory body having jurisdiction to regulate rates and charges for the sale of natural gas to consumers within the Commonwealth of Pennsylvania, by virtue of Act No. 43, Pennsylvania Laws, 1937, and Act No. 286, Pennsylvania Laws, 1937 (as amended by Act No. 19, Extraordinary Session, Pennsylvania Laws, 1938), and is a "State Commission", within the meaning of Section II (8) of the Natural Gas Act.

2 2. The Defendant, Hope Natural Gas Company, is a corporation duly organized and existing under the laws of the State of West Virginia. Its principal office is located at 545 William Penn Way, Pittsburgh, in the Commonwealth of Pennsylvania, and it is a wholly owned subsidiary of the Standard Oil Company (New Jersey). Hope Natural Gas Company is engaged in the business of transporting and selling natural gas in interstate commerce, for resale, and is a "natural gas company" within the meaning of Section II (6) of the Natural Gas Act.

3. The Peoples Natural Gas Company is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, with its principal office at 545 William Penn Way, Pittsburgh, Pa. The Peoples Natural Gas Company is also a wholly owned subsidiary of the Standard Oil Company (New Jersey), and supplies gas at retail to approximately 124,000 consumers, in 12 counties in the Commonwealth of Pennsylvania.

4. Your Complainant, under its Complaint Docket No. 11380, Sub. No. 20, is conducting an inquiry and investigation for the purpose of determining the fairness and reasonableness of the rates and charges of The Peoples Natural Gas Company. According to its annual report for the year 1937 (the last available), The Peoples Natural Gas Company, under a contract effective
3 May 8, 1937, purchased from Hope Natural Gas Company, for resale to consumers in Pennsylvania, 3,506,013,000 cubic feet of natural gas, at a cost of \$1,349,815.05. The price charged by Defendant, Hope Natural Gas Company, to The

Peoples Natural Gas Company was, and is at the present time, 38½¢ per thousand cubic feet, delivered to the Pennsylvania-West Virginia state line.

5. The sum paid by The Peoples Natural Gas Company to Defendant, Hope Natural Gas Company, in the year 1937, constituted approximately 17% of the total operating expenses of The Peoples Natural Gas Company for that year. The price charged by Defendant, Hope Natural Gas Company, to The Peoples Natural Gas Company for natural gas resold to consumers in Pennsylvania therefore directly affects the resale price to such consumers. In the proceeding instituted by the Pennsylvania Public Utility Commission against The Peoples Natural Gas Company, at Complaint Docket No. 11380, Sub. No. 20, referred to above, The Peoples Natural Gas Company seeks to include in its operating expenses the cost of natural gas purchased from the Defendant, Hope Natural Gas Company, at the price of 38½¢ per thousand cubic feet. A determination of the fair and reasonable rate at which gas should be sold by Hope Natural Gas Company to The Peoples Natural Gas Company is essential to a determination of the reasonableness of the rates charged by The Peoples Natural Gas Company to consumers in Pennsylvania.

6. On information and belief, it is alleged that the price of 38½¢ per thousand cubic feet charged by the Defendant, Hope Natural Gas Company is unlawful, excessive, unreasonable
4 and discriminatory in that:

(a) The sum charged The Peoples Natural Gas Company exceeds the reasonable cost of producing and transporting the gas, as described above, plus a reasonable and lawful return on the property invested for purposes of such production, transportation and sale;

(b) The sum charged The Peoples Natural Gas Company exceeds the price charged by Defendant to other companies operating in Pennsylvania, in territories similar to that of The Peoples Natural Gas Company, and under similar conditions of use and service, where such other operating companies are not affiliated with the Defendant or the Standard Oil Company (New Jersey).

7. All the natural gas sold by Defendant, Hope Natural Gas Company, to The Peoples Natural Gas Company is produced in West Virginia or states other than Pennsylvania, and transported directly in interstate commerce to the facilities of The Peoples

Natural Gas Company at the Pennsylvania-West Virginia state line. Your Honorable Commission is the only body which can determine whether the price charged by Hope Natural Gas Company to The Peoples Natural Gas Company for the natural gas so transported is just and reasonable, and whether the charge thus made was and is unlawful and contrary to the laws of the United States, as set forth in the Natural Gas Act, Section IV (a).

5 8. The Pennsylvania Public Utility Commission, Complainant, has available records relating to the production, transportation and sale of natural gas in Pennsylvania, and has also available a staff of accountants, engineers and other experts, all of which the Complainant hereby tenders and offers to the Federal Power Commission, for use in accordance with Section 17 (b) of the Natural Gas Act.

9. The filing of this petition has been authorized by a resolution adopted at the Executive Session of the Commission on January 16, 1939.

Wherefore, your Complainant prays that your Honorable Commission:

(a) Investigate the price charged by Defendant, Hope Natural Gas Company, to The Peoples Natural Gas Company for natural gas sold by the latter to the former, at the Pennsylvania-West Virginia state line, and fix the just, fair, and reasonable rate for the same.

(b) Make a determination that the Hope Natural Gas Company has, since June 21, 1938, violated the Natural Gas Act, Section IV (a).

(c) Make available to the Complainant, the Pennsylvania Public Utility Commission, the facts, records, and other relevant matters which your Honorable Commission may acquire in this proceeding.

6 Pennsylvania Public Utility Commission, complaining of the Hope Natural Gas Company, respectfully alleges for a second ground of complaint:

1. The allegations contained in paragraphs 1, 2, 8, and 9 of the first ground of complaint are hereby made a part of the second ground of complaint as fully as though the same were repeated.

2. Fayette County Gas Company is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, with its principal office at 800 Union Trust Building, Pittsburgh, Pennsylvania. The Fayette County Gas Company supplies gas at

retail to approximately 16,000 consumers in Fayette and Westmoreland Counties in the Commonwealth of Pennsylvania.

3. Your Complainant, under its Complaint Docket No. 11380, Sub. No. 97, is conducting an inquiry and investigation for the purpose of determining the fairness and reasonableness of the rates and charges of Fayette County Gas Company. According to its annual report for the year 1937 (the last available) Fayette County Gas Company purchased from Hope Natural Gas Company for resale to consumers in Pennsylvania, 849,305,000 cubic feet of natural gas at a cost of \$267,531.10. The price charged by Defendant, Hope Natural Gas Company, to Fayette County Gas Company, was and is at the present time $31\frac{1}{2}\text{¢}$ per thousand cubic feet, delivered at the Pennsylvania-West Virginia state line.

4. The sum paid by Fayette County Gas Company to Defendant, Hope Natural Gas Company, in the year 1937, constituted approximately 35% of the total operating expenses of Fayette County Gas Company for that year. The price charged by Defendant, Hope Natural Gas Company, to Fayette County Gas Company, for natural gas resold to consumers in Pennsylvania, therefore, directly affects the resale price to such consumers. In the proceeding instituted by the Pennsylvania Public Utility Commission against Fayette County Gas Company at Complaint Docket No. 11380, Sub. No. 97, referred to above, the Fayette County Gas Company seeks to include in its operating expenses the cost of natural gas purchased from the Defendant, Hope Natural Gas Company, at the price of $31\frac{1}{2}\text{¢}$ per thousand cubic feet. A determination of the fair and reasonable rate at which gas should be sold by Hope Natural Gas Company to Fayette County Gas Company is essential to a determination of the reasonableness of the rates charged by Fayette County Gas Company, to consumers in Pennsylvania.

5. On information and belief it is alleged that the price of $31\frac{1}{2}\text{¢}$ per thousand cubic feet charged by the Defendant, Hope Natural Gas Company is unlawful, excessive, and unreasonable, in that the sum charged the Fayette County Gas Company exceeds the reasonable cost of producing and transporting the gas, as described above, plus a reasonable and lawful return on the property invested for purposes of such production, transportation and sale.

6. All the natural gas sold by Defendant, Hope Natural Gas Company, to Fayette County Gas Company is produced in West

Virginia or states other than Pennsylvania, and transported directly in interstate commerce to the facilities of Fayette County Gas Company at the Pennsylvania-West Virginia state line. Your Honorable Commission is the only body which can determine whether the price charged by Hope Natural Gas Company to Fayette County Gas Company for the natural gas so transported is just and reasonable, and whether the charge thus made was and is unlawful and contrary to the laws of the United States, as set forth in the Natural Gas Act, Section IV (a).

Wherefore, your Complainant prays that your Honorable Commission:

(a) Investigate the price charged by Defendant, Hope Natural Gas Company, to Fayette County Gas Company for natural gas sold by the latter to the former, at the Pennsylvania-West Virginia state line, and fix the just, fair, and reasonable rate for the same.

(b) Make a determination that the Hope Natural Gas Company has, since June 21, 1938, violated the Natural Gas Act, Section IV (a).

(c) Make available to the Complainant, the Pennsylvania Public Utility Commission, the facts, records, and other relevant matters which your Honorable Commission may acquire in this proceeding.

9 Pennsylvania Public Utility Commission, complaining of the Hope Natural Gas Company, respectfully alleges for a third ground of complaint:

1. The allegations contained in paragraphs 1, 2, 8, and 9 of the first ground of complaint are hereby made a part of the third ground of complaint as fully as though the same were repeated.

2. The Manufacturers Light and Heat Company is a corporation, organized and existing under the laws of the Commonwealth of Pennsylvania, with its principal office at 800 Union Trust Building, Pittsburgh, Pennsylvania, and supplies gas at retail to approximately 113,000 consumers in the Commonwealth of Pennsylvania.

3. Your Complainant, under its Complaint Docket No. 11380, Sub. No. 18, is conducting an inquiry and investigation for the purpose of determining the fairness and reasonableness of the rates and charges of The Manufacturers Light and Heat Company. According to its annual report for the year 1937 (the last available) The Manufacturers Light and Heat Company purchased from Hope Natural Gas Company for resale to consumers in Pennsylvania 7,444,905,000 cubic feet of natural gas at a cost of \$2,345,-

145.11. The price charged by Defendant, Hope Natural Gas Company, to The Manufacturers Light and Heat Company was, and is at the present time $31\frac{1}{2}\text{¢}$ per thousand cubic feet, delivered at the Pennsylvania-West Virginia state line.

10 4. The sum paid by The Manufacturers Light and Heat Company to Defendant, Hope Natural Gas Company, in the year 1937, constituted approximately $23\frac{1}{2}\%$ of the total operating expenses of The Manufacturers Light and Heat Company for that year. The price charged by Defendant, Hope Natural Gas Company, to The Manufacturers Light and Heat Company for natural gas resold to consumers in Pennsylvania, therefore, directly affects the resale price to such consumers. In the proceeding instituted by the Pennsylvania Public Utility Commission against The Manufacturers Light and Heat Company, at Complaint Docket No. 11380, Sub. No. 18, referred to above, The Manufacturers Light and Heat Company seeks to include in its operating expenses the cost of natural gas purchased from the Defendant, Hope Natural Gas Company, at the price of $33\frac{1}{2}\text{¢}$ per thousand cubic feet. A determination of the fair and reasonable rate at which gas should be sold by Hope Natural Gas Company to The Manufacturers Light and Heat Company, is essential to a determination of the reasonableness of the rates charged by The Manufacturers Light and Heat Company to consumers in Pennsylvania.

5. On information and belief it is alleged that the price of $31\frac{1}{2}\text{¢}$ per thousand cubic feet charged by the Defendant, Hope Natural Gas Company is unlawful, excessive, and unreasonable, in that the sum charged The Manufacturers Light and Heat Company exceeds the reasonable cost of producing and transporting the gas, as described above, plus a reasonable and lawful return on the property invested for purposes of such production, transportation, and sale.

11 6. All natural gas sold by Defendant, Hope Natural Gas Company, to The Manufacturers Light and Heat Company, is produced in West Virginia or states other than Pennsylvania, and transported directly in interstate commerce to the facilities of The Manufacturers Light and Heat Company at the Pennsylvania-West Virginia state line. Your Honorable Commission is the only body which can determine whether the price charged by Hope Natural Gas Company to The Manufacturers Light and Heat Company for the natural gas so transported is just and reasonable, and whether the charge thus made was and is unlawful

and contrary to the laws of the United States, as set forth in the Natural Gas Act, Section IV (a).

Wherefore, your Complainant prays that your Honorable Commission:

(a) Investigate the price charged by Defendant, Hope Natural Gas Company, to The Manufacturers Light and Heat Company for natural gas sold by the latter to the former, at the Pennsylvania-West Virginia state line, and fix the just, fair, and reasonable rate for the same.

(b) Make a determination that the Hope Natural Gas Company has, since June 21, 1988, violated the Natural Gas Act, Section IV (a).

(c) Make available to the Complainant, the Pennsylvania Public Utility Commission, the facts, records, and other relevant matters which your Honorable Commission may acquire in this proceeding.

**ANSWER OF HOPE NATURAL GAS COMPANY TO COMPLAINT OF
THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Filed April 25, 1939—F. P. C. Docket No. G-127

1 Defendant, Hope Natural Gas Company, for its answer to the several grounds of complaint set forth in the petition says:

As To The First Ground of Complaint

1. The defendant admits the allegations contained in paragraphs 1 and 2 thereof except the allegation that it is engaged in the business of transporting natural gas in interstate commerce, which it denies.

2. The defendant admits the allegations contained in paragraphs 3 and 4 thereof except it avers that the price of $38\frac{1}{2}\text{¢}$ per thousand cubic feet for natural gas specified in the contract between the defendant and The Peoples Natural Gas Company contemplates that the defendant shall deliver gas sold to the Peoples Company at sufficient pressure to carry the gas to consumers' meters of the Peoples Company in its principal marketing area and provides that during the time that it is unable to do this and the Peoples Company finds it necessary to maintain a compressor station at or near the points of delivery, the Peoples Company shall be allowed the sum of 3¢ per thousand cubic feet in reduction of the purchase price. The defendant avers
2 that for some years past The Peoples Natural Gas Company has so maintained a compressor station, and that in settlements between it and the defendant for the gas sold the Peoples Company has been credited with 3¢ per thousand cubic feet against said purchase price of $38\frac{1}{2}\text{¢}$.

3. As to paragraph 5 the defendant is without accurate knowledge of the matters therein alleged and for want thereof denies the same.

4. The defendant denies each and several the allegations contained in paragraph 6.

5. The defendant admits the allegations contained in paragraph 7 except the allegations that the natural gas sold by defendant to The Peoples Natural Gas Company is "transported directly in interstate commerce" and that the price charged by defendant to The Peoples Natural Gas Company is for the transportation of natural gas, which it denies.

6. As to paragraphs 8 and 9 the defendant is without knowledge of the matters therein alleged and for want thereof denies the same.

As To The Second Ground of Complaint.

1. The defendant, for its answer to paragraph 1, refers to the admissions and denials contained in the foregoing answer in response to paragraphs 1, 2, 8, and 9 of the First Ground of Complaint and begs leave to incorporate herein as though repeated the answers thereto heretofore made.

2. As to paragraph 2 the defendant is without accurate knowledge of the matters therein alleged and for want thereof denies the same and states that defendant's understanding is that Fayette County Gas Company is a corporation organized and existing under the laws of the State of West Virginia.

3. The defendant admits that the price charged by it to Fayette County Gas Company is and for some time past has been $31\frac{1}{2}\text{¢}$ per thousand cubic feet for natural gas delivered at the West Virginia-Pennsylvania state line and that during the year 1937 it sold to Fayette County Gas Company 849,305,000 cubic feet of natural gas for a consideration of \$267,531.10, and for want of information denies each and several the other allegations contained in paragraph 3.

3 4. For want of information the defendant denies each and several the allegations contained in paragraph 4.

5. The defendant denies each and several the allegations contained in paragraph 5.

6. The defendant admits the allegations contained in paragraph 6 except the allegations that all the natural gas sold by defendant to Fayette County Gas Company is "transported directly in interstate commerce" and that the price charged by defendant to Fayette County Gas Company is for the transportation of natural gas, which it denies.

As To The Third Ground of Complaint

1. The defendant, for its answer to paragraph 1, refers to the admissions and denials contained in the foregoing answer in response to paragraphs 1, 2, 8 and 9 of the First Ground of Complaint and begs leave to incorporate herein as though repeated the answers thereto heretofore made.

2. As to paragraph 2 the defendant is without accurate knowledge of the matters therein alleged and for want thereof denies the same.

3. The defendant admits that the price charged by it to The Manufacturers Light and Heat Company is and for some time past has been $31\frac{1}{2}\text{¢}$ per thousand cubic feet and that during the year 1937 it sold to The Manufacturers Light and Heat Company 7,444,905,000 cubic feet of natural gas for a consideration of \$2,345,145.11, denies that said price is for natural gas delivered at the Pennsylvania-West Virginia state line and avers that said deliveries are at Bates Measuring Station near Sedalia, Doddridge County, West Virginia. For want of information the defendant denies each and several the other allegations contained in paragraph 3.

4. For want of information the defendant denies each and several the allegations contained in paragraph 4.

5. The defendant denies each and several the allegations contained in paragraph 5.

6. The defendant admits the allegations contained in paragraph 6 except the allegations that all the natural gas sold by defendant to The Manufacturers Light and Heat Company is "transported directly in interstate commerce" and that the price charged by defendant to The Manufacturers Light and Heat Company is for the transportation of natural gas, which it denies.

United States of America

Federal Power Commission

Commissioners: Clyde L. Seavey, Acting Chairman, Claude L. Draper, Basil Manly, John W. Scott.

OCTOBER 14, 1938.

In re HOPE NATURAL GAS COMPANY

Docket No. G-113

ORDER INSTITUTING INVESTIGATION

It appearing to the Commission that:

(a) The Hope Natural Gas Company, a corporation organized and existing under the laws of the State of West Virginia, owns and operates gas wells, field and gathering lines, and distribution facilities, located in the State of West Virginia, and transmission pipe lines extending from points in the State of West Virginia to the West Virginia-Ohio state line and to the West-Virginia-Pennsylvania state line;

(b) The Hope Natural Gas Company is engaged in the transportation of natural gas in interstate commerce and the sale of interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or other use, and is a natural-gas company within the meaning of the Natural Gas Act;

(c) Pursuant to Section 4 (c) of the Natural Gas Act and the Commission's Order No. 53, the Hope Natural Gas Company, on September 3, 1938, filed with the Commission its contracts and agreements covering the sale of natural gas to the East Ohio Gas Company, the Peoples Natural Gas Company, the Manufacturers Light and Heat Company, the Fayette County Gas Company, and the River Gas Company;

(d) In Docket No. G-100, on July 6, 1938, the City of Cleveland, Ohio, and in Docket No. G-101, on July 25, 1938, the City of Akron, Ohio, filed complaints with the Commission against the Hope Natural Gas Company, alleging that the price charged by the Hope Natural Gas Company to the East Ohio Gas Company, on affiliated company, for natural gas sold and delivered at the Ohio River for resale to domestic, commercial and small in-

dustrial consumers in the cities of Cleveland and Akron and elsewhere, is excessive, unjust, unreasonable, greatly in excess of the price charged by the Hope Natural Gas Company to nonaffiliated companies at wholesale for resale to domestic, commercial, and small industrial consumers, and greatly in excess of the price charged by Hope Natural Gas Company to the East Ohio Gas Company for resale to certain favored industrial consumers in Ohio and therefore unduly discriminatory between customers and between classes of service. Said complaints pray for an investigation by this Commission and a finding that the price charged the East Ohio Gas Company by the Hope Natural Gas Company for gas sold and delivered at the Ohio River is excessive, unreasonable, and unjustly discriminatory, and for the fixing of a just, fair and reasonable rate.

(e) The Hope Natural Gas Company, on August 18, 1938, and August 26, 1938, filed its answers to the complaints of the City of Cleveland and the City of Akron, respectively, in which it denies that the price charged by the Hope Natural Gas Company to the East Ohio Gas Company for natural gas for resale to domestic, commercial, and small industrial consumers is excessive, unreasonable or discriminatory;

(f) The Hope Natural Gas Company purchases substantial quantities of the natural gas which it transports, sells and delivers to the East Ohio Gas Company from the Clayco Gas Company, a corporation organized and existing under the laws of the State of West Virginia, and the South Penn Oil Company, a corporation organized and existing under the laws of the State of Pennsylvania, pursuant to the terms and conditions of contracts which were filed with the Commission by the Clayco Gas Company and the South Penn Oil Company on September 3, 1938, in compliance with Section 4 (c) of the Natural Gas Act and the Commission's Order No. 53;

Wherefore, the Commission finds that:

It is necessary and proper, in the public interest, and to aid in the enforcement of the provisions of the Natural Gas Act, that an investigation be instituted by the Commission, on its own motion, into and concerning all rates, charges, classifications, rules, regulations, practices or contracts of the Hope Natural Gas Company, and into and concerning the contracts, agreements and arrangements pursuant to which the Hope Natural Gas Company purchases natural gas;

The Commission, on its own motion, orders that :

(A) An investigation of the Hope Natural Gas Company be and is hereby instituted, for the purpose of enabling the Commission: (1) To determine with respect to said company, whether, in connection with any transportation or sale of natural gas subject to the jurisdiction of the Commission, any rate, charge, or classification demanded, observed, charged or collected or any rule, regulation, practice, or contract affecting such rate, charge, or classification, is unjust, unreasonable, unduly discriminatory, or preferential; and (2) if the Commission shall find that any such rate, charge, classification, rule, regulation, practice, or contract is unjust, unreasonable, unduly discriminatory, or preferential, to determine and fix by appropriate order or orders just, reasonable, and nondiscriminatory rates, charges, classifications, rules, regulations, practices, or contracts to be thereafter observed and in force;

(B) Said investigation shall include an inquiry into and the determination of the reasonableness and lawfulness of the purchase prices paid by the Hope Natural Gas Company for natural gas, including the prices paid to the Clayco Gas Company and the South Penn Oil Company.

By the Commission.

LEON M. FUQUAY, *Secretary.*

1

United States of America

Federal Power Commission

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, John W. Scott. Basil Manly, not participating.

JUNE 6, 1939.

In the Matter of Hope Natural Gas Company

Docket No. G-113

**ORDER DISMISSING PETITION AND SUPPLEMENT THERETO
REQUESTING MODIFICATION OF ORDER INSTITUTING INVESTIGATION**

It appearing to the Commission that:

(a) On October 14, 1938, the Commission on its own motion, adopted an order instituting an investigation of the Hope Natural Gas Company for the purpose of enabling the Commission (1) to determine, with respect to said company, whether, in connection with any transportation or sale of natural gas subject to the jurisdiction of the Commission, any rate, charge, or classification demanded, observed, charged, or collected or any rule, regulation, practice, or contract affecting such rate, charge, or classification, is unjust, unreasonable, unduly discriminatory, or preferential; and (2) if the Commission shall find that any such rate, charge, classification, rule, regulation, practice, or contract is unjust, unreasonable, unduly discriminatory, or preferential, to determine and fix by appropriate order or orders just, reasonable and nondiscriminatory rates, charges, classifications, rules, regulations, practices, or contracts to be thereafter observed and in force;

(b) On January 9, 1939, the City of Cleveland, Ohio, filed with the Commission a petition praying that the Commission modify its order of October 14, 1938, to include an investigation whether Hope Natural Gas Company has violated the Natural Gas Act by charging to the receiving from The East Ohio Gas Company an unreasonable, unjust and discriminatory rate for natural gas delivered at the Ohio River on and since June 21, 1938, the effective date of the Natural Gas Act, at least insofar as the average charge made by Hope Natural Gas Company and payment re-

ceived from The East Ohio Gas Company has exceeded 30 cents per m. c. f.; said petition prays for a determination by the Commission that the Natural Gas Act has been so violated by Hope Natural Gas Company ever since June 21, 1938, and prays that the information concerning such matter be made available to The Public Utilities Commission of Ohio and to the City of Cleveland;

(c) On February 6, 1939, the Hope Natural Gas Company filed with the Commission its answer to said petition of the City of Cleveland, denying that the contract price charged for natural gas to The East Ohio Gas Company was on June 21, 1938, and at all times thereafter excessive, unjust, unreasonable, and discriminatory, and calling attention to proceedings before The
2 Public Utilities Commission of Ohio approving said contract price; said answer avers that the inquiry and determination requested in the petition filed by the City of Cleveland will be of no assistance either to the City of Cleveland or to The Public Utilities Commission of Ohio;

(d) On March 10, 1939, the City of Cleveland filed a supplement to its petition for a modification of the order of the Commission of October 14, 1938, reciting in said supplement that The Public Utilities Commission of Ohio has entered an order in the proceeding pending before it, that the decision of The Public Utilities Commission has been appealed to the Supreme Court of Ohio, and averring that an investigation and determination as prayed for in the petition should be of assistance to the City of Cleveland in the Supreme Court of Ohio and to the City of Cleveland and The Public Utilities Commission of Ohio on remand of the orders of said Public Utilities Commission of Ohio;

(e) On April 8, 1939, the Hope Natural Gas Company filed with the Commission its answer to said supplement to the petition of the City of Cleveland, alleging that the investigation and determination prayed for in the petition of the City of Cleveland will not be of any assistance to the City of Cleveland in the Supreme Court of Ohio;

It further appearing to the Commission that:

(f) The investigation of the Hope Natural Gas Company now in progress in this proceeding will include the compilation of information and data which will be relevant to the determination of just, reasonable, and nondiscriminatory rates and charges since the effective date of the Natural Gas Act, and

The Commission, having considered the said petition and supplement thereto of the City of Cleveland and the answers thereto of the Hope Natural Gas Company, finds that :

It will not be necessary to a full exercise of the power and authority of this Commission that said order of investigation, adopted herein on October 14, 1938, be amended or modified as requested by the City of Cleveland ;

The Commission orders that :

The petition of the City of Cleveland, filed on January 9, 1939, praying for a modification of the order of the Commission of October 14, 1938, and the supplement to said petition, filed on March 10, 1939, be and they are hereby dismissed.

By the Commission.

LEON M. FUQUAY, *Secretary.*

ORDER FIXING DATE OF HEARING

1

United States of America
Federal Power Commission

Commissioners: Clyde L. Seavey, Chairman; Claude L. Draper,
Basil Manly, Leland Olds, John W. Scott.

OCTOBER 3, 1939.

CITY OF CLEVELAND, COMPLAINANT

v.

HOPE NATURAL GAS COMPANY, DEFENDANT

Docket No. G-100

CITY OF AKRON, COMPLAINANT

v.

HOPE NATURAL GAS COMPANY, DEFENDANT

Docket No. G-101

In the Matter of HOPE NATURAL GAS COMPANY

Docket No. G-113

PENNSYLVANIA PUBLIC UTILITY COMMISSION, COMPLAINANT

v.

HOPE NATURAL GAS COMPANY, DEFENDANT

Docket No. G-127

ORDER FIXING DATE OF HEARING

It appearing to the Commission that:

(a) In Docket No. G-100, on July 6, 1938, the City of Cleveland, Ohio; and in Docket No. G-101, on July 25, 1938, the City of Akron, Ohio, filed complaints with the Commission against the Hope Natural Gas Company, alleging that the price charged by the Hope Natural Gas Company to The East Ohio Gas Company, an affiliated company, for natural gas sold and delivered at the Ohio River for resale to domestic, commercial, and small industrial consumers in the cities of Cleveland and Akron and elsewhere, is excessive, unjust, unreasonable, greatly in excess of the price

charged by the Hope Natural Gas Company to nonaffiliated companies at wholesale for resale to domestic, commercial, and small industrial consumers, and greatly in excess of the price charged by Hope Natural Gas Company to The East Ohio Gas Company for resale to certain favored industrial consumers in Ohio and therefore unduly discriminatory between customers and between classes of service. Said complaints prayed for an investigation by this Commission and a finding that the price charged The East Ohio Gas Company by the Hope Natural Gas Company for gas sold and delivered at the Ohio River is excessive, unreasonable, and unjustly discriminatory, and for the fixing of a just, fair, and reasonable rate;

(b) On August 18, 1938, and August 26, 1938, the Hope Natural Gas Company filed its answers to the complaints of the City of Cleveland and the City of Akron in Docket No. G-100 and Docket No. G-101, respectively, in which it denied that the price charged by the Hope Natural Gas Company to The East Ohio Gas Company for natural gas for resale to domestic, commercial, and small industrial consumers is excessive, unreasonable, or discriminatory;

(c) In Docket No. G-113, on October 14, 1938, the Commission, on its own motion, adopted an order instituting an investigation of the Hope Natural Gas Company for the purpose of enabling the Commission (1) to determine, with respect to said company, whether, in connection with any transportation or sale of natural gas subject to the jurisdiction of the Commission, any rate, charge, or classification demanded, observed, charged, or collected or any rule, regulation, practice or contract affecting such rate, charge, or classification, is unjust, unreasonable, unduly discriminatory, or preferential; and (2) if the Commission shall find that any such rate, charge, classification, rule, regulation, practice, or contract is unjust, unreasonable, unduly discriminatory, or preferential, to determine and fix by appropriate order or orders just, reasonable and nondiscriminatory rates, charges, classifications, rules, regulations, practices, or contracts to be thereafter observed and in force;

(d) Said order instituting an investigation was duly served upon the Hope Natural Gas Company and was received by said company on October 15, 1938;

(e) In Docket No. G-127, on March 23, 1939, the Pennsylvania Public Utility Commission filed a complaint with the Commission against the Hope Natural Gas Company, alleging that the prices charged by the Hope Natural Gas Company to The Peoples

Natural Gas Company, the Fayette County Gas Company, and The Manufacturers Light and Heat Company, for natural gas sold and delivered at points on the Pennsylvania-West Virginia state line for resale in the State of Pennsylvania, are unlawful, excessive, unreasonable, and discriminatory, and said complaint prays for an investigation by this Commission of said prices and for the fixing of just, fair, and reasonable rates;

(f) On April 25, 1939, the Hope Natural Gas Company filed its answer to the complaint of the Pennsylvania Public Utility Commission in Docket No. G-127, in which it denied that the prices charged by the Hope Natural Gas Company to The Peoples Natural Gas Company, the Fayette County Gas Company, and The Manufacturers Light and Heat Company are unlawful, excessive, unreasonable, and discriminatory;

(g) Hope Natural Gas Company has in course of preparation a restatement of the cost of its property and plant and representatives of the Commission have been informed that such restatement studies are substantially completed and will be entirely completed within a comparatively short time;

The Commission *orders* that:

(A) A public hearing in these proceedings be held commencing on December 4, 1939, at ten o'clock a. m., in the Hearing Room of the Federal Power Commission, Hurley-Wright Building, 1800 Pennsylvania Avenue, N. W., Washington, D. C., and at said public hearing, pursuant to the provisions of Sec. 50.63 of the Provisional Rules of Practice and Regulations Under the Natural Gas Act, the order of procedure will be for the Hope Natural Gas Company to open and close these proceedings with the presentation of its evidence relevant and material to the question whether, in connection with any transportation or sale of natural gas subject to the jurisdiction of the Commission, any rate, charge, or classification demanded, observed, charged, or collected by said Hope Natural Gas Company, or any rule, regulation, practice or contract affecting such rate, charge, or classification, is unjust, unreasonable, unduly discriminatory, or preferential;

(B) Docket Nos. G-100, G-101, G-113, and G-127 be and they are hereby consolidated for purposes of hearing thereon;

(C) Hope Natural Gas Company is hereby requested to submit at said hearing the restatement of the cost of its property and plant mentioned in paragraph (g) of this order.

By the Commission.

LEON M. FUQUAY, *Secretary.*

STATEMENT OF COMPANY COUNSEL ON ORDER OF PROOF

Transcript pages 26-28

* * *

26 Mr. COCKLEY. There is one preliminary matter, if the Examiner please, and that has to do with the question raised by the Commission's order of October 3, 1939, which consolidated all of these complaints with an investigation by the Commission on its own motion, and directed, in accordance with the Provisional Rules of the Commission under the Natural Gas Act, and I am quoting this:

"That the order of procedure will be for the Hope Natural Gas Company to open and close these proceedings with the presentation of its evidence."

The Natural Gas Act, of course, does not place the burden of proof in a technical sense upon the company unless the company is asking for an increase of rates or a change of rates or is asking for some other relief. The Hope Company in this case has not as yet, at least, made any application for an increase of rates. It has not petitioned for any relief. Complaints have been filed against it by the cities of Cleveland and Akron, and by the Pennsylvania Commission, charging in the most general terms that their rates are unreasonable and discriminatory. Those complaints do not advise the Hope Company in any respect in which it is claimed that the rates are unreasonable and discriminatory—just a general charge.

Now, we are not disposed to quarrel with the order of the Commission designating that we go forward first, although it seems to us a little unusual to require the defendant company to come in and present evidence to refute charges that have not yet been substantiated or have not even been specified with sufficient definiteness that any one can tell what the charges are. We assume that the Commission in making that order is doing it pursuant to a discretion that it has to conduct its own investigation in any way that it sees fit, and if it wants to conduct its investigation by designating the order of proof without changing the burden of proof in any respect, we see no objection and will be glad to cooperate with that method of procedure, but we do want to have it noted that the Hope Company itself is not thereby, by going forward in the first instance, is not thereby assuming any burden of proof, because it does not lie upon the Hope Company under

the Act, but that it is reserving all of its rights under the Act and under the law as it has been interpreted by the courts many times that the burden of proof is always upon the man who makes the charge and not upon the man who is defending it. With that reservation, we are willing to proceed in accordance with the orders of the Commission.

* * *

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United States of America
Federal Power Commission

Commissioners: Leland Olds, Chairman, Claude L. Draper,
Basil Manly, John W. Scott and Clyde L. Seavey.

OCTOBER 1, 1940.

CITY OF CLEVELAND, COMPLAINANT

v.

HOPE NATURAL GAS COMPANY, DEFENDANT

Docket No. G-100

CITY OF AKRON, COMPLAINANT

v.

HOPE NATURAL GAS COMPANY, DEFENDANT

Docket No. G-101

In the Matter of HOPE NATURAL GAS COMPANY

Docket No. G-113

PENNSYLVANIA PUBLIC UTILITY COMMISSION, COMPLAINANT

v.

HOPE NATURAL GAS COMPANY, DEFENDANT

Docket No. G-127

**ORDER FIXING DATE FOR HEARING ON MOTION FOR AN
IMMEDIATE ORDER REDUCING RATES**

It appearing to the Commission that:

(a) On July 6, 1938, a complaint was filed by the City of Cleveland against the rate charged by defendant Hope Natural Gas Company to its affiliate, The East Ohio Gas Company, for gas produced in the State of West Virginia and delivered at the Ohio River for transportation to and resale in Cleveland, and it prayed for an investigation by the Federal Power Commission, a finding that said River Rate is excessive, unreasonable, and unjustly discriminatory, and for the fixing of a just, fair, and reasonable rate;

(b) On July 25, 1938, a complaint was filed by the City of Akron against Hope Natural Gas Company, alleging that the price charged by the Hope Natural Gas Company to The East

Ohio Gas Company, an affiliated company, for natural gas
2 sold and delivered at the Ohio River for resale to domestic,
commercial and industrial consumers in the City of Akron
and elsewhere, is excessive, unjust, unreasonable, greatly in
excess of the price charged by the Hope Natural Gas Company
nonaffiliated companies at wholesale for resale to domestic,
commercial and industrial consumers, and greatly in excess of the
price charged by Hope Natural Gas Company to The East Ohio
Gas Company for resale to certain favored industrial consumers
in Ohio and therefore unduly discriminatory between customers
and between classes of service;

(c) On August 18, 1938 and August 26, 1938, the Hope Natural
Gas Company filed its answers to the complaints of the City of
Cleveland and the City of Akron, respectively, in which it denied
that the price charged by the Hope Natural Gas Company to
The East Ohio Gas Company for natural gas for resale to domes-
tic, commercial, and industrial consumers is excessive, unreason-
able, or discriminatory;

(d) On October 14, 1938, this Commission, on its own motion,
ordered an investigation of the Hope Natural Gas Company for
the purpose of enabling the commission:

“(1) To determine with respect to said company, whether, in
connection with any transportation or sale of natural gas subject
to the jurisdiction of the Commission, any rate, charge, or classi-
fication demanded, observed, charged or collected or any rule,
regulation, practice, or contract affecting such rate, charge, or
classification, is unjust, unreasonable, unduly discriminatory, or
preferential; and (2) if the Commission shall find that any such
rate, charge classification, rule, regulation, practice, or contract
is unjust, unreasonable, unduly discriminatory, or preferential,
to determine and fix by appropriate order or orders just, reason-
able, and nondiscriminatory rates, charges, classifications, rules,
regulations, practices, or contracts to be thereafter observed and
in force;

“Said investigation shall include an inquiry into and the de-
termination of the reasonableness and lawfulness of the purchase
prices paid by the Hope Natural Gas Company for natural gas,
including the prices paid to the Clayco Gas Company and the
South Penn Oil Company.”

(e) On March 23, 1939, the Pennsylvania Public Utility Com-
mission filed a complaint with the Commission against the Hope
Natural Gas Company, alleging that the prices charged by the

Hope Natural Gas Company to The Peoples Natural Gas Company, Fayette County Gas Company, and the Manufacturers
3 Light and Heat Company, for natural gas sold and delivered at points on the Pennsylvania-West Virginia State line for resale in the State of Pennsylvania, are unlawful, excessive, unreasonable, and discriminatory, and prayed for an investigation by this Commission of said prices and for the fixing of just, fair, and reasonable rates, and that on April 25, 1939, the Hope Natural Gas Company filed its answer to the complaint of the Pennsylvania Public Utility Commission;

(f) On October 3, 1939, the Commission entered an order consolidating Docket Nos. G-100, G-101, G-113, and G-127 for hearing and fixed the date for the first hearing which was subsequently postponed to April 1, 1940, upon the request of Counsel for the Hope Natural Gas Company;

(g) Since April 1, 1940, hearings have been held from time to time in Clarksburg, West Virginia, and at those hearings the defendant-respondent company has appeared by counsel, has had full opportunity to be heard, has offered and presented both oral and documentary evidence, has been subjected to cross-examination, has engaged in redirect examination, and has presented all the evidence relating to the issues herein which it chose to present in opening the proceedings as directed by the Commission's order of October 3, 1939;

(h) On April 2, 1940, the Commission granted petitions to intervene filed by the Public Service Commission of West Virginia and the State of West Virginia;

(i) On September 23, 1940, Counsel for the Cities of Cleveland and Akron, Ohio, filed a "Motion for an Immediate Order Reducing Rates", which had a certificate attached showing service by mail upon all parties;

(j) In the motion it is moved "that the Commission enter an immediate order for a Hope-East Ohio rate reduction of approximately \$662,000 per year, and that the Commission fix just and reasonable rates for gas sold by Hope Natural Gas Company to The East Ohio Gas Company for natural gas delivered at the Ohio River for resale to consumers in Cleveland, Akron, and elsewhere effecting said reduction upon the Hope company's own testimony herein, without prejudice to the power and authority of the Commission to find said reduced rates excessive upon the testimony of the Commission's staff to be hereafter offered in evidence, and without prejudice to the power and authority

of the Commission to further reduce said River Rates upon its own motion or otherwise at any time hereafter, upon good cause shown; and that the Commission proceed immediately to fix by order dates for briefs and oral argument upon this motion.”;

4 (k) The specific allegations or grounds for said motion are more fully set out therein and the same are hereby incorporated herein and made a part hereof;

The Commission, therefore, orders that :

(A) The “Motion for an Immediate Order Reducing Rates” be and it is hereby set down for hearing before the Commission, *en banc*, on November 20, 1940, at 10:00 a. m., in the hearing room of the Federal Power Commission, 1800 Pennsylvania Avenue, N. W., Washington, D. C., at which time counsel for the respective parties may present oral argument;

(B) Main briefs in support of or in opposition to said motion shall be filed on or before November 1, 1940; reply briefs shall be filed within ten days after November 1, 1940.

By the Commission.

LEON M. FUQUAY, *Secretary*.

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United States of America

Federal Power Commission

Commissioners: Leland Olds, chairman; Claude L. Draper,
Basil Manly, John W. Scott and Clyde L. Seavey.

DECEMBER 20, 1940.

CITY OF CLEVELAND, COMPLAINANT

v.

HOPE NATURAL GAS COMPANY, DEFENDANT

Docket No. G-100

CITY OF AKRON, COMPLAINANT

v.

HOPE NATURAL GAS COMPANY, DEFENDANT

Docket No. G-101

In the Matter of HOPE NATURAL GAS COMPANY

Docket No. G-113

PENNSYLVANIA PUBLIC UTILITY COMMISSION, COMPLAINANT

v.

HOPE NATURAL GAS COMPANY, DEFENDANT

Docket No. G-127

**ORDER DENYING MOTION FOR AN IMMEDIATE ORDER
REDUCING RATES**

Upon consideration of the joint "Motion for an Immediate Order Reducing Rates" for natural gas sold at wholesale by Hope Natural Gas Company to the East Ohio Gas Company, filed by the Cities of Cleveland and Akron, Ohio, on September 23, 1940; the main and reply briefs in support of the joint Motion filed by the Cities; the main and reply briefs and exceptions to the Cities' proposed findings filed in opposition by Hope Natural

Gas Company; the exceptions, objections and joint motions of the State of West Virginia and the Public Service Commission of West Virginia filed on November 20, 1940, with respect to the Cities' Motion; the oral arguments on the Cities' Motion presented to the Commission sitting en banc on November 20, 1940, by counsel on behalf of the Cities, the Company, the State of West Virginia and the Public Service Commission of West Virginia and the entire evidence adduced of record in the above-entitled proceedings;

The Commission finds that:

There is insufficient evidence of record, at this time, to support the prayer for relief requested by the movants;

2 The Commission orders that:

(A) The joint motion of the Cities of Cleveland and Akron, Ohio, for an immediate order reducing rates for natural gas sold at wholesale by the Hope Natural Gas Company to the East Ohio Gas Company be and it is hereby denied without prejudice;

(B) This order is not to be construed as a determination of any of the issues in the pending principal proceedings involving the reasonableness of the interstate wholesale rates of the Hope Natural Gas Company, but is confined to the merits of the present joint motion filed by the Cities of Cleveland and Akron, Ohio.

By the Commission.

LEON M. FUQUAY, *Secretary.*

2180 **STATEMENT OF COMMISSION COUNSEL ON
THE ISSUES**

Transcript pages 2180-2182

Mr. SPRINGER. Mr. Examiner, I should like to make an opening statement at this time.

In order that there will be no doubt about the issues in this rate case, I should like to outline what will be shown by the facts, which the Commission's staff will present beginning today.

Considering the rate base first—we will present evidence which will show that the Hope Natural Gas Company's prudent investment or adjusted book cost, in other than distribution property and before allocation, as of December 31, 1938, is approximately \$51,200,000. Hope Natural Gas Company's book reserve for depreciation and depletion, excluding specific distribution system reserves, totaling \$39,320,000, appears to be excessive as a measure of the accrued depreciation and depletion in the Company's property, so we will present evidence, based upon the straight-line and production depreciation methods, to show that the depreciation and depletion reserve requirement relating to the above property is about \$23,500,000, and that this is the best measure of the accrued depreciation and depletion in the property. It may be noted that the excess of the Company's book reserve over the reserve requirement is about \$15,800,000, which might be considered capital contributions made by consumers in the past and the total book reserve might be deducted equitably in determining the rate base.

2181 We have exposed the fundamental defects in the Hope Natural Gas Company's trended original cost, its estimated reproduction cost new, and its claimed "observed-accrued" depreciation by cross-examination, but we may elect to present concise rebuttal evidence on these three subjects in addition.

The Company's misnamed, but claimed "original cost" contains about \$17,000,000 which the Company did not choose to capitalize in the past by election of the management, but which it now attempts to capitalize retroactively. We disagree on principle with this attempt to place multiple charges on the consumers and we will recommend to the Commission that the rate base in this case be predicated upon the only reliable evidence which the record will contain, that is, the Company's prudent investment or adjusted book cost of approximately \$51,200,000, in other than distribution property and before allocation, less the depreciation and depletion

reserve requirement of approximately \$23,500,000, plus working capital of about \$2,000,000, which produces a depreciated rate base of about \$29,700,000 for the end of 1938. Of course, we will present evidence to bring all these figures up to date.

We will present the facts which will enable the Commission to determine: (1) Whether the Company's gas reserves are adequate; (2) whether the Company pays a reasonable price for the
2182 great quantity of gas which it purchases; and (3) whether

Hope Natural Gas Company receives a fair price for the gasoline extracted from its gas by its affiliate, Hope Construction and Refining Company. Until the Company presents more convincing proof of the portion of its investment in its 600,000 unoperated acres which is devoted to its gas service and is useful in the reasonably near future, we will recommend that the entire amount be excluded from the rate base and that the related delay rentals be excluded from the allowable operating expenses. We will also present appropriate evidence showing the revenues, expenses and resulting operating income of the Hope Natural Gas Company.

We will present facts relevant to the rate of return which is fair and reasonable for the Hope Natural Gas Company.

We intend to present evidence to show the segregation of the Company's revenues, operating expenses, depreciation, depletion and return as between its intrastate and interstate business.

Considering Hope's operating income and applying a reasonable rate of return to the recommended depreciated prudent investment rate base, there is indicated a substantial reduction in the interstate wholesale rates of the Hope Natural Gas Company.

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United States of America

Federal Power Commission

Commissioners: Leland Olds, Chairman, Claude L. Draper,
Basil Manly, John W. Scott and Clyde L. Seavey.

OCTOBER 3, 1941.

CITY OF CLEVELAND, COMPLAINANT

v.

HOPE NATURAL GAS COMPANY, DEFENDANT

Docket No. G-100

CITY OF AKRON, COMPLAINANT

v.

HOPE NATURAL GAS COMPANY, DEFENDANT

Docket No. G-101

In the Matter of HOPE NATURAL GAS COMPANY

Docket No. G-113

PENNSYLVANIA PUBLIC UTILITY COMMISSION, COMPLAINANT

v.

HOPE NATURAL GAS COMPANY, DEFENDANT

Docket No. G-127

**ORDER (1) DENYING APPLICATION FOR SERVICE OF TRIAL
EXAMINER'S REPORT AND (2) GRANTING ORAL ARGUMENT**

Upon application of Hope Natural Gas Company, filed Sep-
tember 30, 1941, requesting, as separate application, (1) that any
trial examiner's report in this proceeding be served upon it, and
(2) that it be granted oral argument before the Commission en
banc;

It appearing to the Commission that:

(a) Section 19 (a) of the Natural Gas Act provides in part
as follows:

Any person, State, municipality, or State commission aggrieved by an order issued by the Commission in a proceeding under this Act to which such person, State, municipality, or State commission is a party may apply for a rehearing within thirty days after the issuance of such order. The application for rehearing shall set forth specifically the ground or grounds upon which such application is based. Upon such application the Commission shall have power to grant or deny rehearing or to abrogate or modify its order without further hearing * * *;

(b) Under this provision of the Act any aggrieved party, in its application for rehearing, may take exception to any or all findings of the Commission, its failure to make necessary findings, or any order or conclusions embodied in the opinion or order of the Commission;

(c) Such statutory procedure provides a direct and adequate means of excepting to any part of the Commission's order by which a party deems himself aggrieved and avoids the cumbersome and frequently futile procedure of taking exceptions to the merely advisory findings and conclusions of the examiner, many of which may not be accepted by the Commission or be incorporated in the Commission's order.

Wherefore, the Commission orders that:

(A) Applicant's request for service upon it of any trial examiner's report which may be made herein be and the same is hereby denied;

(B) Oral argument on the issues raised at the hearing herein be had before the Commission, en banc, on October 27, 1941, at 9:45 a. m., in the Hearing Room of the Commission, 1800 Pennsylvania Avenue NW., Washington, D. C.

By the Commission.

LEON M. FUQUAY, *Secretary.*

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United States of America

Federal Power Commission

Commissioners: Leland Olds, Chairman, Claude L. Draper,
Basil Manly, John W. Scott and Clyde L. Seavey.

NOVEMBER 4, 1941.

CITY OF CLEVELAND, COMPLAINANT

v.

HOPE NATURAL GAS COMPANY, DEFENDANT

Docket No. G-100

CITY OF AKRON, COMPLAINANT

v.

HOPE NATURAL GAS COMPANY, DEFENDANT

Docket No. G-101

In the Matter of HOPE NATURAL GAS COMPANY,
Docket No. G-113

PENNSYLVANIA PUBLIC UTILITY COMMISSION, COMPLAINANT

v.

HOPE NATURAL GAS COMPANY, DEFENDANT

Docket No. G-127

ORDER DENYING APPLICATION FOR REHEARING

Upon consideration of the application filed on October 23, 1941, by Hope Natural Gas Company requesting reconsideration and rehearing with respect to the Commission's order of October 3, 1941, which denied the application for service of the Trial Examiner's Report, but granted oral argument;

The Commission finds that:

Hope Natural Gas Company has been fairly and fully advised of the legal and factual issues in these proceedings; it has had full opportunity to test, explain or refute the evidence of record and to meet the legal and factual issues involved, both by brief and oral argument before the entire Commission; and will have available

to it the procedure recited in paragraphs (a), (b), and (c) of the Commission's order of October 3, 1941;

Wherefore, the Commission orders that:

Applicant's request for a rehearing with respect to the Commission's order of October 3, 1941, be and it is hereby denied.

By the Commission.

LEON M. FUQUAY, *Secretary.*

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United States of America

Federal Power Commission

Commissioners: Leland Olds, Chairman, Claude L. Draper, Basil Manly, and Clyde L. Seavey.

JULY 7, 1942.

CITY OF CLEVELAND, COMPLAINANT

vs.

HOPE NATURAL GAS COMPANY, DEFENDANT
Docket No. G-100

CITY OF AKRON, COMPLAINANT

vs.

HOPE NATURAL GAS COMPANY, DEFENDANT
Docket No. G-101

PENNSYLVANIA PUBLIC UTILITY COMMISSION, COMPLAINANT

vs.

HOPE NATURAL GAS COMPANY, DEFENDANT
Docket No. G-127

In the Matter of HOPE NATURAL GAS COMPANY,
Docket No. G-113

ORDER DENYING PETITION FOR REHEARING AND STAY

Upon consideration of the petition of Hope Natural Gas Company filed June 24, 1942, for rehearing and stay with respect to the Commission's findings as to lawfulness of past rates and order reducing rates of that Company entered on May 26, 1942, and the Commission's Opinion No. 76; and upon further consideration of all previous orders in these proceedings, the evidence of record, the briefs and oral arguments, and adhering to its Opinion No. 76, findings as to lawfulness of past rates and order of May 26, 1942, reducing rates;

The Commission finds that:

No new facts have been presented or alleged in the petition for rehearing which would justify a reversal or revision of the Commission's Opinion No. 76, findings as to lawfulness of past rates and order reducing rates, entered May 26, 1942, and no principles

of law are stated in the petition for rehearing and stay which were not fully considered by the Commission before it rendered said opinion, findings and order;

The Commission, therefore, orders that:

The petition for rehearing and stay be and it is hereby denied.

By the Commission.

LEON M. FUQUAY, *Secretary*.

TESTIMONY OF HOPE WITNESS RHODES ON ESTIMATED
COST TO REPRODUCE HOPE'S PLANT

Transcript pages 529-761

* * *

529 Cross-examined by Mr. SPRINGER:

Q. Mr. Rhodes, you are a stockholder in Ford, Bacon & Davis, are you not?

530 A. That is correct.

Q. And you are also a stockholder in the Standard Oil Company (New Jersey)?

A. Yes.

Q. And the Ford, Bacon & Davis firm has a contract for valuation and other services, I understand, with the Standard Oil Company of New Jersey and its subsidiaries, has it not?

A. It has a contract with one of its subsidiaries, which performs services for various natural gas companies, namely, Gas Company, Incorporated.

Q. Do you know the annual income derived from that contract?

A. I do not recall what it is; no.

Q. It is substantial, is it not?

A. Oh, yes. The Standard Oil Company of New Jersey is one of our more important clients.

Q. Are you directly responsible for unit costs of all construction and overheads used in this reproduction cost new estimate?

A. I specified the principles to be followed in determining these unit costs, the methods of ascertaining labor rates that would have to be paid, the prices that would have to be paid for materials, and

531 I sat in and consulted freely and continuously with the men responsible for the detail work of the various classes of construction.

Q. Did you use costs observed or used on other projects which you listed on pages 6 and 7 of Exhibit 16, to arrive at the unit cost used in the reproduction cost new estimate here?

* * *

Q. That is on pages 6 and 7 of Exhibit 16-A.

A. The costs in some of these projects and also the more than 45 years of experience of Ford, Bacon & Davis were called upon, as well as my own personal experience, extending over 35 years—they represent a composite judgment which is based on all of that experience.

Q. Have you had personal experience in a particular construction project which is similar to the Hope System?

A. Yes.

Q. Will you describe that, please?

A. The construction of the Southern Natural Gas Corporation's system as a whole was handled under my immediate direction in the field, and simultaneously the pipe line construction of the Mississippi River Fuel Corporation.

Q. Can you give us the dollar amount of the construction, approximately?

A. About 35 million dollars in that particular sphere of operations that were under my direction, which was carried out in the period of about a year.

Q. Exactly what did you do in that construction project?

A. On the Southern Natural Gas Company's construction project, Ford, Bacon & Davis were the agents of the owners, the agents for the Company. The Company itself had previously decided to carry out the construction itself, got into difficulties, and called us in to help them and act as their agents. The company's own organization carried on relations largely with public authorities and matters of purely a corporate nature. They carried on the immediate relations with the bankers in getting the money, and I was responsible for everything else.

Q. You mean that you were the resident engineer?

A. I was more than that: I was the officer of Ford, Bacon & Davis acting and functioning as agents for the Southern Natural Gas Corporation in that entire operation.

Q. Did you supervise the acquiring of the right of way?

A. Not personally; no.

Q. How many days did you spend in the field on the project?

A. The work of directing between these two jobs, some \$35,000,000 in one year, is essentially an executive job. I spent probably a third of my time away from the office on various construction operations where there was some difficulty or something requiring special attention.

Q. Did you have prepared a reasonably accurate analysis and summary of the costs of construction of natural gas projects which you say you supervised?

A. The accounting on that project was all handled by men working under my direction. The men in charge of the accounting later continued with the company as the accounting department of the

company after curtailing, of course, the additional men required in the construction period.

I had no specific analysis of the cost of construction made in the form of the unit costs of all operations. I did purchase in our office, without other officers—we did purchase the pipe. I let most of the contracts for the construction and the portions of the construction that were built with our force account, I organized the personnel to build those portions of the property.

Q. Have you ever had responsible charge of construction of natural gas properties in West Virginia?

A. The only construction work with which I have been
534 connected in West Virginia was the construction of a 60-mile
pipe line to carry liquid propane from the Kentucky state
line to South Charleston, West Virginia.

Q. Is that construction comparable with the construction required in a natural gas pipe line system?

A. The methods of construction are the same; yes.

Q. Are the materials?

A. They are the same; yes.

Q. Exactly what did you do on that project?

A. Well, as the—

Q. (Interrupting.) You were the Chief Executive?

A. I was the principal executive in Ford, Bacon & Davis on construction matters. I personally negotiated and secured the contract for the building of the line, I approved the specifications, discussed the planning of the line with the owners, on account of the special features of the liquid to be carried, and otherwise spent comparatively little time on the line.

Q. Have you had responsible charge of the construction of natural gas properties in Pennsylvania?

A. Only in an executive capacity.

Q. And in Ohio?

A. In Ohio the same is true. Pipe line construction—it should
be designated as that, because our only construction work
in Ohio along the lines of the natural gas business was a
535 gasoline pipe line from Toledo to Detroit.

Q. Was that construction project comparable to a natural gas system construction?

A. The methods of construction and the materials used are identical.

Q. What other natural gas construction have you supervised in the Appalachian area?

A. There are no important projects other than those which have been named.

Q. And for all of these projects, you have not analyzed the costs of construction for purposes to be used in this reproduction cost new exhibit 16-A to I, inclusive?

A. On the construction work which we ourselves have carried out, namely this liquid propane line in West Virginia and on a gasoline pipe line in Pennsylvania, and this gasoline pipe line from Toledo to Detroit, together with a considerable number of other projects, we have analyzed the costs. The particular ones that were named were actually constructed by us, and of course, we have all of the cost records available.

Q. And did you use them in preparing the reproduction cost new estimate in this case?

A. We used them in guiding our judgment as to what was the proper performance of men and machines in West Virginia.

536 Q. Are those analyses available for the Federal Power Commission engineers?

A. The analyses which enable one to form his judgment and to reflect the considerable experience of an engineering organization such as ours, I have not considered as being appropriate material for working papers. They are not in convenient form to be understood by others. Analyses are, in general, in such work, not carried to the finished condition of the completion of working papers that are to be prepared for examination by others. Incidentally, in connection with those papers are costs and information with respect to the construction of other lines that were given to us in confidence and we cannot make them available to anybody.

Q. Do you mean that we must read your mind, that we cannot have access to the foundation of the reproduction cost new estimate?

A. We should be very glad to show a competent, experienced engineer, familiar with natural gas construction, the process which we went through in arriving at our final conclusion as to performance, but I should want to point out that those working papers are not complete and that there are some parts of it which were given us in confidence, that we could not show.

Q. Can you tell us now what weight you gave to those cost analyses in preparing this estimate of reproduction cost
537 of the Hope System?

A. Well, with respect to pipe lines, these cost analyses compared with experience and supervising the construction and estimating in advance the cost of some several thousand of miles

of pipe lines, that experience had to be used in analyzing the costs. The costs of lines are affected by more things than appear on the face of it. I have clearly in mind two construction jobs which we had cost records on, one of which was constructed in ordinary weather and the other of which was constructed in just about the wettest period that has ever existed in the territory involved. The lines were of the same size, the country was very similar, but the one built in wet weather cost fully twice as much as the one built in dry weather. I am talking now about the laying costs.

Now, in analyzing these various costs, it is necessary to know the facts, or you can be very badly misled, and incidentally this wet weather experience of ours was ignored, except to the extent of measuring the possible effects of the normal rainfall in country such as West Virginia.

Q. Then, in your assumed construction period of three years for your reproduction cost estimated of the Hope System, that was related to normal weather conditions of West Virginia?

A. That is correct; the normal amount of rainfall, and assumed no attempt to work at all in the worst two months of 538 the winter, generally January and February.

Q. Are the laying costs which you used in reproduction cost new comparable to the described costs of wet-weather construction experience that you have just named?

A. The reproduction costs or cost of laying pipe lines, which is what we are talking about, is based on weather conditions that are normally to be expected in ten months of the year in West Virginia.

Q. Is that lower or higher than the experience of the wet weather conditions which you described previously?

A. Much lower.

Q. Then you will make available the average cost analyses to our engineers?

A. I will be glad to have those analyses explained to an experienced pipe line engineer, but it is understood, however, as I explained before, they are nebulous, and some of it cannot be shown.

Q. Nebulous and hypothetical?

A. Not at all hypothetical. The costs are facts, and this valuation is based on facts.

Q. Nebulous facts?

A. No. I said the working papers are not complete to the extent that working papers need to be carried to be made available in the independent examinations of others. You do not

539 label things. They serve your purpose and then you are through with them.

Q. Do you have a uniform formula for analyzing costs of construction projects?

A. No.

Q. In preparing your reproduction cost new estimate, Exhibits 16-A, to I, inclusive, what consideration did you give to the actual experience of the Hope Company in the construction of its property as recorded on its books?

A. The performance of men in handling pipe line construction by the company during the year 1925 was given careful consideration. The book records were available as to the performance of men, and this experience of the Hope Company during periods of heavy construction, was one of the guides to the final conclusion which we reached.

Q. Does the extent of your reliance on that information show in your working papers?

A. No. The engineers in reaching conclusions as to what is the fair and proper average cost or average performance do not specifically weight specific things. They take into account all of the facts that are at their command at the time, and they temper those facts with knowledge of the conditions under which the construction is carried out. They take into account their other
540 experiences on other projects, and reach a final conclusion, and the process of getting the final answer is not mathematical.

Q. You say that your experience has been mostly as an executive on pipe line construction. Do you mean that you have assistants who are experienced men and convey from their minds to yours these various elements that go to make up the costs?

* * *

The WITNESS. Well, as to the first part of the question, I have not worked in the ditch. My responsibility has extended from executive work where I was immediately responsible, and I spent quite a lot of time in the field on actual construction. A great deal of the work is far from executive when there is trouble. It has extended from that on some projects to, as I explained before, the complete executive charge of a large operation such as that of the Southern Natural Gas Company.

With respect to the second part of the question, I have assistants working for me, and who worked on this job, who themselves have actually been out in the field, men who have worked in the ditch in

West Virginia and know what can be gotten out of the men.
541 These results represent the combined opinion of these men,
and they place before me the facts of their own respective
kinds of experience, and I reached the final conclusions as to the
basic performances to be used, based on their experience, extending,
as I say, right down to the man in the ditch.

The TRIAL EXAMINER. Their experience was recorded, was it not?

The WITNESS. My experience, yes.

The TRIAL EXAMINER. No; their experience. That is, the experience of the man in the ditch and the man who stands on the side of the ditch is recorded as to the productivity of the men and the machines, from day to day from week to week and from month to month, is it not?

The WITNESS. Yes; but generally the cost accounting, during the construction of a pipe line, particularly that of contractors, is carried out in the manner to assist them in bidding on future jobs. No two pipe line constructors use the same method of cost accounting. The contractor changes his methods from job to job, and for that reason the records of construction of several contractors or several job foremen cannot be put down in a table and added up and divided to get the answer. It is necessary to find out what they mean.

The TRIAL EXAMINER. Do you and your assistants always use the same methods at the same time?

542 The WITNESS. My job was to bring these things so that they were talking the same language, and that the fellow that directed the job as an executive would talk the same language as the fellow that was the job foreman.

The TRIAL EXAMINER. What I am trying to find out is how you found out that you were talking the same language.

The WITNESS. Because, having known these men for many years, you learn their language.

The TRIAL EXAMINER. I judge then that they always used the same method, is that correct?

The WITNESS. They generally mean the same thing by the same words, and it is quite important in building up a composite result of their experience, to do that. Your field men, for instance, that is, the foreman out on the job, he is very prone to thing of performance as the time that he can boast about when he has been able to get a good day. The executive responsible for the job discounts that, and if he is responsible for putting in a bid, he has a tendency

to overdiscount it, the same way as the actual construction foreman has boasts in his ideas.

All of those things have to be ironed out, and they have been ironed out at the expense of a great deal of effort in this particular job.

The TRIAL EXAMINER. The effect of that is that the
543 estimate of costs which might be made on the basis of the field man's experience would be increased by the action you would take on that information, is that not true?

The WITNESS. In general that is so; yes. The field man—

The TRIAL EXAMINER (interrupting). Well, it is a fact, is it not, that your estimate of the costs of a proposed project is based on your actual experience in connection with the actual construction of similar projects?

The WITNESS. That is right.

The TRIAL EXAMINER. And that experience is recorded, is it not?

The WITNESS. It is recorded in the working papers, yes, sir.

The TRIAL EXAMINER. And in making your estimate of the cost of this proposed project, you referred, I presume, to those recorded costs, did you not?

The WITNESS. The starting point of the estimate—unit price estimates—in the working papers here, is the composite result of our experience. We do not start de novo on every valuation or every reproduction cost determination which we make, and build the costs all over again. Some of these unit costs, particularly in
544 matters of building construction, of the type involved here, have been used by us for so long, that we do not redetermine.

In connection with pipe line construction, we started with certain basic performances of men and machines, of sizes and kinds of pipe lines that control the type of equipment that you will use.

Now, in arriving at those basic performances, that is the job that we have to do in advance of preparing unit costs, and it is work that is done not only in connection with this particular piece of work, but with a lot of pieces of work that we have been and are doing.

As I say, there are working papers in our own private files that could be explained in rather considerable complexity to an examining engineer.

The TRIAL EXAMINER. You start then with the same basis in making your estimate with respect to every project?

The WITNESS. All of the work that we have done recently in pipe line construction, for instance, starts from this same experience

of ours, but it was only within the past two or three years that I have attempted to bring together in concrete form this diversified experience of our firm and this work here represents that experience after pretty careful and thorough study of our experience and experience of the men.

The TRIAL EXAMINER. You may proceed.

By Mr. SPRINGER:

545 Q. Mr. Rhodes, did I understand that a composite judgment of the analysis of construction costs is the basis for your unit cost development in this case?

A. That does not, I think, quite represent what I have in mind, but it is the joint opinion of our men experienced in pipe line construction work.

Q. When you speak of your men experienced in pipe line construction, are all of those men experienced in pipe line construction in West Virginia in the area covered by the Hope system?

A. No.

Q. Then you may have in your composite judgment, a man's idea of unit costs in the Panhandle region as compared with the Appalachian area?

A. Such costs were taken into account. The method of arriving at costs was not to say "Well, here is West Virginia and it costs so much in West Virginia." A hill is a hill whether it is in West Virginia or Alabama or where it may be, and the contour of the ground and the roughness of the ground is measurable by the steepness of the hill, and if a pipe line is to be built up a hill of a certain steepness, it does not make any difference what state it is in. The time required to lay that line both as to machines and as to men is practically the same in West Virginia as elsewhere.

546 It is more in West Virginia, for instance, than the same hill would be in Arizona, because it rains more in West Virginia, but basically, the costs are about the same.

If you get flat country, of which there is a little, but not much, in West Virginia, it does not make any difference whether you are laying pipe line in West Virginia or where you are laying it, in our experience in arriving at the unit costs of laying pipe lines here, analyzing the experience in every conceivable kind of country, from country where pipe lines cost less than half as much as they do in West Virginia, to places where pipe lines on the average cost twice as much as they do in West Virginia. We have taken into account all of the various kinds and classes of countries.

Q. Then did you give the West Virginia appraisal its relative weight in your composite judgment?

A. We made a very extensive field survey of the construction conditions in West Virginia. The 1,300 miles trunk line, for instance, were very thoroughly surveyed. They were seen at every place where they could be gotten at with reasonable facility, and then on the remainder an extensive portion was actually walked by our construction men to find out just what construction conditions would be encountered.

With respect to the smaller lines that were not the trunk lines, an extensive sampling of roughly ten percent was selected
547 covering the whole territory, and those lines were studied and their construction conditions determined.

The result of it is that we actually know the construction conditions in detail that would be encountered on something more than 2,000 miles of pipe line built by this company.

Q. Was the Hope Company's experience over those same pipe lines that your men walked available to you?

A. The Hope Company's experience on the lines, the major lines, built in 1925 when they were extended south into Boone County, the company's labor performance in connection with that line was studied, in conjunction with the actual construction conditions encountered or to be encountered in building the line today. Not as they were then. They used oxen when they built that line, they use tractors today.

Q. You say that you had assistants available who had dug pipe line ditches in West Virginia. Will you name those men for us?

A. I stated that I had one. His name is Evans.

Q. Did he tell you what his conception of labor performance was in West Virginia for pipe line construction?

A. He sat down with us and we discussed very thoroughly the performance of labor under the various kinds of conditions
548 and the different degrees of hilliness and so forth, and he accepted the figures, as we finally used them.

Q. You spoke of using modern equipment in the performance basis of your reproduction cost new estimate. I assume the cost would be less than was actually experienced then or twenty or forty years ago by the Hope system?

A. When Hope's main lines were built, they had some construction equipment, but they were largely hand jobs. We found on careful analysis that aside from equipping the various gangs with tractors, with side booms and winches to assist in handling the pipe

and snaking it or skidding it through the woods, we found that it did not pay to use machinery in West Virginia. There are places, many places, where machines could be used advantageously, if you could get the machines there, but it costs so much to move this heavy ditching machinery from place to place, from the good places to other good places, over ravines and across streams, that the cost of moving fully offset the advantage of these machines.

So, as it stands today, the laying of a pipe line in West Virginia, assuming the same rate of wages, would be somewhat lower, because there are better roads, and more things of that nature, but there would not be any very great difference.

549 Q. Do you know that a 92-mile transmission pipe line was built partially with machine ditching in the Hope system?

A. Yes, I do.

Q. And have you reproduced that section of the property with hand ditching?

A. The particular line in question was not specifically estimated. The unit costs were developed to fit the country encountered in each size of line, and the lines over—in one line, for instance, that is not the only line of that size.

For instance, we found the average construction conditions to be encountered by all 12-inch lines, the unit cost for all 12-inch lines were built up to meet those average conditions.

The contractor on the line in question which you have, it was well known, lost money.

Q. How do you know that?

A. Because I have a letter from that contractor telling me what it cost him to build the line and how much he received for it.

Q. May we have access to that letter?

A. That was given to me in confidence.

Q. Will you tell us how much money he lost?

A. I don't recall the exact figures, but the pipe-laying contractor received a payment for the work, I think approximately
550 his cash out-of-pocket costs in laying that line, without anything to cover his general office overhead or the use of his machinery, let alone any profit.

Q. Was he an experienced pipe line constructor?

A. Yes.

Q. And you reproduced the same line with hand ditching and the other elements for more or less than he was paid for the job?

A. It would be more than he was paid for the job, yes, sir.

Q. You took into consideration the confidential letter in reaching your estimate?

A. That letter was one of the letters, one of the pieces of information which was given me in confidence, which I had in mind as the experience which helps us to determine what the true costs of laying pipe lines were in West Virginia.

Q. Do you know what proportion of pipe lines of the Hope Company were built by contractors?

A. Comparatively small portion. Just what proportion was built, I do not recall.

Q. Would it be ten or twenty per cent?

A. I have not in mind the figure at all.

The TRIAL EXAMINER. Do you know whether this contractor set out with the idea of losing that much money on the job?

The WITNESS. No, he set out with the idea of making 551 money; there is no doubt of that.

The TRIAL EXAMINER. He made a mistake in estimating costs?

The WITNESS. He did. He estimated it too low.

By Mr. SPRINGER:

Q. In your estimate, you would make a handsome profit, would you, for the construction of that same pipe line?

A. No.

Q. With hand ditching, where machine ditching was actually used?

A. The machine ditching was used at an expense that was, as nearly as can be ascertained, about the same as the hand ditching. They dug the ditch with machine very cheaply, but they spent a lot of money getting the machine from hill-top to hill-top, and that is our experience in the line at South Charleston. We used a machine on one part of that job, which should have resulted in a reduced cost of ditching, but as a matter of fact, the total cost of the ditch in the part that was dug by machine, including the machine wear and tear, was greater than the part that was done wholly by hand.

Q. Do you know whether any other pipe lines at that time were built for the Hope Company by a contractor?

A. I don't recall any other important line that was 552 built by contract.

Q. What proportion of pipe lines in your reproduction cost new estimate have you assumed would be built by contractors?

A. I have assumed that they would all be built by contractors in accordance with the practice of the industry, when large projects are built.

Q. From your familiarity with the construction of the Hope system, would you say that it was built within three years or built up gradually, over a period of forty years?

A. It was obviously built up over a period of forty years.

Q. And you have assumed a construction period of three years?

A. That is correct.

Q. Then would you characterize the development of the Hope system as piecemeal?

A. Some of it.

Q. Are you familiar with the construction of pipe line designated as H-162, that was built in 1925?

A. That pipe line was one of the lines, the performance on which was available when we arrived at our performance figures.

Q. Would wholesale construction costs be lower than
553 piecemeal construction costs, for pipe lines in West Virginia and the Hope Company in particular?

A. That depends on where you draw the line between piecemeal construction and wholesale construction.

Q. What is your definition of piecemeal construction? You just said that the historical development of the Hope Company was piecemeal over a forty-year period?

* * *

554 A. If I recall correctly I stated that some of it was built by piecemeal construction.

Q. Now, I want to get your definition of "piecemeal."

The TRIAL EXAMINER. I believe he testified that piecemeal construction would be more costly than wholesale construction. Is that what you said?

The WITNESS. No; I do not think so. At times it is; yes, sir.

The TRIAL EXAMINER. Well, then, you could not make any distinction so far as costs are concerned, between piecemeal and wholesale construction?

The WITNESS. Yes, I think you can, and if may explain. Hope Company, in its forty years of development, has built the greater part of its pipe lines—I don't recall just what the percentage is. They built—the field lines for instance, most of them are small, short lines, a few miles long, built with small crews of rather skilled pipe line men that the company carries from year to year and does carry them because of their exceptional skill and because they are

exceptionally good men. Those men will build two or three or
four-inch lines considerably cheaper than any contractor can
555 afford to move in and build them, largely because of the fact
that they have developed a peculiar skill in that direction.

Now, when the large operations come about, requiring large
gangs, two or three hundred or five hundred or ten thousand men
they are talking about in this reproduction operation, then the
company will go out in the labor market and be satisfied with the
average laborer. The average laborer will not do as much work
in a day as the man who has been selected and chosen by the Hope
Company, and when you are dealing with large pipe lines of large
operations, where large numbers of men are required, the cost to
anybody will be greater than the cost of building these small lines,
like the field lines.

Now, on the other hand, if the company sends a crew of men out,
away out in the country, and lays a couple of hundred feet of two
inch line, that would be an expensive piecemeal operation.

So, when you are dealing with piecemeal versus wholesale con-
struction in the pipe line business, you can state small, very small,
piecemeal construction is expensive. When it gets to an operation
that when you carry it with fifteen or twenty men kept busy for a
week or two, you get very efficient piecemeal construction, but as
the numbers grow larger and more men are required to be
556 picked up in the labor market, then the costs proportionately
become more and more extensive, so that on very large con-
struction operations where thousands of men are required, the com-
panies customarily call in contractors who have had a general
greater experience in putting together quickly and training large
groups of men to work on this work.

So that large work—take for instance your transmission lines
work—there is very little difference that would be shown between
the company's own costs and our reproduction costs in the aggre-
gate, translated into the same dollars, but when it comes to field
lines, where the company uses its own skilled men, the company's
costs translated into dollars would be rather less than reproduction
costs.

By Mr. SPRINGER:

Q. Do you mean that the company's own skilled men with this
particular technique are getting less than 40 cents an hour, that
you assumed for men working in gangs for men under your repro-
duction cost estimate?

A. No.

Q. They are high salaried men, are they not?

A. They are paid on the average higher wages than we assumed would be paid for the average laborer.

Q. And they have not undertaken a construction job on an even small portion of the Hope System once, have they?

557 A. Well, when they had built line H-162 south into Boone County there was a rather sizeable operation that required several hundred men. I have not studied the various detailed operations carried out by Hope, but most of the big lines—any line 12 inches or over, requires such a large gang that if it is a line of say 50 miles or more, generally, the companies would have to dilute its own particularly chosen men with the ordinary average laborer who is available.

Q. Assuming that the prices were the same during the historical development of the Hope Company's system as they are today, the Hope Company having been developed on piecemeal, and your assumption of reproduction costs a three-year wholesale program, would it not cost less—I mean the wholesale program?

A. In the aggregate it would cost a little less than the actual cost to the company in terms of today's dollars.

* * *

558 Q. Is it not acknowledged in the construction field that natural gas pipe line construction at wholesale construction costs are about twenty percent less than piecemeal construction?

A. No.

Q. You have never heard that before?

559 A. I have heard all kinds of statements about what it does and what it does not cost, and I think that my explanation of this morning as to the differences between wholesale and piecemeal construction might explain that.

Q. Do you recall the actual experience of the Hope Company in building H-162 in 1925, which I think is about 100 miles of 20-inch pipe line?

A. No; I do not recall any of the details.

Q. Do you know that the Hope Company built that itself without contracting the construction of it?

A. I believe they did, yes.

The TRIAL EXAMINER. Do you call that piecemeal work or wholesale work?

The WITNESS. That is big enough to be wholesale work.

By Mr. SPRINGER:

Q. Is that not in dollar amount many times larger than the H-192 that was constructed under contract by the Hope Company?

A. It is larger, but I would not say it was many times larger.

Q. H-166 is a 20-inch pipe?

A. That is right.

Q. And the other is 12-inch pipe?

A. That is right.

Q. You spoke of H-162 being, in your opinion, wholesale
560 construction. Will you define the lower limits of wholesale construction?

A. No such definition can be given. It is a gradual transition from a tiny job which would represent piecemeal construction to larger and larger jobs, and ultimately you get a job large enough to require several hundred men on the one job, and that approaches wholesale construction, but in general, the bigger the job the harder it is to get enough men to do a good job.

Q. Is it true, Mr. Rhodes, that contractors are able to assemble large crews for assembly of pipe lines, and to do that which you term wholesale construction, more cheaply than the companies?

A. That is so; yes, sir.

Q. Well, why did you omit leaseholds from your reproduction cost new estimate?

A. Because I was asked to do so.

Q. By the counsel for the Hope Natural Gas Company?

A. Naturally.

Q. Do you think that a reproduction cost new estimate of a production system property is complete without including the reproduction cost new estimate of the leaseholds?

A. They must be reflected in some form or other in the rate base.

561 Mr. SPRINGER. May I have the question and the answer repeated?

(The record is read.)

By Mr. SPRINGER:

Q. Your answer would be "No," would it not?

A. It is not a reproduction cost of the whole property, that is true, but it is complete as to the property which is constructed.

Q. Mr. Rhodes, you would not reproduce the gas wells and the related equipment if you did not have the leases on which they were placed?

A. That is true, yes.

Q. On page 13 of Exhibit 16-A you state that the assumed construction period for the reproduction cost new estimate is three years. Do you have a working schedule upon which that estimate is based?

A. No.

Q. Don't you know the size of the crews and the amount of the machinery required to reproduce this property under the three-year construction program?

A. It would take about 12,000 or 14,000 men.

Q. How do you know it would take that number?

A. That has been estimated from the amount of work of the various classes required to be done. It is a rough estimate
562 that was made.

Q. That is a judgment figure?

A. No. I did not myself make the estimate, but from the amount of pipe line work to be done and the amount of building construction and the amount of compressor station equipment, it is possible to arrive at approximately the number of men that would be required to build it, without working it out in detail. The number of men would vary from time to time. It would probably take six months before you were going full blast on a construction program of that kind. It might reach the peak in a year and a half, and then gradually in the last six months, it would fall off to relatively few men.

Q. Don't you have a construction program assumed for the purposes of this estimate?

A. Well, for the purposes of the estimate we assumed the property could be constructed in three years, and that is a fair length of time to be consumed in constructing a property of this size and complexity.

Q. Do you know whether you have 100 men, the first day or 1,000 men the first six months, or don't you know when your pay-rolls are going to enter into the unit cost of development in the case?

A. As I stated before, some 12,000 or 14,000 men would be required during the peak of construction.

563 Q. Do you know the amount of machinery that is going to be required from month to month?

A. The working papers would disclose in some form the approximate number of gangs involved in pipe line equipment, from which the amount of machinery could be figured, but having developed a

unit cost per foot on the different sizes of pipe, it is just a mere incident as to how many men you are going to use in the aggregate, except to know whether it is a few men or many men.

Q. Is it not possible that if you are wrong on your assumption of the number of men, that it may take six years to reproduce this system?

A. We are not wrong on the number of men required to do the work.

Q. But you don't know the exact number from month to month that would be required?

A. If you find your progress is slow on your schedule, you just get more gangs of men at work. In an actual construction program, involving rates of construction approximating this, you do lay out a program of construction, to know when you are going to require your men and when you are going to require your materials, but it may vary from time to time as to the number of men and the gangs, as you find you are slipping behind or
564 getting ahead of your construction program.

Q. But your working papers do show the period of time required to construct each major portion of the Hope system, do they not?

A. No.

Q. How do you figure your interest during construction?

A. The interest during construction as used in this reproduction cost new exhibit was the interest during construction agreed to in the former Cleveland case and used on the Ohio Commission, and I have reconsidered it as to whether or not it fairly represented conditions today, and I think that it is reasonable and proper interest during construction, that is not figured specifically as to progress or anything of the kind. In a three-year construction period of a complex property it would indicate to me that 8 percent is a fair interest during construction.

Q. Have you assumed, Mr. Rhodes, on a three-year period of reproducing the property that not one unit of it would be in commercial operation before the end of that three-year period.

A. No.

Q. What is your construction and operation program for the estimate of the reproduction cost?

A. Some parts of the property could be completed and
565 placed in operation within a year or fifteen months after the beginning of active construction. It would be possible to put some of it in operation. Other parts of the property, for

reasons of economy, it would be necessary to be built well ahead of the time it would actually be placed in operation, to avoid backtracking and going back to work in a given neighborhood.

If I had adopted the sometimes-used formula of interest during construction that I understand is used by the Interstate Commerce Commission, I would have arrived at a much higher figure than 8 percent. That formula calls for interest for half of the construction period plus three months. In other words there would be twenty-one months use of the money, if I had followed the Interstate Commerce Commission formula for interest during construction period. If you take 8 percent as the cost of money, that would mean a 14 percent interest during construction. I have used 8 percent.

Q. And you employed the principle that when a unit of property is available for use, interest and taxes on that cease?

A. Not when it is available for use, but when conditions will permit it to be used. A piece of property may be completed months before it would be possible to connect it into the system and actually use it in operation.

566 Q. Have you employed the principle in your reproduction cost estimate of which I spoke?

A. Not by specific application.

Q. You say that you took the figure that was agreed to in 1931 in the Cleveland rate case, is that what you said?

A. That was the start, yes.

Q. But you were also aware that the figure was not agreed to in the 1937 Cleveland rate case.

A. That is correct.

Q. Do you have any outline of your construction program that would reveal the number of men, the amount of machinery required, the dates of cutting into operation of the various units of the property which you described?

A. No.

Q. On page 14 of Exhibit 16-A you state that you used labor rates and material prices prevailing during the winter of 1938-1939?

A. That is right.

Q. I suppose your reproduction cost new estimate is based on spot prices?

A. No, it is not.

Q. Have you used material prices and labor rates that have been averaged over the last five years or the last three years?

567 A. The prices I used are prices that have remained substantially the same from the Fall of 1938 up to the present time. There is a tendency upward in prices at the present time.

Q. How do you know that, Mr. Rhodes? What is the basis for your statement. Do you have indexes?

A. Various indices are available. I note, for instance, that there has been no change in the price pipe, casing and tubing, which are the dominant materials, the principal materials entering into the construction. I know that there are no appreciable changes in the cost of compressor station machinery.

Q. Have you available in your working papers the prices for pipe annually from 1925 to date, and would you read those into the record?

A. No, the working papers are all based on unit prices for certain sizes of pipe, and I know from the prices that are being paid by purchasers of pipe that throughout 1938 and 1939 they have been substantially unchanged.

Q. Could you name the sales of pipe to which you refer?

A. I investigated the prices for approximately \$3,000,000 worth of pipe, casing and tubing that was purchased in the latter half of 1938 and the first half of 1939, and in some cases the latter
568 half of 1939, and found that the prices that were actually paid for the pipe at the factory were somewhat higher than the unit prices at which I priced the inventory in the price inventory of this report.

Q. How many million dollars worth of pipe would be required to reproduce the Hope system?

A. About ten or twelve million of pipe, and casing and tubing approximately the same amount. Those are rough figures.

Q. And to price twenty million dollars worth of pipe to reproduce the Hope system, you referred to prices during the winter of 1938 and 1939?

A. And the latter part of 1939.

Q. But you did not make an average price, you say, over the last five or six years?

A. That was made in the working papers of some other estimates of reproduction cost new, and I do not recall at the moment when all of the prices of pipe changed, but there was a peak of prices in 1937 and the first part of 1938. Before that the prices, for a year or two, were approximately the same as they now are, and of course earlier than that, in the periods of extreme industrial depression, the prices of pipe were even lower.

Q. Can you give us the pipe prices?

A. I could look up the prices for pipe in these various
569 reproduction cost new estimates I have made. I do not have
them at hand.

Q. Are those the prices actually paid for pipe, or your estimates?

A. The prices to which I refer were the prices quoted to me by
the manufacturers of pipe, which prices are the prices that I found
were actually paid by the purchasers of three million dollars worth
of pipe in 1938 and 1939. The task of making comparisons is so
great that I did not attempt to cover all of the purchases that I
might have studied, had time been available, but they reflected far
more than three million dollars worth of pipe.

Q. That was not one purchase, these three million dollars?

A. Oh, no; it was purchased by one group of pipe-using
companies.

Q. We would still like to know, Mr. Rhodes, what the source of
your price of pipe information is?

A. Well, the first source of pipe information was the pipe mills
who were requested to give us the prices of large numbers of sizes
and kinds of pipe, casing and tubing entering into this property.
They were asked to give us their lowest prices, having in mind the
quantities involved.

We started with those prices. We made an investigation, and I
think personally I had an investigation made to find
570 out whether those prices were actually being paid for pipe,
and I found that the group of properties, of which this is
one, bought—I think it was three or four hundred thousand
tons of pipe or casing in 1938 and 1939.

I had a considerable portion of this pipe examined as to price
and found that this three million dollars worth of pipe and casing
and tubing as a sample of the three hundred thousand tons, which
was twenty million dollars, more or less—I found that on the
average the price paid was greater than the prices that I had used
for pricing the various sizes of pipe in the inventories.

Q. Did the prices you assumed take into consideration the dis-
counts available on carload lots?

A. The prices that I have used in pricing the inventories took
into account all discounts that the manufacturers acknowledged.
They were based on purchases of carload lots into, I might say,
trainload lots of pipe. I did find, that in certain cases still further
discounts were obtainable, under certain conditions, and that was
reflected in this reproduction cost new by a lump sum reduction in

the total cost of the pipe lines beyond the unit prices that had been quoted to me by the manufacturers.

Q. How much was that lump sum deduction?

A. Roughly a million and a half dollars.

Q. And in percentage?

571 A. Ten per cent of the mill price.

Q. That was for pipe lines only and not for pipe tubing and casings?

A. There are no discounts available for casing and tubing other than those which are quoted to us by the manufacturers.

Q. And do you have the prices used for tubing and casing before you?

A. Not on my desk. They are available in the working papers. The unit price, including freight, and so forth, are of course available in the price inventory, but the mill prices are not in convenient form.

Q. Do you remember the basing discounts and all the other discounts for tubing and casing?

A. The only discount for tubing and casing that was quoted to us was the 2 per cent for cash. The prices given in general covered all of the equipment of a well, which is the way the casing and tubing is customarily sold.

Q. Are you aware of the fact that the jobbers get a ten and a five per cent discount in addition to that?

A. I don't know what the jobbers get, but I do know what the producers have to pay for the pipe.

Q. Don't the purchasers get a basing discount?

572 A. The purchasers buy all of their casing and tubing at the manufacturers' quoted prices less two per cent for case. There are very few, if any, exceptions to that, that I have been able to find.

Q. You don't know of any large quantity of purchased pipe, where there is no more than a 2 per cent cash discount?

A. Casing and tubing is not purchased in large quantities, as a general thing. The manufacturers of oil-well tubular goods maintain warehouses about the country and they maintain agents and the prices paid by the purchaser are the same whether they are bought directly from the mill or through the agents.

Q. Is there any difference in the manufacture of casing and tubing and line pipe?

A. Yes, the casing and tubing is manufactured with much more regard to rigorous specifications as regards flaws, quality of workmanship, and so forth.

Q. You have assumed in this three-year construction program for your estimate of reproduction cost new, that you would have purchased all of the tubing and casing required within the three year period?

A. Yes.

Q. But you have not taken advantage of any large lot purchase discounts?

A. There are none to be had.

573 Q. When you sought quotations from the manufacturers on the prices of pipe and tubing and casing, the manufacturers knew that it was for appraisal and rate case purposes, did they not?

A. I think so; yes.

Q. Do you know of any actual negotiations for the purchase of pipe, tubing and casing, that are comparable to the requirements of reproduce the Hope system?

A. Not in recent years.

Q. Do you know of any?

A. I have heard of none.

Q. Does the Hope Company have the advantage of the purchasing services of the Standard Oil Company of New Jersey?

A. If they asked for it.

Q. They have used that service, have they not?

A. I have not investigated to what extent they have used it, but I understand that they did, from time to time.

Q. Do you know what discounts the Hope Company has received on the purchase of large quantities of pipe?

A. I don't know what prices they paid for pipe, except in 1938 or 1939, and find that the prices they have been paying, as in common with all the other properties owned by Standard or affiliated with Standard, are the prices that we used for pricing the priced inventory before the one and a half million

574 dollar discount for large purchases.

Q. Do you know the price paid for pipe used in the H-192?

A. No, I do not.

Q. On page 14 of your Exhibit 16-A, you state: "Since that time"—that is 1938-1939—"the level of these rates and prices has remained substantially the same."

By what means are you able to determine that?

A. Well, as to pipe, casing and tubing, which are the principal materials, I find that the fact is actually so as reflected by the

purchases of this group of companies. I also know from the price indices which we have—we keep up certain price indices in our office—we have available purchase price indices prepared by other people, and they show that, for construction such as that involved in the natural gas properties, the overall price level has been substantially the same throughout the period from the middle of 1938 up to the end of 1939.

Q. Would it not be a coincidence if the estimates which you give for the Hope system today was the same answer you give in your Exhibit 16-A which is as of December 31, 1938?

A. Today there is a tendency upwards of prices. What is going to happen depends entirely upon what happens in Europe.

575 Q. Would it not be a coincidence if the cost of reproduction new estimate in any new natural gas property were the same on dates varying by six months?

A. No. This reproduction cost new estimate covers a period of substantially eighteen months during which there is no substantial change in the prices.

Q. You say "substantial change." I say it would be a coincidence if the answer were the same if you made a reproduction cost estimate six months apart on the same system?

A. If it were the same to a dollar, it would be a miracle.

Q. On page 14, you state that the company would purchase all materials except the building materials. What company do you refer to?

A. The company capitalized in this exhibit refers to the Hope Natural Gas Company.

Q. Have you considered the discounts available on quantity purchases made by the Standard Oil Company of New Jersey?

A. Yes; the ten percent on pipe, for instance, was based on information obtained from the Purchasing Department.

Q. Did you secure bids from responsible contractors on a competitive basis, indicating what it would cost to install the major units of the property?

576 A. No.

Q. Who wrote the letters to the manufacturers requesting the sales prices on the materials and equipment?

A. Letters were form letters, substantially alike, and of the same tenor, and I participated in their preparation.

Q. Was the letterhead that of Ford, Bacon & Davis, the Hope Natural Gas Company or the Standard Oil Company of New Jersey?

A. The Hope Natural Gas Company, as I recall. It is so long since that my recollection may need refreshing, but I think it was the Hope Natural Gas Company.

Q. Were payments made for the quotations which were furnished?

A. In some instances we were asked to compensate for the trouble which the manufacturer went to in furnishing these prices.

Q. And as you have said, the manufacturer knew it was a quotation without the probability of making a sale?

A. That is true, but they were asked to furnish us the lowest price at which they were currently selling things.

Q. Were they practically subject to negotiation, as you and I know it?

A. Well, I found purchases of some hundreds of thousands of tons of pipe, casing and tubing that were purchased by this group of companies in 1938 and 1939 that were purchased
577 at the prices that the manufacturers quoted us.

Q. Could you give us the names of those companies?

A. The full tonnage of pipe refers to the natural gas and oil pipeline companies, in which the Standard Oil of New Jersey has an important interest, so that the materials are from time to time purchased through their own purchasing department. That group of properties includes the Appalachian group here, the Hope Natural Gas Company, East Ohio Gas Company, People's Natural Gas Company, the New York State Natural Gas Company, and the Reserve Company before it was dissolved or merged into the Hope Company. It also includes the Standard Oil Company of Louisiana, which operates a very extensive pipe line system in Louisiana, the Oklahoma Pipe Line Company in Oklahoma, the Ajax Pipe Line Company from Oklahoma to St. Louis, the Humble Pipe Line Company, which operates in Texas, the Humble Oil and Refining Company, the Tuscarora Pipe Line Company, which is a gasoline pipe line running east to the Atlantic Seaboard. Those are the principal properties.

Q. Do the prices which you used in this valuation reflect prices that would be available from the quantity purchases required for the distribution plant of the Hope Natural Gas Company, East Ohio, and the People's distribution system included?

A. Do I understand correctly that you are referring to this entire Appalachian group of properties in its entirety?

578 Q. That is correct.

A. I am afraid that if that number of properties were to be built within a period of a few years, the price of pipe would advance materially instead of there being discounts.

Q. Why?

A. Because there would be so much business to go around that the manufacturers would advance their prices.

Q. Do you mean that they would violate the law?

A. No; they would ask for more money for their product if they could get a fair share of the business. How they may go about it, I do not know, but I feel sure that there would be an increase in the price of pipe, casing and tubing, if purchases would be thrown on the market equal to the entire requirements of this group of companies.

Q. You assumed that the Hope Company would be reproduced in three years. Do your pipe prices reflect your conception of a hypothetical increase under such an assumption?

A. They assumed the continuation of the conditions that have existed since about the middle of 1938 up to the end of 1939.

Q. On page 14 of Exhibit 16-A you state that where equipment was no longer being manufactured as specified, the cost of superseding equipment at lowest quoted prices of competent manufacturers were used as a basis of pricing. Will you
579 please list the location of equipment where you used prices of that character?

A. In the gas engine driven compressor portion of the Hastings station, there are four large compressor engines of the type and character that are no longer available except to be made to order. The patterns are not available, and prices quoted on equipment of that kind that has not been made for years are not representative of the present-day prices of equipment. As related to those particular engines, we priced them on a per-horsepower basis, equal to the price per horsepower of the largest gas-engine-driven compressor unit, single tandem, as these engines are, which is now currently being offered in the market.

Q. Would you complete your list of equipment where substitute equipment is priced?

A. I would not call it substitute equipment; I am merely pricing a price per horsepower that would be paid if one wanted to put in the largest commercially available unit today. In the other cases, the Company has a considerable number, fifteen or twenty smaller engines of the same general types of such engines. They are of a type that have not been made—they

are called Snow engines—and they have not been made by the successor of the Snow Company, namely the Worthington, for a number of years. They are very similar, however, to engines that are being offered today both by Worthington and by Cooper-Bessemer, the two principal manufacturers of large gas engines. We found the Cooper-Bessemer prices for that size engine were lower than the Worthington prices, so I took the Cooper-Bessemer prices which were in line with the prices at which Cooper-Bessemer is actually selling such equipment.

Q. Is that a full listing of equipment which is no longer manufactured, and which you secured their prices for?

A. That is two important items. The Company also owns a considerable number of center crank single tandem engines made by the National Transit Company. They were priced as though they were the standard single standard engines, with the side crank. Those particular items cover the greater part of the equipment that is not now manufactured.

Another type which is not so plentiful is long-stroke 48-inch stroke Westinghouse engine—the Westinghouse Company is no longer in the business of building gas engines, so we priced those engines at the cost per horsepower of the engines that had the nearest comparable dimensions as to bore and stroke which primarily control horsepower.

Q. Are the engines at the Hastings plant still manufactured by Westinghouse?

A. They are no longer like those.

Q. On equipment which is no longer being manufactured, and is at the present time obsolete, did your price quotations represent the cost of a comparable unit on the basis of performance abilities or on substitute equipment?

A. There is no equipment of any importance on this property that is obsolete to the extent that it will be retired by obsolescence. So actually, I should say that the answer to your question is “No,” there being no obsolete equipment.

Q. Did you price equipment with comparable performance ability?

A. I priced the equipment, as I stated before, with the lowest prices quoted by the manufacturers of equipment as nearly like this in question as we were able to get the prices on.

Q. Did you make the test of performance? Are not the new machines more efficient than the old machines?

A. As to gas engines, not particularly.

Q. How about turbines?

A. Under the operating conditions of these turbines, which is a relatively low pressure turbine, and relatively low vacuum, I should say that with the water in that country and the other efficiency factors, the efficiency of the turbines today is not appreciably different from that which obtained at the time those turbines were built.

Q. On page 12 and 21, you state that wrought-iron pipe was priced as steel pipe. Will you tell us the quantity and the
582 location of pipe which you know to be wrought-iron and which has been priced as steel pipe?

A. All pipe bought before 1900 must necessarily be wrought-iron pipe, because steel pipe was not available on the market. The pipe bought between 1900 and 1908 or 1909, some was of one kind and some was another. Having no intention of replacing wrought-iron pipe as such, I made no investigation as to exactly how much of it there was.

Q. You do not know the quantity nor the location of the wrought iron pipe in the Hope System?

A. I made no investigation.

Q. On page 15 of Exhibit 16-A you also discuss the freight rates. Would the freight rates that you used be weighted average freight rates, giving effect to quantity and tonnage for the materials, based on their actual destination?

A. Carload freight rates were used throughout. I believe that answers one of your questions, because that is the lowest freight rates which are available. Second, knowing that we might use the same prices for the same identical machines and materials as to different locations, we used freight rates from the mill to the weighted average destination of the particular type of equipment involved.

Q. Where did you assume the property would be shipped?

A. Lorrain or McKeesport or other parts of the Pitts-
583 burgh district—Youngstown. Nothing specific.

Q. You had no schedule of purchases and routing?

A. That is correct.

Q. Did you have a central destination point or did you have geographical area destination points for the Hope System?

A. We used the freight rates weighted to—what you might call the weighted average destination for pipe, and that freight rate is substantially the same for many of the pipe mills in the Pittsburgh district.

Q. Will you tell us how you computed the weighted average?

A. The exact form in which the calculations were made, I do not recall, but the natural way would be to find approximately the amount of pipe that went to each point of receipt, and weighting the freight rates to those points pro rate to the tonnage that went to those points.

Q. Do your working papers reveal the detail of that?

A. They will reveal it in some form, yes.

* * *

584 Q. On page 16 of your Exhibit 16-A, you state that in
the price inventory there are no allowances for contin-
gencies and omissions other than those included in the unit costs.
What contingencies and omissions have you included in the unit
costs which you applied to materials and machinery equipment,
the inventories for which were taken from the investment
585 ledgers?

A. The inventories from all sources or from any source, you might want to consider, are generally incomplete. We priced the pipe lines, for instance, on the number of feet that we found were contained in the finished pipe lines. We merely used the investment ledgers or the records of the length of pipe in the investment ledgers, as a guide in reaching our final inventory. Pipe is used for odds and ends, pipe is damaged, lost or cracked off, when you figure on the basis of the completed line. Our inventory of valves and fittings, for instance, was made by a practical field-survey of the valves and the fittings in use. We did not take the tremendously long list of valves contained in the investment ledgers, for instance; we took the list of valves we could find and could find were being used. It would not be complete in any reasonable time.

The same was true of dresser couplings. We took those on the basis of 20 foot spacing. Obviously, to anyone skilled in the business, 20 feet is rather a liberal spacing, although a customary spacing for dresser couplings.

The incompleteness of the inventory as to these details is taken care of in a miscellaneous materials cost allowance.

On the cost of laying pipe lines, it would be seen by an examination of our working papers, we started out with
586 unhampered performances under perfect conditions, every-
thing running perfectly, no trouble from the rain, no labor
trouble. We assumed that the men could start off bang at full

efficiency in running a gang of a few hundred men, which we know cannot be done.

We made an allowance in the unit cost for laying pipe lines, covering what we deemed to be the effects of the weather and the moving around from place to place of various gangs, and the lost motion of that nature.

These unit costs are the only places in reproduction cost new where there is any allowance for things of that kind.

Q. Can you tell us in dollar amount what the contingencies and omissions would equal?

A. I have not figured it out.

Q. Do you know what percentage was inserted for the contingencies and the omissions?

A. The percentage was different in the case of different unit costs, and we would have to refer to the working papers to determine that. I may have some excerpts from the working papers in that connection.

Q. Will the development of your unit costs show those details?

A. Yes; the development of the unit costs will show with respect to laying pipe lines specifically what percentage
587 allowances were made for contingencies. The development of the unit costs will also show the amount of these material costs, not only for contingencies in the nature of material contingencies, but for the cost of purchasing, and things of that nature.

The general unit costs for things of the nature of building construction will show the contingencies. The performances that we have used are performances that might reasonably be expected. They are not affected quite as much, for instance, by weather, as the cost of laying pipe lines.

Q. Is your treatment of omissions and contingencies in the unit costs in your estimate related to the actual experience of the Hope Company?

A. It could not be related to the Hope's experience. The amount to be allowed for omissions and contingencies is necessarily affected by the amount you include in your basic figures. If you are able to develop, or have the time to go to the expense of developing your basic figures completely enough, the omission and contingencies can be made very small. If your basic figures are relatively rough, the allowance for omissions and contingencies must be larger. The allowances that we have made, in our

opinion and judgment, properly reflect what is in the principal direct costs, and what additional amounts should be allowed to adequately reflect the whole cost of the project.

588 Q. In your Exhibit 16-A, page 16, you state that the development of unit costs is available in convenient form. Is that a volume or a series of volumes of working papers?

A. At the present time it is a stack of papers as high as that table [indicating] in which there are literally hundreds of developments.

Q. Do you have a copy of those?

A. There is only the one copy of the whole. Some of it has been copied.

* * *

594 Q. Mr. Rhodes, is this reproduction cost new estimate set up in accordance with the 1939 West Virginia Uniform System of Accounts for Gas Utilities, which is Exhibit 13 in this case?

A. The classification of the inventory contained in here is that which was given to me or my men by the company's accounting department as having been so set up. I find from going through these myself that there are some details which might be in a
595 different account from what they are, but it is substantially correct as I see it.

Q. Are there any differences between your classification of pipe lines and compressor stations, and that of Mr. Tonkins, as shown on Exhibit 1?

A. I have not made a comparison of the two groups. As I stated before, the groupings of the inventory were made by the accounting department of the company, and the breakdown, as between the production system pipe lines and the transmission system main lines is that of the company.

* * *

Q. Have you, in preparing your reproduction cost new estimates followed the instructions as to the costs properly includable in the plant accounts prescribed in the West Virginia Public Service Commission Uniform System of Accounts for Gas Utilities, 1939?

A. In determining this reproduction cost new, I determined
596 what it would cost to build the property. The detailed classification as to this, that, and the other thing, I paid no attention to. While I am generally familiar with what is properly includable in the Code of Accounts, I have

everything in here that is properly includable, and nothing but what the company would be called upon to spend money in the case of a reproduction of the property.

Q. Can you segregate for each of the structures, improvement and equipment accounts, as shown in your reproduction cost new estimate, the amounts included and described as components of construction cost on pages 51 and 52 of the West Virginia Public Service Uniform System of Accounts for 1939?

A. That could be done at the expenditure of a good deal of time and effort. The determination of the unit cost was not made for the purpose of facilitating such a breakdown, but rather for the purpose of facilitating the determination of reproduction cost new. We have made no breakdown which would permit the breaking down of those costs into eighteen different classifications of things that comprise the construction costs.

Q. Then you are unable to give us the total number of dollars in your reproduction cost new estimate which is described
597 in the West Virginia system of accounts as contract work?

A. I could, but not without going to considerable trouble and expense.

Q. And that is true of all of the other classifications of the components of construction costs in that system of accounts?

A. That is true.

* * *

Q. Mr. Rhodes, on page 11 of Exhibit 16-A, you stated that the items of property covered by this reproduction cost estimate are classified by the company in accordance with the new Uniform System of Accounts for Gas Utilities, prescribed by the Public Service Commission of West Virginia effective January 1, 1939. Do you know who, in the employ of the Hope Natural Gas Company made that classification?

A. Well, the classification on questions that appeared to our men as requiring an answer were in general referred to Mr. Cross, one of Mr. Chisler's principal assistants.

Q. Is Mr. Cross an accountant or an engineer?

598 A. He is an accountant.

Q. Does not his classification differ from Mr. Tokin's for pipe lines?

A. Mr. Tonkin's classification, as I followed it, is the practical classification of the operating man. The classification in the Code of Accounts is intended to be an accounting classification,

and I think there are many lines where it would not be clear as to in which category they belonged.

Q. Mr. Rhodes, on page 17 of Exhibit 16-A you state that in pricing the inventory of the buildings and structures you used appropriate costs per cubic foot. Did you price the quantities and materials entering into the individual structures being priced?

A. In the case of the larger buildings, considerable portion of which are compressor station structures, while the priced inventory shows the costs as a cost per cubic foot, a reference to the working papers of the unit cost development will show that the total cost of each particular building was determined by pricing all of the classes of work entering into it and then the cost per cubic foot determined and transferred to the price inventory, to avoid the complication detailed in pricing.

Now, as to the buildings of moderate size, for instance, they were divided into groups by types of construction, and 599 typical buildings of each group were priced in complete detail, as is shown in the working papers, and buildings of other dimensions than those specified buildings were priced at prices per cubic foot that fairly reflects the difference in the cost as between the different sizes of buildings.

The very small buildings, like meter houses or meter boxes, those were divided into appropriate groups of buildings of substantially the same size and dimensions, and they were priced on the basis of an average unit. There are several hundred buildings in some cases that are substantially alike.

Q. Could you tell us what proportion of the building and structures were actually inventoried, in order to price them on the group basis you have described?

A. I do not have available the proportion, but a considerable portion of the total dollar value was priced in detail, I know that.

Q. But that which was not actually inventoried has been priced on an approximate group basis?

A. Well, all buildings, except the little box-like structures, are priced at a price per cubic foot that reflects the particular size and type of building involved. Each particular type of building would involve pricing in complete detail of all of the work entering into the construction of several buildings of that group.

600 Q. Do the books and records of the Hope Company reveal the quantity of materials bought by the company which entered into the construction of these buildings?

A. Only to a limited extent.

Q. How did you determine the kind or the amount of material in each structure?

A. Each structure had previously been inventoried as of 1931 in complete detail. The inventories were agreed upon by the representatives of the City of Cleveland and of the Company and of the Ohio Commission as being fair inventories of all of the buildings that were then owned by the Company. Some of those buildings had disappeared and others had been changed, all of which facts were ascertained in the field.

Now, as to a great many of these buildings, a recheck of all of the details was made, to truthfully determine for me as to whether I could reasonably accept the agreement, with which I had previously nothing to do as an individual, and I found that these old agreed-upon inventories in the aggregate, detailed as they were, were satisfactory for the purpose of pricing these buildings. Many of the buildings, in fact, practically all of the buildings that we priced in detail were rechecked in complete detail. The other buildings we did not question in detail. We had the description and the dimensions which were accepted and found to be correct, but no complete detailed remeasurement was made of buildings found to be unchanged, other than a few, so really it is a considerable number which were taken in absolutely and which we rechecked in complete detail.

Q. Then you used the group basis of pricing?

A. That is right.

Q. Referring to page 18 of Exhibit 16-A, on gas well construction, did you make a study of the Hope Company's experience as to the cost of drilling wells?

A. We made a study of their experience over a period of years, and tried to coordinate the speed of drilling with the character of rock through which they were drilling, and found that there were so many indefinitenesses about the company's records that we could not use them dependably.

In general, the time spent to drill wells as shown by the company's records, where they had complete records, was greater than the time that we felt should be required to drill these wells. For this reason we made a complete study of other people's experiences in drilling of wells, and have based our pricing on what you might say is the typical average experience in West Virginia.

Q. Could you name the other properties which you studied to get that typical average price?

A. I would have to look up the records, but I can say
602 this, that every contractor of any size, doing work for
the company or for any other gas companies was inter-
viewed as to the length of time required to drill wells in this ter-
ritory and as to the equipment that he used, and as to his
methods, that information was also compared with records of
similar performance of wells drilled by the other gas companies
that were operating in immediately contiguous territory, and
based on that investigation, we determined just what would be
required in the nature of equipment, and we found an average
number of days that would be required to drill the wells of the
company, based on the experience of all of these contractors,
and we found their experiences with respect to depreciation and
wear and tear and the wearing out of well-drilling equipment,
such for instance as the cables and lines and tools used, and put
together all of these factors which are primarily non-company
experience, arriving at a figure which would be considerably less
than would have been arrived at had we based our cost on the
company's own drilling experience over a number of years.

Q. When we reach the discussion of specific costs, you will
be able to reveal the exact components in the making up of those
costs and give them to us?

A. The working papers show the costs in great detail; yes.

603 Q. You say that the unit costs used in arriving at the
costs, are contract costs? Did you secure competitive bids
from responsible contractors?

A. No.

Q. How did you determine the contract cost?

A. We did not attempt to fool the contractors into making
bids for wells. That would not have been a proper procedure.
We contended ourselves with finding out what the contractor's
experiences were. We put together their most favorable exper-
iences rather than their bad experiences as reflected by some of
the company's records, by figuring it as a contract cost, the
meaning of that is related to the fact that we have in there an
allowance for contractor's fee and contractor's overhead.

Q. Do you remember the percentage that you allowed for con-
tractor's profit?

A. There was an allowance of ten percent, out of which the
contractor would have to pay his taxes, gross earnings tax in West
Virginia, pay for his general overheads, and insurance against
abnormal risks, which occur from time to time, in something that

goes wrong in the drilling of wells, in fishing expeditions, and the time required to get tools out when they drop to the bottom of the well. How much would be left for profit, I do not
604 know, but the contractor would do well if he had 5 percent.

Q. Did you consult any of the other companies in the Appalachian area on their drilling costs?

A. We consulted others in this district where the costs are rather lower than in some of the other Appalachian districts. We did not directly reflect some of the low costs of drilling wells, because we find that some of the contractors, instead of paying the current going wages, were getting men to work twelve hours a day with not a proportionate increase in the pay. Of course, low cost prices can be achieved by such a method. We could not assume any such method in this reproduction cost, because it was being done contrary to the law as to the Wages and Hours Act, and we therefore ignored a few of the low-priced drilling costs that some contractors were offering.

Q. Did you inquire into the well-construction costs of the United Fuel Gas Company?

A. Without reference to the details, I would not care to say.

Q. Your papers would reveal that?

A. The papers would reveal those whom we saw and what we found out.

Q. Do you know what portion of Hope Company's wells were purchased?

605 A. Not offhand; no, sir. I believe it is in the record already.

Q. Is it a small portion?

A. I don't recall. I think it is a minor fraction, but just what it is I do not know.

Q. How did you determine the weight of casing and tubing in the wells which were purchased by the Hope Company?

A. There was no record available in most cases as to the weight of casing and tubing. The size is available, and when we did not know the weight, we had to price the particular casing and tubing at the average weight of the casing and tubing that had been purchased by the company. There are some cases where the wells that had the casing and tubing pulled where that information was available, but in general, where we did not know the weight, we took it at the average weight of the company's purchases.

Q. How did you determine the weight of the casing and tubing in the wells which contained the second-hand or used casing and tubing?

A. Most of the wells containing used casing or tubing was casing or tubing which was put in from the company's own stocks and was accordingly purchased company's casing and tubing. Where there was no record of what was in a particular well, we had to rely on the general proportions of the company's purchases of the different weights, and which we analyzed in considerable detail.

Q. Your reproduced wells which contained originally used casing and tubing had an average price for new pipe purchased for the Hope Company, is that right?

A. We made no differentiation as to where the tubing and casing came from.

Q. Is it true that wells in the different regions of West Virginia, although having the same depths, will have different costs?

A. They may have; yes.

Q. Is it generally true that the average costs per foot of deep wells is more than that of shallow wells?

A. In the broad way, yes; but as compared with wells within reasonable limits in any territory, the price per foot is generally the same. Compared with 1,500-foot wells, 3,000-foot wells should cost more per foot.

Q. In your opinion, the average cost per foot of drilling a 5,000-foot well would be greater than the cost of drilling a 1,000-foot well?

A. In general; yes.

Q. And is it not a fact that the Hope Company has wells varying in depth from less than 1,000 feet to approximately 5,000 feet?

607 A. Yes; a few.

Q. And do you know whether the wells of the Hope Company now in use were drilled, a large number, at one time, or drilled over a number of years?

A. They were drilled over a number of years.

Q. In your experience, do you know of a case where a construction program was undertaken involving the drilling of 3,000 gas wells within three years?

A. No; but I know of cases where drilling of more oil wells was carried out in that period of time.

Q. By one company?

A. No; by several companies.

Q. Page 18 in your construction cost of gas wells at \$2.43 per foot, do you include the cost arising from the use of drilling equipment?

A. I do not see the reference to the price. I do not think it is mentioned there.

Q. As a matter of principle did you, in your construction cost of gas wells add x dollars per foot as the cost arising from the use of drilling equipment?

A. Yes.

Q. And the details of that computation would be available in the working papers?

A. That is correct.

608 Q. On page 5 of Exhibit 16-C and also referring to page 18 of Exhibit 16-A, you state that a field inventory was made of the closing-in valves and fittings of about ten percent of the wells in each district, and that office records were checked on ten percent of the wells in each district of packers and other details. Then your selection of the ten percent was based on a geographical selection of wells instead of ten percent of the wells classified by the number of producing strings?

A. I don't recall the exact number of wells of each type, but this ten percent sampling was designed to arrive at the typical bill of materials entering into this miscellaneous equipment for wells of the several numbers of producing strings. Whether the exact ten percent applied to all, I don't know. Obviously it did not in the case of the two wells with five producing strings.

Q. And then on page 5 of Exhibit 16-C the inventory of closing-in-equipment which you priced, was not an actual field inventory, but the inventory resulting from the sampling of ten percent of the wells which were checked in the field, is that right?

A. The unit price came from sampling the number of wells of each particular number of producing strings, however, was determined by reference to the actual records of the
609 detailed equipment going into the wells.

Q. Of ten percent?

A. No. All of the wells of the number of each particular class was studied from the records. The unit cost, however, was based on the detailed pricing on an inventory of the detail material such as nipples, T's, check-valves, and so forth, which was based on the ten percent sampling.

Q. The source of the data you used as the inventory of miscellaneous equipment on page 5 of Exhibit 16-C was that office records or field records?

A. It was based on the office records in the operating department. There is no way of seeing what is down in the wells; it is necessary to refer to the records of the department, either the accounting department or preferably the producing department where they have records of almost everything that is in the wells.

Q. Did those records show inventory and miscellaneous equipment of the other gas wells?

A. To the extent that it was known. Naturally, wells that have been purchased, have not been disturbed, and the knowledge was incomplete as to what was beneath the ground.

Q. Referring to page 18 of Exhibit 16-A you indicate that the inventory for quantity of casing and tubing of the wells was prepared by correlating the investment and other 610 records. Did you adopt the investment records of the company for quantities in this case?

A. Correlating of the two records was made and in the case of most of the wells the agreement was substantially perfect. In some of the wells we found a disagreement as between the two records, in which case every possible source of information was checked to determine which was correct. There are some wells, for instance, where we found more tubing in the wells than could physically exist there. That was corrected for, and the correlation of these two sources indicated those particular wells where we needed to make further investigation, and the best source of information as related to each individual well was finally adopted and the records were corrected.

Q. What were the two sources?

A. The two basic sources are the accounting department records of what was charged out to the well, and the records of the producing department, as to what was in the well. They might be compared also to the records at the time of drilling the well which shows the amount of casing and tubing sent out to the well and the amount left in the well. All sources of that kind were examined, and as I said, wherever there was a discrepancy in the sources, the best possible investigation was made to correct it.

611 Q. And then you adopted the book records; both sources being book records?

A. Well, of course, the only possible record is something on a piece of paper, because obviously you could not pull casing or tubing from a well and measure it. It was necessary to adopt

book records, but as I have pointed out, there were different sources different departments, from which records may be obtained for the purpose of reconciling differences.

Q. How did you determine which one to take?

A. The records of each particular well were studied in detail when there was a disagreement and a conclusion was reached in conjunction with the operating people and with me as to the well, as to what was the most reliable source of information with respect to any particular well in trouble. Generally, there was little difficulty in reconciling the differences.

Q. Do the records you speak about show the weight and kind of tubing and casing in the wells of the company?

A. They show the kind and size and only in some instances do they show the weight.

Q. How did you test it to determine whether the pipe in your analysis of the Hope Company's purchase vouchers was the same as the pipe now being used in the Hope System?

612 A. Practically all of the pipe that Hope has bought is still in its wells—certainly a large portion of it is. We ascertained by an analysis of the purchase vouchers for the greater part of what they had bought that there were certain weights of each particular kind and size in certain proportions. Being unable to find out exactly what existed in each and every well, we necessarily had to take the proportions of casing of the different weights as actually purchased by the company, for the purpose of this reproduction cost new. There was no other reasonable alternative.

Q. Then you did not know which wells contained used tubing and casing and what portions had been retired.

A. No; as to each well, we have no knowledge of what was new when it was put in, and what had been previously used by the company.

Q. Is it true that the weight in pounds per foot of casing and tubing is an important matter in determining this cost per foot?

A. Indeed it is.

Q. Then for example on page 4 of Exhibit 16-C, if all the two inch casing were four pounds per foot instead of five pounds per foot your estimate would be approximately twenty percent of \$200,000, in excess of the actual, would it not?

613 A. There are no figures on page 4 that would indicate such to be the case.

Q. Do you see column 4? "Pounds per foot" on page 4, Exhibit 16-C?

A. Yes.

Q. You use five pounds, and if the five-pound pipe were four pounds, then referring to column 7, the total cost would be twenty percent less, or \$200,000.

A. But the company did not purchase enough four-pound pipe so that that would be impossible.

Q. That is an example. We might run through the whole computation.

You said that you did not know what tubing and casing was in the company's wells, whether it was used, new, or portions of it had been retired, nor did you know the weight?

A. As to any individual weight that is correct; yes, sir.

Q. On page 4 of Exhibit 16-C, if all of the $6\frac{3}{8}$ ths inch casing were 17 pounds instead of 20 pounds, the difference would amount to approximately \$455,000 on a similar computation.

* * *

614 The WITNESS. That is correct.

By Mr. SPRINGER:

Q. Then the pipe weights which you have used are based upon your own study, without relation to the facts in the case, and another engineer might prepare a similar study and reach different conclusions?

A. As to the first question, I prepared my study based on the facts in the case as to what weights of casing and tubing of the different sizes the company had purchased in its history, which is a very good indication of what remains. What another engineer would do, of course, I do not know.

Q. But did you say that you analyzed only a percentage of the pipe purchased?

A. We analyzed practically all of the pipe and casing purchased by the company over its history—the oil well pipe casing.

Q. But you did not make an analysis of the pipe, casing, and tubing in the gas wells purchased, did you?

A. No; that was taken to be the same weight on the average as the wells in which the company placed the tubing itself.

Q. Mr. Rhodes, you are aware of how the Hope Company runs its warehouse, are you not? I mean by that, that they buy large quantities of pipe and that may be transferred to

615 the Hope Construction and Refining Company, and may never get into the Hope system?

A. That may be; yes, sir.

Q. If there are any errors in such a transaction, that is reflected in your reproduction cost new estimate, is it not?

A. No reason to expect any errors. The wells are all substantially the same depths and built by the same people, they would be likely to have the same weights of casing and tubing from year to year as the needs of the situation changed.

Q. But you do not know that to be a fact, do you?

A. I am not certain as to exactly what was sent to the Hope Construction and Refining Company.

Q. They often transferred pipe to the Reserve Gas Company?

A. How often, I do not know.

Q. At the bottom of page 18 of Exhibit 16-A, you have set out various units of cost encountered in well-drilling operations. Do you have a break-down by units of these costs?

A. I described classes of costs and the working papers disclose in great detail all of those costs.

Q. You state that you made contractors' allowances?

A. That is correct.

616 Q. And did you also state that all of the property would be built by contract under your assumed construction figures?

A. No, sir.

Q. Will you correct me on that?

A. I stated that the Hope Company, or the companies who owned the property, would furnish all of the materials entering permanently into the construction, except the building materials and the like, and that all wells would be drilled by contract, all pipe lines laid by contract, all compressor stations built by contract, but that some of the detail work in connecting lines to the wells and items of that nature would be carried out by the company's own forces. Most of the installation would be by contract under this set-up. Most of the materials would be furnished by the companies.

Q. And did you make a uniform allowance for contractors' profits in your estimate?

A. We made a contractors' allowance that was ten per cent in connection with wells and pipe lines where only the installation cost was involved, and about eight per cent on the contractors' costs on the buildings where we had the allowance supplied also for materials.

Q. And on the compressor station equipment?

617 A. On the compressor station equipment, the contractor's allowance was approximately eight per cent of the contractor's cost, but nothing at all for the cost of his equipment—just on the installation of the equipment.

Q. On page 19 you state that you have selected 330 wells on which your studies were based. Did you have the field conditions relating to those wells summarized?

A. They were all summarized in the working papers.

Q. On page 20, you state that there are large quantities of pipe in the Hope system which are not presently manufactured. Can you tell us what type of pipe that is?

A. You are referring to casing and tubing, are you not, rather than to line pipe?

Q. That should be casing and tubing.

A. The working papers will show just which were the weights and sizes that are not now being regularly manufactured, and I would have to refer to that to refresh my memory.

Q. On page 20, you state that the unit prices used for casing and tubing are based on the lowest quoted prices less 2 percent cash discount, plus freight to average destination. Should there be an additional discount for quantity purchases?

A. They are not available in casing and tubing.

Q. Recently you referred to your knowledge of the drilling of 3,000 oil wells over a period of time.

618 A. Yes.

Q. Do you know whether or not the casing and tubing purchased for those 3,000 wells were purchased at a discount in addition to the ones reflected on page 20 of Exhibit 16-A?

A. They were built at a different time, and I do not know what prices were paid. I have been assured, however, by the purchasing department, which is purchasing materials and has been right along, that for a considerable number of years there has been no discount on the casing and tubing except the discount of 2 percent for cash, and that the drillers of these wells which were in the East Texas oil fields all paid the same prices.

Q. Does that mean that the casing and tubing prices are twenty percent higher than pipe prices?

A. Roughly.

Q. Do you know the tonnage in the Hope system for casing and tubing and transmission pipe?

A. Not offhand.

Q. I believe you have stated that the amount of money was about equal?

A. If I recall correctly, and I would like an opportunity to correct the figures after looking them up, that some 240,000 tons of line pipe was involved and about 150,000 tons of casing and tubing.

619 Q. On page 21, referring to pipe lines, in your final computation of reproduction cost new for pipe lines, did you rely upon the book inventory?

A. The book inventory, the accounting department inventory, and the engineering department inventory were compared and discrepancies found. In many cases the discrepancies were remedied by new surveys and actual field measurements on those lines, and with the exception of the discrepancies which we did find, we reached the conclusion that the book records were acceptably correct.

Q. How did you determine the weight per foot of field and transmission pipe lines?

A. In the case of the major pipe lines—and by that I mean the larger diameter pipe lines such as ten or twelve inch lines, from ten to fifteen miles long or more—there was generally available a record as to the actual weight of the pipe purchased. In the case of the field lines, the records were not so clear, and again they found it necessary to rely on the weights as purchased by the company over a period of years.

Q. But under the method of operating the warehouse of the Hope Company, is it not true that when the pipe enters the warehouse, it loses its identity relative to the weight and number of feet?

620 A. In general, that is so.

Q. In general?

A. Yes.

Q. Is it possible under this method that lightweight pipe of a certain size could be sent to a new construction job, and capitalized in the original cost at a much higher value than the actual tonnage?

A. I don't know what might have happened. I have not examined the details of such transactions.

Q. On pages 21 and 22, you refer to drips. Did you use the book inventory of drips in the trunk lines in your classification of pipe size?

A. The determination of the number of drips of each pipe size was made largely in the field from the records and consultation with the operating men as to the drips. The book inventory was only relied upon incidentally.

Q. Did your men physically inspect the drips?

A. Obviously not, because they are buried.

Q. Did you use book inventory of valves and fittings in the branch lines?

A. No.

Q. What was your source of information?

A. We examined in detail all of the records available with respect to the approximately ten percent of the mileage of the branch lines geographically well scattered throughout the system.

We determined what was there by field records, and we determined from the men in the field what valves there were.

In the case of most of the valves, they were in obvious locations and it was merely the unusual valves that were in question, and required investigation, but in general the inventory of valves with their attendant fittings was based upon the field investigations, and by field, I mean both physically in the field in some cases and in consultation with the men who actually had occasion to operate the valves from time to time in the handling of the gas through the system.

Q. On page 22, you stated that the unit prices of the pipe used are based upon the prices quoted by manufacturers generally applicable to carload lots, f. o. b. mill, less 2 percent for cash and 10 per cent discount. Does this carload price given effect to current basic discounts which apply?

A. This carload price less the 10 percent and 2 percent is the price that I have found has been paid for more than a million and a half dollars of pipe by this company and some of its affiliates during the last year or so.

Q. Is it not customary in large quantity purchases for basic discounts to be granted to the purchaser?

A. I don't know what you mean by "basic discounts."

Q. It might be as high as another 50 percent, might it not?

A. No.

Q. I think I will withdraw that; it should be fifteen percent. Does that sound better, Mr. Rhodes?

A. I am not sure that I know what you mean by a basic discount.

Q. Is it customary in the quotation of prices of pipe to give a list price and then a basic discount?

A. To answer that directly, pipe quotations are based first on what is sometimes called car prices. For each and every kind of pipe and most weights, there is a list price that is the same list price practically for all manufacturers. The people who are buying pipe at the time have furnished to them discount figures, maybe 50 percent or whatnot—which figures are also published in the trade journals which, if applied to the list prices, will give the mill price, for the number of feet that is charged for small quantities of pipe. Unless you are a large purchaser, you would pay those prices until you made purchases, approximately a trainload of pipe, but if you are a large purchaser of pipe, you automatically get a ten percent discount, even on ten or fifteen car-
623 loads which the purchaser who is less regular in his purchases would not get until he exceeded a trainload and then negotiated for it.

Now, when any purchaser of pipe is going to buy more than a trainload of any size, he generally negotiates the price.

In the last year and a half, various discounts have been granted. Taking into account the heavy tonnage of pipe that has been bought by this company and its affiliates, and without any discount beyond the ten percent and the two percent, the two percent being for cash, I reached the conclusion that as related to the property of this size, it would be possible to obtain further discounts, not to exceed ten percent of the whole price on all of the pipe, but that no further discount could be available with respect to the purchase of the casing and the tubing.

Q. You spoke of buying a trainload of pipe. Would it require a trainload of pipe to reproduce the Hope system?

A. At least.

Q. And if the Hope Company purchased requirements for reproducing its system within a three year period, under its purchasing arrangement with—did you say the Standard Oil of New Jersey?

A. I don't know what its arrangement is with the
624 Standard Oil of New Jersey, but they do have large purchases of pipe made from time to time with Standard Oil of New Jersey's purchasing department.

Q. That on a negotiated purchase of the requirements to reproduce the pipe line and well systems of the Hope Company, it is very likely that there would be an additional discount, which is not reflected in your inventory here?