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Richmond, Va.

Record No. 5010

In the Supreme Court of Appeals of Virginia at Richmond

VIRGINIA GAS DISTRIBUTION CORPORATION

v.

WASHINGTON GAS LIGHT COMPANY

FROM THE STATE CORPORATION COMMISSION

RULE 5:12—BRIEFS

§5. Number of Copies. Twenty-five copies of each brief shall be filed with the clerk of the Court, and at least three copies mailed or delivered to opposing counsel on or before the day on which the brief is filed.

§6. Size and Type. Briefs shall be nine inches in length and six inches in width, so as to conform in dimensions to the printed record, and shall be printed in type not less in size, as to height and width, than the type in which the record is printed. The record number of the case and the names and addresses of counsel submitting the brief shall be printed on the front cover.

HOWARD G. TURNER, Clerk.

Court opens at 9:30 a. m.; Adjourns at 1:00 p. m.

IN THE

Supreme Court of Appeals of Virginia

AT RICHMOND.

Record No. 5010

VIRGINIA:

In the Supreme Court of Appeals held at the Supreme Court of Appeals Building in the City of Richmond on Friday the 13th day of March, 1959.

VIRGINIA GAS DISTRIBUTION CORPORATION,
Appellant,

against

WASHINGTON GAS LIGHT COMPANY, Appellee.

From the State Corporation Commission

Upon the petition of Virginia Gas Distribution Corporation an appeal and *supersedeas* is awarded it from an order entered by the State Corporation Commission on the 28th day of October, 1958, in a certain proceeding then therein depending entitled: Application of Washington Gas Light Company for Amended and New Certificates under Utility Facilities Act; upon the petitioner, or some one for it, entering into bond with sufficient security before the clerk of the said Corporation Commission in the penalty of twenty-five thousand dollars, with condition as the law directs.

RECORD

* * * * *

State Corporation Commission Jul. 11, 1958, Va.

BEFORE THE

STATE CORPORATION COMMISSION OF THE COMMONWEALTH OF VIRGINIA.

Application of
WASHINGTON GAS LIGHT COMPANY

Case No.

July 10, 1958.

FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY ALLOTTING ADDITIONAL TERRITORY TO APPLICANT IN FAIRFAX COUNTY AND LOUDOUN COUNTY FOR DEVELOPMENT OF NATURAL GAS SERVICE.

This Application of Washington Gas Light Company (hereinafter called "Applicant") is filed pursuant to the Utility Facilities Act, Chapter 10.1 of Title 56 of the Code of Virginia, and respectfully states and shows to this Commission as follows:

1. Applicant is a domestic corporation of the District of Columbia and the Commonwealth of Virginia, and is qualified to do intrastate and interstate business in the State of Maryland. Applicant is a public utility company engaged in the distribution and sale of natural gas in the metropolitan area of Washington, comprising the District of Columbia and adjoining portions of Virginia and Maryland. The population of the area served is about 1,600,000 and the number of active gas meters is approximately 370,000. In Virginia the Applicant has more than 80,000 meters in service. Applicant is subject to the jurisdiction of this Commission, the Public Utilities Commission of the District of Columbia, and the Public Service Commission of Maryland. Applicant purchases substantially all of its natural gas supply from Atlantic Seaboard Corporation, an affiliate of Virginia Gas

Distribution Corporation referred to hereinafter.
page 2 } Atlantic Seaboard and Virginia Gas both are subsidiaries of The Columbia Gas System, Inc.

2. Applicant is authorized by this Commission to operate transmission facilities and to furnish gas service under certificates of public convenience and necessity Nos. GT-2, GT-3, G-14, G-15, and G-16 issued January 22, 1951; No. G-43 issued March 17, 1952; and No. G-45 issued December 1, 1954. The area in Virginia allotted to Applicant for development includes the cities of Falls Church and Alexandria, all of Arlington County, and about two-thirds of Fairfax County. Maps attached to such certificates describe with particularity the boundaries of Applicant's service area. Applicant is furnishing natural gas service in its service area, including Fairfax County, pursuant to such certificates of public convenience and necessity.

3. Virginia Gas, a public utility, furnishes natural gas service in the Town of Herndon and to main-line customers located along the pipelines of Atlantic Seaboard in the western part of Fairfax County. Such natural gas service is rendered pursuant to certificates of public convenience and necessity issued to Virginia Gas in 1951 under the "grandfather clause" of the Utility Facilities Act.

4. On information and belief, Applicant avers that no certificate of public convenience and necessity has been issued by this Commission for the service of natural gas in Loudoun County.

5. (a) Applicant hereby requests new and additional service areas (1) partly in Fairfax County as shown
page 3 } within the red boundaries on the map of Fairfax County filed herewith as Annex A (copy attached), and (2) partly in Loudoun County as shown within the red boundaries on the map of Loudoun County filed herewith as Annex B (copy attached), both parts of which proposed service area are contiguous. The portion of the requested area shown on Annex A is contiguous with Applicant's presently certificated service area in Fairfax County, as shown in the certificate No. G-45, issued December 1, 1954.

(b) The request for the new service area is made pursuant to the following provisions of Section 56-265.3 of the Code of Virginia 1950:

"On application by any company, the Commission, after formal hearing upon such notice to the public as the Commission may prescribe, may, by a certificate of convenience

and necessity allot territory for development of public utility service by the applicant if the Commission finds such action in the public interest."

6. The new service area requested by Applicant includes the territory requested by Virginia Gas Distribution Corporation for allotment to it in the application filed with the Commission on June 9, 1958, and designated Case No. 10620.

7. Applicant is informed and believes that although at present there is no substantial public demand and necessity for natural gas service in the proposed new service area shown on Annex A and Annex B, such public demand and necessity may begin to develop within the next year. One development in the proposed new service area is the public airport for Washington, to be located near Chantilly, Virginia. Land is being acquired for establishment of such airport. Although Applicant knows of no present demand for utility service at the airport, it is reasonable to ex-
page 4 } pect that there will be such demand within the near future. Applicant is and will be able to render natural gas service within the requested service area when and as such a public demand for such service develops. Such service will be rendered under and in accordance with the filed rates, schedules, tariffs and general service provisions of Applicant, as filed with this Commission from time to time.

8. Applicant believes it will be able to purchase all of its requirements of natural gas for the proposed new service area shown on Annex A and Annex B, from Atlantic Seaboard, present supplier of Applicant. Atlantic Seaboard has two natural gas transmission pipelines traversing or reasonably close to parts of the proposed service area.

WHEREFORE, Washington Gas Light Company, the Applicant herein, respectfully prays as follows:

That this Application may be filed and that this Commission may take jurisdiction of this proceeding;

That this Commission by its order grant a Certificate of Public Convenience and Necessity to Washington Gas Light Company to develop gas service in the territory in Fairfax County as shown within the red boundaries on Annex A, and in Loudoun County as shown within the red boundaries on Annex B; and

That this Commission grant to the Applicant such other,

page 5 } further, and general relief as the circumstances of the case may require, or as to this Commission may seem advisable.

Respectfully submitted,

WASHINGTON GAS LIGHT COMPANY
By EVERETT J. BOOTHBY
President.

C. OSCAR BERRY
EDWARD B. LONGYEAR
1100 H Street, N. W.
Washington 5, D. C.
Attorneys for Applicant.

District of Columbia, to-wit:

I, Joseph H. Streett, a Notary Public in and for the District of Columbia aforesaid, do hereby certify that Everett J. Boothby, whose name as President of Washington Gas Light Company is signed to the above Application, this day appeared before me and, being by me duly sworn, he made oath and said that he was duly authorized to sign the above Application and that the matters stated herein are true to the best of his knowledge and belief.

Given under my hand and notarial seal this 10th day of July, 1958.

JOSEPH H. STREETT
Seal Notary Public, D. C.

My Commission expires Feb. 14, 1962.

page 6 } BEFORE THE

STATE CORPORATION COMMISSISSION OF THE COMMONWEALTH OF VIRGINIA.

Case No.

September 2, 1958.

Amended Application of
WASHINGTON GAS LIGHT COMPANY

FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY ALLOTTING ADDITIONAL TERRITORY TO APPLICANT IN FAIRFAX, LOUNDOUN AND PRINCE WILLIAM COUNTIES FOR DEVELOPMENT OF NATURAL GAS SERVICE.

The Application of Washington Gas Light Company filed with this Commission on July 11, 1958, for a Certificate of Public Convenience and Necessity under the Utility Facilities Act for an allotment of territory to develop gas service in certain sections of Fairfax and Loudoun Counties is amended hereby.

This Amended Application of Washington Gas Light Company (hereinafter called "Applicant") is filed pursuant to the Utility Facilities Act, Chapter 10.1 of Title 56 of the Code of Virginia, and respectfully states and shows to this Commission as follows:

1. Applicant is a domestic corporation of the District of Columbia and the Commonwealth of Virginia, and is qualified to do intrastate and interstate business in the State of Maryland. Applicant is a public utility company engaged in the distribution and sale of natural gas in the metro-
page 7 } politan area of Washington, comprising the District of Columbia and adjoining portions of Virginia and Maryland. The population of the area served is about 1,600,000 and the number of active gas meters is approximately 370,000. In Virginia the Applicant has more than 80,000 meters in service. Applicant is subject to the jurisdiction of this Commission, the Public Utilities Commission of the District of Columbia, and the Public Service Commission of Maryland. Applicant purchases substantially all of its natural gas supply from Atlantic Seaboard Corporation.

2. Applicant is authorized by this Commission to operate transmission facilities and to furnish gas service under certificates of public convenience and necessity Nos. GT-2, GT-3, G-14, G-15 and G-16 issued January 22, 1951; No. G-43 issued March 17, 1952; and G-45 issued December 1, 1954. The area in Virginia allotted to Applicant for development includes the cities of Falls Church and Alexandria, all of Arlington County, and about two-thirds of Fairfax County. Maps attached to such certificates describe with particularity the boundaries of Applicant's service area. Applicant is furnishing natural gas service in its service area, including Fairfax County, pursuant to such certificates of public convenience and necessity.

3. (a) Applicant hereby requests new and additional service areas consisting of portions of Fairfax and Loudoun Counties and all of Prince William County, as shown within the red boundaries of maps of such counties designated Annex A-1, Annex B-1 and Annex C, respectively, which are filed herewith and attached hereto. The areas shown in yellow heretofore allotted the Virginia Gas Distribution page 8 } Corporation by this Commission are excluded from this Amended Application. The portion of the requested area shown on Annex A-1 is contiguous with Applicant's presently certificated service area in Fairfax County, as shown in the Certificate No. G-45, issued December 1, 1954.

(b) The request for the new service area is made pursuant to the following provisions of Section 56-265.3 of the Code of Virginia, 1950:

"On application by any company, the Commission, after formal hearing upon such notice to the public as the Commission may prescribe, may, by a certificate of convenience and necessity allot territory for development of public utility service by the applicant if the Commission finds such action in the public interest."

4. Applicant believes it will be able to purchase all of its requirements of natural gas for the proposed new service area shown on Annex A-1, Annex B-1 and Annex C from Atlantic Seaboard Corporation, present supplier of Applicant.

5. The area heretofore allotted to Applicant by this Commission in prior proceedings, together with the additional area now requested by Applicant in its Amended Application in this proceeding, is a substantial part of the Virginia portion of the "National Capital Region" as defined by the Congress of the United States in Public Law 592, 82d Congress, 2d Session, Ch. 949—H. R. 7502, U. S. Code Annotated, Title 40, Section 71(b). In that Act, Congress has defined the "National Capital Region" as the District of Columbia, Montgomery and Prince George's Counties in Maryland, Arlington, Fairfax, Loudoun and Prince William Counties in Virginia, and all cities now or hereafter existing in Maryland page 9 } or Virginia within the geographic area bounded by the outer boundaries of the combined areas of said counties. As stated by the Congress, the purpose of such Act is to secure comprehensive planning for the physical

development of the National Capital and its environs. Applicant is requesting in this proceeding an allotment of additional territory within the said National Capital Region "for development of the public utility service" to be rendered by it in such region.

6. Applicant is the recognized retail distributor of gas for the District of Columbia and surrounding areas in the states of Maryland and Virginia. As the National Capital Region developed, the business of Applicant paralleled such development and continues to do so. Applicant avers that it is in the public interest to grant this Amended Application so as to place Applicant in a position to offer gas service to additional areas of the National Capital Region as such region develops.

WHEREFORE, Washington Gas Light Company, the Applicant herein, respectfully prays as follows:

That this Amended Application may be filed and that this Commission may take jurisdiction of this proceeding;

That this Commission by its order grant a Certificate of Public Convenience and Necessity to Washington Gas Light Company to develop gas service (i) in the territory in Fairfax County as shown within the red boundaries on Annex A-1, (ii) in Loudoun County as shown within the red boundaries on Annex B-1, and (iii) in Prince William County as shown within the red boundaries on Annex C, exclusive of the areas shown in yellow in such counties; and

page 10 } That this Commission grant to the Applicant such other, further and general relief as the circumstances of the case may require, or as to this Commission may seem advisable.

Respectfully submitted,

WASHINGTON GAS LIGHT COMPANY
By EVERETT J. BOOTHBY
President.

C. OSCAR BERRY
EDWARD B. LONGYEAR
1100 H Street, N. W.
Washington 5, D. C.
Attorneys for Applicant.

District of Columbia, ss:

I, John M. Kent, a Notary Public in and for the District of

Columbia, do hereby certify that Everett J. Boothby, whose name as President of Washington Gas Light Company is signed to the above Amended Application, this day appeared before me and being by me duly sworn, he made oath and said that he was duly authorized to sign the above Amended Application, and that the matters stated herein are true to the best of his knowledge and belief.

Given under my hand and notarial seal this 2nd day of September 1958.

JOHN M. KENT
Seal Notary Public.

My Commission Expires Nov. 14, 1962.

page 11 } COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, SEPTEMBER 4, 1958.

CASE NO. 10314.

Application of
WASHINGTON GAS LIGHT COMPANY

For Amended and New Certificates under Utility Facilities Act.

INSTITUTING SUPPLEMENTAL PROCEEDING AND SETTING FOR FORMAL HEARING, ETC.

CAME the applicant on July 11, 1958, and presented a supplemental application, executed and verified on July 10, 1958, by Everett J. Boothby, President, along with maps of Fairfax and Loudoun Counties, showing and setting forth new and additional territories in said Counties proposed to be served with gas service by the applicant; and

ALSO CAME the applicant on September 3, 1958, and presented an amended application, executed and verified on September 2, 1958, by Everett J. Boothby, President, along with maps of Fairfax, Loudoun and Prince William Counties, showing and setting forth new and additional territories in said Counties proposed by the applicant to be allotted to it for development of natural gas service; accordingly,

IT IS ORDERED:

(a) That the aforesaid application of July 10, 1958, and the amended application of September 2, 1958, and exhibits therewith, be filed, and a supplemental proceeding under the Utility Facilities Act be instituted, docketed and set for formal hearing in the Courtroom of the Commission, Blanton Building, Richmond, Virginia, at 10:00 A. M., on October 2, 1958;

(b) That the applicant, as notice of said supplemental and amended applications and the time and place of hearing thereof, forthwith serve, by registered mail with return receipt, an attested copy of this order on the Commonwealth's Attorney and the Chairman of the Board of Supervisors of each of the Counties of Fairfax, Loudoun and Prince William, and on the Virginia Gas Distribution Corporation, and

page 12 } file evidence of such notice at the hearing; and

(c) That an attested copy of this order be sent to the applicant, in care of C. Oscar Berry, General Counsel, 1100 H Street, N. W., Washington 5, D. C.; and to Counsel for files of Counsel.

A True Copy

Teste:

N. W. ATKINSON
Clerk of the State Corporation Commission.

page 13 } BEFORE THE

STATE CORPORATION COMMISSION OF THE COMMONWEALTH OF VIRGINIA

In the Matter of the
Application and Amended Application of
WASHINGTON GAS LIGHT COMPANY

Case No. 10314.

September 12, 1958.

FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY ALLOTTING ADDITIONAL TERRITORY TO APPLICANT IN FAIRFAX, LOUDOUN AND PRINCE WILLIAM COUNTIES FOR DEVELOPMENT OF NATURAL GAS SERVICE.

PETITION OF VIRGINIA GAS DISTRIBUTION CORPORATION FOR LEAVE TO INTERVENE AND MOTION TO DISMISS.

Virginia Gas Distribution Corporation, hereinafter referred to as Petitioner, has a material interest in the proceeding captioned as above, wherefore it hereby requests leave to intervene and be heard in connection therewith and hereby moves to dismiss the Application and Amended Application of Washington Gas Light Company. In support of this petition to intervene, Petitioner respectfully represents that:

page 14 } 1. Petitioner is a public utility corporation, duly organized and existing under the laws of the Commonwealth of Virginia, and is engaged in the sale and distribution of natural gas to domestic, commercial and industrial customers solely within the Commonwealth of Virginia and is therefore subject to regulation by this Commission.

Petitioner is authorized to furnish gas service under Certificates of Public Convenience and Necessity Nos. G-27 through G-38, both inclusive, issued by this Commission on July 10, 1951, in parts of Albermarle County, Alleghany County, Augusta County, Botetourt County, Culpeper County, Fairfax County, Fauquier County, Giles County, Greene County, Madison County, Prince William County, Rockbridge County and Shenandoah County. Reference is made to said certificates of public convenience and necessity for all pertinent purposes and particularly for a description of the respective parts of said enumerated counties in which gas service is furnished by Petitioner. All of said certificates were granted to Petitioner by this Commission in accordance with the provisions of the "grandfather clause" in Section 3 (Code, 1950, §56-265.3) of the Utilities Facilities Act.

Petitioner is also authorized to furnish gas service under certificates of public convenience and necessity issued by this Commission on July 15, 1958, as follows:

page 15 } (i) Certificate No. G-32a, in the Town of Herndon and in the territory shown by the yellow area on a map of Fairfax County which is attached thereto and filed as a part of the permanent records of the Commission; and also to customers adjacent to the main line transmission system of Atlantic Seaboard Corporation, shown in black on such map, which service is rendered by Petitioner pursuant to individual agreements with respective customers; and

(ii) Certificate No. G-49, in the territory shown by the yellow area on a map of Loudoun County, attached to such

certificate and filed as a part of the permanent records of the Commission.

Petitioner also serves the Quantico Marine Base at the southern extremity of Prince William County under contract with the United States Government.

2. Petitioner is a wholly-owned subsidiary of The Columbia Gas System, Inc., a corporation organized and existing under the laws of the State of Delaware and a registered holding company under the Public Utility Holding Company Act of 1935.

Within the areas requested by Applicant, Petitioner owns and operates an 8-inch natural gas transmission line, 26.95 miles long, extending through over three-fourths of
page 16 } the length of Prince William County, by means of which it transports gas to serve the markets of Manassas, Dumfries and the Quantico Marine Base.

Atlantic Seaboard Corporation has natural gas transmission pipe lines traversing Fairfax, Loudoun and Prince William Counties, Virginia. Atlantic Seaboard Corporation is the source of Petitioner's entire supply of natural gas. Petitioner purchases such gas under Atlantic Seaboard Corporation's FPC Tariff.

In support of its motion to dismiss the Application and Amended Application of Washington Gas Light Company, Petitioner respectfully represents and alleges:

1. In this proceeding, Applicant, Washington Gas Light Company, has requested new and additional service areas consisting of portions of Fairfax and Loudoun Counties and all of Prince William County, as shown within the red boundaries on maps of the counties filed with and attached to the Amended Application. In its Amended Application, Washington Gas Light Company alleges that the additional service areas requested therein are a substantial part of the Virginia portion of the "National Capital Region," as defined by the Congress of the United States in Public Law
page 17 } 592, 82nd Congress, 2d Session, Ch. 949—H. R. 7502, United States Code Annotated, Title 40, Section 71(b), and that it (Washington Gas Light Company) "is the recognized retail distributor of gas for the District of Columbia and surrounding areas in the States of Maryland and Virginia." Applicant further alleges that:

(i) "As the National Capital Region developed, the business of Applicant paralleled such development and continues to do so"; and

(ii) "* * * it is in the public interest to grant this Amended Application so as to place Applicant in a position to offer gas service to additional areas of the National Capital Region as such region develops."

Petitioner denies that Applicant is "the recognized distributor of gas for * * * surrounding areas in the State(s) of * * * Virginia" and that "it is in the public interest" to grant the prayer of the Amended Application. Moreover, Petitioner denies the inference contained in the Amended Application that Public Law 592, 82d Congress, 2d Session, Ch. 949—H. R. 7502, United States Code Annotated, Title 40, Section 71(b), has any relevance whatsoever to the prayer of the Amended Application or was intended to, or can with propriety be interpreted to, extend a preference for expansion of service area across sovereign state lines
page 18 } to Applicant, or to any other utility or business now operating within the "National Capital" or the "National Capital Region."

2. Applicant's request for a certificate of public convenience and necessity for the areas described in its Amended Application should be dismissed on the grounds that:

(i) It is not in the public interest;

(ii) The Amended Application is premature, inasmuch as (a) there is no allegation, nor is there any apparent evidence, of a demand for the present development of natural gas service throughout, or in any specific portions of, the areas so requested; (b) the areas requested are not reasonable appendages to the present service area of Applicant as heretofore approved by this Commission; and (c) it is postulated entirely upon the concept that Applicant arbitrarily be placed in a preferential position to "offer gas service to additional areas of the National Capital Region as such region develops" without consideration of present or future advantages to the people of the region of service offered by Petitioner.

(iii) The granting of a certificate to Applicant for such areas as requested would serve to smother and completely throttle the normal, natural and reasonable growth
page 19 } of the several markets embraced within those areas presently being served by Petitioner, to-wit: the Towns of Herndon, Manassas and Dumfries, and their respective environs, and the Quantico Marine Base;

(iv) The granting of a certificate to Applicant for such areas as requested would result in making Petitioner's trans-

mission line extending through Prince William County less economical and useful for public service; and

(v) Petitioner always stands ready, willing and able to serve such portions of the areas requested as may, in the judgment of the Commission, be reasonable as appendages to its several markets therein, when it becomes apparent that the demand for development is to be reasonably anticipated.

WHEREFORE, Petitioner respectfully prays that:

(a) This Petition for Leave to Intervene be granted; that Petitioner may be made a party to this proceeding, with the right to have notice of and appear at all hearings, to produce and cross examine witnesses, and to be heard by counsel upon brief and oral argument; and that Petitioner be granted such other and further relief as may be proper in the premises; and

page 20 } (b) The Commission grant Petitioner's Motion to Dismiss the Application and Amended Application of Washington Gas Light Company without prejudice to a future showing of a demand for service in specific parts of the areas so requested.

Respectfully submitted,

VIRGINIA GAS DISTRIBUTION CORPORATION
By (s) W. P. DICK
Vice President.

(s) THOMAS B. GAY, Esquire
HUNTON, WILLIAMS, GAY, MOORE & POWELL
Electric Building
Richmond 12, Virginia.

(s) C. E. GOODWIN, Esquire
Virginia Gas Distribution Corporation
P. O. Box 1273
Charleston 25, West Virginia.

page 21 } State of West Virginia,
County of Kanawha, to-wit:

I, Ruth G. McCormick, a Notary Public in and for the county and state aforesaid, do hereby certify that W. P. DICK, whose name as Vice President for Virginia Gas Dis-

tribution Corporation is signed to the above Petition for Leave to Intervene and Motion to Dismiss, this day appeared before me and, after being by me first duly sworn, says that he was duly authorized to sign the above Petition for Leave to Intervene and Motion to Dismiss and that the matters therein stated are true, to the best of his information, knowledge and belief.

(s) W. P. DICK.

Given under my hand and notarial seal, this 12th day of September, 1958.

My commission expires September 23, 1964.

(s) RUTH G. McCORMICK
Seal Notary Public.

page 22 } COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, SEPTEMBER 15, 1958.

CASE NO. 10314.

APPLICATION OF
WASHINGTON GAS LIGHT COMPANY

Under the Utility Facilities Act.

THIS DAY came Virginia Gas Distribution Corporation by Thomas B. Gay, its counsel, and tendered and filed its petition herein for leave to intervene and its motion to dismiss.

UPON CONSIDERATION of which the Commission is of the opinion and it is ordered:

(1) That said petition and motion to dismiss be set down for hearing at 10:00 A. M. on October 2, 1958 at the same time as the supplemental application of Washington Gas Light Company is set for hearing; and

(2) That an attested copy hereof be sent to counsel for Virginia Gas Distribution Corporation, and an attested copy hereof and a copy of said petition be sent to Washington Gas Light Company, c/o C. Oscar Berry, General Counsel,

1100 H Street, N. W., Washington 5, D. C., and to the Chief Engineer of the Commission.

A True Copy

Teste:

N. W. ATKINSON
Clerk of the State Corporation Commission.

page 23 } COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

CASE NO. 10314.

APPLICATION OF
WASHINGTON GAS LIGHT COMPANY

Under the Utility Facilities Act.

Present: Commissioner H. Lester Hooker (Chairman), Jesse W. Dillon, Ralph T. Catterall, (Chairman Hooker presiding).

Appearances: C. Oscar Berry, Edward B. Longyear, S. T. Hollinsworth, Counsel for Washington Gas Light Company.
C. E. Goodwin, Thomas B. Gay, Counsel for Virginia Gas Distribution Corporation (Objectors)
Norman S. Elliott, Counsel for the Commission.

Date of Hearing
October 2, 1958.

page 24 } Chairman Hooker: All right, Mr. Berry.

Mr. Berry: May it please the Commission, Washington Gas Light Company has received notice about two persons, or rather two companies have filed Motion of Intervention or petitions to intervene in this proceeding, and have filed Motions to Dismiss the application of Washington Gas Light Company.

Washington Gas Light Company has no objection to the granting of the Motions to Intervene, but it does object to the Motions to Dismiss and ask that they be denied.

We shall be glad to argue our objections to the Motion to

Dismiss, if the Commission wishes, or proceed with the direct case and offer evidence and then argue the matter thereafter, if that is satisfactory to the Commission. We think the Commission might be in better position to pass on the Motion to Dismiss after it has heard the evidence.

Commissioner Hooker: Mr. Gay?

Mr. Gay: The Virginia Gas Distribution Corporation has made a Motion to Dismiss, and we think it would be most timely and most conclusive in this matter if we can page 25 } state our position at this time, as we think the decision can be made on the averments of the Motion itself. We think it is purely a question of Law, and if the Commission will agree with our position, there will be no need to go further with the matter and if you would like for me to present the Law as I see it, I will go ahead.

Chairman Hooker: Proceed, Sir.

Mr. Gay: This Petition invokes the paragraph of the Utility Facilities Act which authorizes the Commission to certify additional territory to a utility for future service, if the Commission finds it advisable to do so. We contend that the Petition shows on its face that it does not, as a matter of Law, state a case which will authorize the Commission to grant the certificate shown.

The new territories shown, if the Commission pleases, is a part of Fairfax County, in a part of which the Applicant already does business, and a part of Loudoun County, in which it presently does no business and has no certificates, and all of Prince William County, in which it at page 26 } present does no business and has no certificates.

The Petition appears to bottom its justification on an Act of Congress creating what is called the "National Capital Region", which is alleged to include the three Counties, among others in Virginia involved in this application. Now it says the Applicant is the recognized distributor of gas in this so-called "surrounding Washington area". The Petition assumes, it seems to us as a matter of Law, that this relationship to the National Capital, in that the Counties involved are a part of the area defined, that by operating in the capital area, it gives this Applicant the preferential right to serve the public in this area. If that is true, it must follow that the Act of Congress has pre-empted the matter of decision which the Act in question leaves to this Commission to decide, and that is whether the public interest does require certification to this Applicant for future development purposes.

No further allegation is set up in the Petition as a justification for certification of this additional area. No averments are

made other than this proximity to Washington and
page 27 } the inclusion in this Federal area is relied upon as
a reason why these certificates should be granted, and we submit, as a matter of Law, that the mere inclusion of the area in the Northern part of Virginia, not only of one County in which the Applicant does not presently render any service, but in all three of which this Intervenor renders service, does not present a case within the concept of the development of this Utilities Facilities Act.

If the Commission will look at the three maps attached to the Petition with me a moment, you will observe that Exhibit 1, the blue area is that presently certificated to the Applicant and the yellow area is that certificated to the Virginia Gas Distribution Corporation and the red area is that area sought to be certificated. Looking at that Exhibit B-1, which is a map of Loudoun County, it will be observed the Applicant serves no territory in Loudoun County and is not certificated to serve any area in Loudoun County, but is seeking a very large area in that County, and a large part is served by the Virginia Gas Distribution Corporation.

Reading these two maps together, it will be ob-
page 28 } served that the Virginia Gas Distribution Corpora-
tion will be surrounded and bottled up which was not implied within the full concept of the Act. We don't believe that the meaning of the Act applies to any such concept as that.

Commissioner Catterall: What does it apply to?

Mr. Gay: If your Honor please, I anticipated that your Honor would ask that question and I wrote down what I was going to say because I wanted it very clear on the record. We think the Act and the use of the term "for development purposes" is speaking of an area in which future needs of the public are likely to develop in such manner as to presently warrant certification for purposes of future development.

Now, if I may go to the third exhibit, which is Prince William County, the Applicant is asking for all of this County. It has no present certificates and there is no certification for service in this County and its own map shows that the Gas Distribution Corporation has a pipeline in the County and is presently serving Manassas, Dumfries and the Quantico and
adjacent areas.

page 29 } Mr. Elliott: Is that pipeline owned by this Com-
pany?

Mr. Gay: Yes. The Virginia Gas Distribution Corporation has an eight-inch line attached to the Seaboard. We say that, if any company is entitled to a certificate, which we don't at this time claim the right to for future development in this

Prince William County area, it would necessarily be the Virginia Gas Distribution Corporation.

So we say, in addition to the lack of showing of any factual justification for an application of the Act defined in the manner in which I have tried to define it, which we think is a reasonable interpretation of it, the Petition does not state a case; on the contrary, it shows existing conditions which would make it contrary to the public interest to grant it in that it would bottle up Intervenor in the Herndon area and in Fairfax and Loudoun areas and it would take them from their present preemptive position in Loudoun and Prince William County.

The sixth paragraph of the Petition, which is really the gravamen of the application, states:

page 30 } "Applicant avers that it is in the public interest to grant this Amended Application so as to place Applicant in a position to offer gas service to additional areas of the National Capital Region as such region develops".

It had been previously stated that it was a recognized retail distributor of gas in the District of Columbia and surrounding areas in the States of Maryland and Virginia, and that by relationship of the service, that these three counties are within the area of the Capital Region, it has some elements of right to the development there, and if that is true the power of the Commission is nullified, and you no longer have a right to say how it should be developed, and we don't believe the Commission will take kindly to that construction, and we would like to state that the Applicant does not state in its application a case which, on its face, would warrant the granting of the application.

Mr. Berry: Mr. Gay, what part of Loudoun County does the Virginia Gas Distribution Corporation serve? I don't believe you made that clear.

Mr. Gay: I meant to say it was certificated to
page 31 } serve.

Mr. Berry: It does not have any service in there at this time?

Mr. Gay: No.

Mr. Berry: I am glad to get that straightened out because I agree with you that its future need would warrant the certification of the area, and that is what we are asking the Commission to do.

The Act of Congress is simply to show that the Metropolitan area of Washington is expanding and that it is believed that it will reach Prince William and Loudoun Counties.

Washington Gas Light Company serves Washington and its environs and it is logical to expect growth in those Counties, and if there is growth, it is reasonable to expect that Washington Gas Light would be the reasonable one to give that service. Of course there is no indication that we will have any further spread of Federal Bureaucracy.

I would like to set out a couple of things which the Virginia Gas Distribution Corporation has stated in its Petition to Intervene. It states:

page 32 } "Virginia Gas Distribution Corporation denies that Washington Gas Light Company is the retail distributor of gas—".

I can't understand that. With three hundred thousand meters in the District of Columbia, the two Counties of Arlington and Fairfax in Virginia and two in Maryland, I can't understand how that can be denied.

It further says that "Virginia Gas—"

Mr. Gay: If you will be kind enough to read on Page 5 you will find that what it says is:

"Petitioner denies that Applicant is 'the recognized distributor of gas for surrounding areas in the State(s) of—Virginia' and that 'it is in the public interest' ".

Mr. Berry: Yes, but you leave out some of the words. We say Washington is the recognized distributor of gas and your Petition left out some of the words, and I think the statement made by Washington is 100% true.

Petitioner also alleges that the "Application is premature, inasmuch as (a) there is no allegation, nor is there
page 33 } any apparent evidence, of a demand for the present development of natural gas service throughout, or in any specific portions of, the areas so requested."

That is taken from their Petition for leave to intervene and their Motion to Dismiss, and I have in my hand an Application which I understand has been, or will be, filed by the Virginia Gas Distribution Corporation which was certified on the 30th day of September, 1958. The application is written up as though it was filed with this Commission.

Mr. Elliott: It was filed on October 1st, Mr. Berry.

Mr. Berry: Thank you, Mr. Elliott.

This application of the Virginia Gas Distribution Corporation states:

"Applicant is advised and believes, and therefore states, that there is public need for natural gas service in the new territory proposed to be included in their area."

I think they admit by their own statement that
page 34 } there is a demand for service in Prince William
County, which is a portion of the area of Washington Gas Light Company's Petition, and I believe that the Virginia Gas Distribution Corporation stands in ill grace before the Commission when they say our application would smother and throttle Virginia Gas Distribution Corporation.

Virginia Gas Distribution Corporation operates in thirteen different communities in Virginia ranging from Botetourt County to the Potomac River. Virginia Gas can expand in any of those territories and Washington Gas Light Company can expand nowhere near them. Washington Gas Light Company can only expand in the Four Counties. Arlington is filled up and Fairfax pretty well filled and the evidence will show that there are many more areas that are open for Virginia Gas Distribution Corporation than for Washington, and they stand in ill grace before this Commission when in July both Companies were before the Commission and Virginia Gas was then requesting the service area shown in red on the map in that
application, which was at the very heart of the
page 35 } growth area of Washington Gas Light Company.
They were trying then and received a certificate to block Washington Gas Light Company which was close by and touching their service area, and we respectfully submit to the Commission that the Motion should be denied, and if the Commission will hear the Washington Gas Light Company's evidence, I am sure the Company's evidence will demonstrate that the application should be granted.

Mr. Gay: As to the service of the Virginia Gas Distribution Corporation in the thirteen Counties, it does not serve thirteen counties, or rather I don't recall that it serves in thirteen counties, but even if it did, the need or right to obtain a certificate in respect to any area for development purposes, is shown in the Act upon the development of public interest in the certificate to be issued. If we had forty counties, and if we could show that there was a reasonable expectation in one of those counties, that should be considered. That was my concept of it.

As to this pending application, I did not consider that we
would have to discuss its merits here today, but
page 36 } we have confined it to a small area immediately to
the service we now render at Manassas and down here in the area of Quantico. We are not asking for the whole

County although our pipeline traverses the whole area, but as a reasonable potential area for development, and that petition is not inconsistent, it seems to me, with the interpretation that I have tried to apply to this Act. As far as our former application was concerned, we tried to develop in regard to the Chantilly area the practical situation, which I believe the Commission took into consideration and that that was what they did take into consideration and was their basis for the granting of the application, and I don't think that the Commission has been given any reason for the granting of this application of the Washington Gas Light Company.

Chairman Hooker: Petition is denied and the Applicant's case will be heard on its merits.

Mr. Elliott: The Commission has received a Resolution passed on September 25th from the Prince William County Board of Supervisors, but there is no one here to
page 37 } speak for that and I ask that it be passed to the file.

Chairman Hooker: In the Washington Gas Light case?

Mr. Elliott: Yes. In addition, we have received an application of the Seneca Gas Company for a Leave to Intervene and a Motion to Dismiss. This is a new Company formed the middle of September which has no securities outstanding and no operating rights, but they adopted, I believe, the Petition of the Virginia Gas Distribution Corporation for Leave to Intervene and made the same Motion, and I have not heard anybody here speaking for this Petition and Motion, and I take it from the previous ruling that the Commission will permit them leave to Intervene but deny the Motion to Dismiss.

Chairman Hooker: The Motion to Dismiss will be denied.

Mr. Gay: You stated, Your Honor, that our Petition was denied, I take it you meant our Motion to Dismiss was denied?

Chairman Hooker: That is what I stated, I
page 38 } think. Proceed, Mr. Berry.

Mr. Berry: This is an application for the allotment of additional territory in the Commonwealth of Virginia to Washington Gas Light Company for the development of public utility gas service in accordance with Section 56-265.3 of the Virginia Code.

Washington Gas Light Company is the Company which renders gas service to the metropolitan area of Washington, rapidly expanding in the area designated by the Congress of the United States as the National Capital Region. The service area of the Company includes all of the Maryland portion of the National Capital Region, the District of Columbia, and part of the Virginia portion of the National Capital Region. The Company is asking for additional territory in such Region

as the logical company to serve gas to the region as it continues to develop. Washington stands ready, able, and willing to distribute natural gas in the area requested in this proceeding as such area develops.

The Commission's Order, issued September 4,
page 39 } 1958, calling this hearing, provided that attested copies of such Order be served by registered mail, with return receipt, on the Commonwealth's Attorney and the chairman of the Board of Supervisors of each of the counties of Fairfax, Loudoun and Prince William, and on Virginia Gas Distribution Corporation. Attested copies of the Order were so served, and we submit evidence thereof in the form of this affidavit of service, which has attached to it the several return receipts.

In support of its application, the Company will submit evidence showing:

1. The nature and extent of its business in metropolitan Washington, particularly in that part of Virginia within daily commuting distance to Washington;

2. That the Company has been expanding along with the growth of the area it serves; that it expects to continue to meet all reasonable demands for gas service in Virginia which are in and around Washington;

3. That the Company has applications for ex-
page 40 } tension of its facilities into Prince William County, from established builders;

4. That a present demand exists in Prince William County for gas service by Washington Gas Light Company;

5. That high grade gas utility service, by established distributors with a reputation for integrity, is an essential element in the development of new residential and commercial parts of Virginia.

6. That all indications point to a continued expansion and enlargement of metropolitan Washington, particularly in Virginia;

7. That Loudoun and Prince William Counties are a part of the National Capital Region, for which the Congress has provided co-ordinated planning;

8. That as such growth develops in Fairfax, Loudoun and Prince William Counties, Washington Gas Light Company will be ready to furnish gas service, as it has been doing for many years in the past; and

page 41 } 9. That the public convenience and necessity will be served by allotting the areas requested to Washington Gas Light Company for development.

D. S. Bittinger.

May I ask that the annual reports filed by Washington Gas Light Company for the years 1955, 1956 and 1957 be incorporated by reference in this record.

Chairman Hooker: I suppose there is no objection to that

Mr. Gay: You are referring to Operating Reports?

Mr. Berry: Yes.

Mr. Gay: There is no objection to that.

Chairman Hooker: They will be incorporated by reference.

Mr. Berry: It was just Monday that the Washington Gas Light Company learned that the Virginia Gas Distribution Corporation was making an application here for part of this territory, and the maps of Washington Gas Light Company that were filed with the Petition on the certificated areas may include some of the area that the Virginia Gas Distribution Corporation have included in their application be-
page 42 } cause we did not know the extent of their operation and our exhibits are based on the statements as we understood them at that time and there may be some overlapping there on our exhibits. We have three witnesses.

Chairman Hooker: Proceed with your evidence.

Mr. Berry: I will call Mr. Bittinger.

D. S. BITTINGER,

a witness introduced on behalf of Applicant, being first duly sworn, testified as follows:

DIRECT EXAMINATION.

By Mr. Berry:

Q. Please state your name and address.

A. Donald S. Bittinger, Washington Gas Light Company, 1100 H. Street, N.W., Washington 5, D. C.

Q. What is your profession?

A. Engineer.

Q. By whom are you employed?

A. Washington Gas Light Company.

Q. Have you testified before this Commission on occasions prior to this?

A. Yes.

page 43 } Q. Do you hold an office with the Washington Gas Light Company?

A. Yes, I am President.

Q. How long have you been employed by Washington Gas Light Company?

A. A little over 25 years. I was employed in 1933.

D. S. Bittinger.

Q. When were you elected President?

A. Just last month—September.

Q. What position did you hold before elected President?

A. Vice President—Operations.

Q. How long had you been employed as Vice President in charge of Operations?

A. Over five years.

Q. In your former position, what were your responsibilities?

A. My principal responsibilities pertained to obtaining and maintaining of an adequate supply of gas for distribution to our customers; the installation and maintenance of the transmission and distribution facilities of the Company needed to transport and deliver such gas; the servicing of
page 44 } appliances of customers; the testing of meters; and the whole staff necessary to service the line organization of the Company, including the engineering. In other words, I have been responsible for all operating functions of the Company.

Q. And now you have responsibility for all of the Company's affairs?

A. Yes.

Q. Are you familiar with the amended application filed by Washington Gas Light Company in this proceeding?

A. I am.

Q. Will you state generally the business of Washington Gas Light Company?

A. Washington Gas Light Company is engaged in the gas distribution business for Washington and the metropolitan area, having been in business as a gas utility for a little over 110 years. It is a domestic corporation of the Commonwealth of Virginia and the District of Columbia. It is the largest gas distributing company operating in Virginia, in terms of sales of gas in the state.

Q. Where is the business of Washington Gas Light Company located, in general terms?

page 45 } A. In general terms, it encompasses the City of Washington, D. C., and large parts of Montgomery and Prince George's Counties, Maryland, all of Arlington County, the City of Falls Church, the City of Alexandria, Virginia, and the greater portion of Fairfax County, Virginia. The Company presently serves a population of about 1,600,000. All of the Company's offices and management personnel are located within the service area of the Company. Over 60% of the Company's stock is held by stockholders within the

service area. No single stockholder or group of stockholders can be said to control the Company.

Q. How many meters does the Company serve in the metropolitan area?

A. Over 370,000 meters.

Q. How many meters does it serve in Virginia?

A. In Virginia, over 82,000 meters.

Q. How many persons does Washington Gas Light Company employ and where do they reside?

A. The Company has approximately 2,400 employees. Of that number 639 reside in Virginia, 857 in Maryland, and the balance in the District of Columbia. Of our total employees, 223 work in Virginia.

page 46 } Q. What is the source of supply of the natural gas distributed by the Company?

A. Washington Gas Light Company purchases substantially all of its requirements of natural gas from Atlantic Seaboard Corporation, a member company of The Columbia Gas System, Inc. Such gas is purchased under a tariff and service agreement on file with the Federal Power Commission.

Q. Does the Company operate any peak shaving and emergency gas supply facilities?

A. Yes, we have a large gas production plant known as East Station, located in the District of Columbia, which is operated for peak-shaving purposes. We also have several types of gas storage facilities which can be used for both peak shaving and emergency supply purposes. Furthermore, we are presently engaged in developing a large underground storage reservior in southern Maryland, to be used for similar purposes for the entire system.

Q. Does the Company have a Service Department?

A. Yes, a large Service Department, consisting of over 450 employees.

page 47 } Q. What is the function of the Service Department?

A. Its function is to furnish whatever service is required by customers of the Company, to make certain that our customers are obtaining the best possible results from their use of gas. Our servicemen are trained by the Company in the proper design, installation, maintenance and use of gas equipment. We operate a modern, well-equipped training school for the purpose of instructing Service Personnel in the operation and maintenance of all kinds of gas equipment. Our Service Personnel help our customers to get the best and

safest utilization of their gas equipment. This Service Personnel investigate all reports of leaks, adjust pressure regulators, test appliances and equipment, and make repairs. Such service is rendered without charge, except for new parts or equipment not related to gas operations.

Q. Is such service readily available to all customers of the Company?

A. Yes, it is. A telephone call will bring a serviceman to the customer's house. The service is available 24 hours a day—for emergencies—and for 365 days each year. Many of our trucks are equipped with radios, in order

page 48 } that they can be dispatched quickly, when needed.

Q. How many service calls are made in Virginia, in the course of a year, by the Service Department of the Company?

A. In 1957, there were 98,634 service orders completed in Virginia by the Service Department of Washington Gas Light Company.

Q. Are there Service Department facilities located in the State of Virginia?

A. Yes, we operate a large Service Department and Street Department depot, located on the Shirley Highway in Virginia. Personnel at Shirley Station provide service to customers in Virginia. There are a total of 223 employees, as I mentioned based at Shirley Station. In addition to the fixed facilities in the building, there are 97 vehicles stationed at the building. Many of them are radio equipped. 24-hour service is available to customers from this building. At this station we also conduct the training school I referred to. Shirley Station is capable of further expansion as our Virginia territory develops.

Q. How close are such Service Department facilities to the requested territory?

page 49 } A. Shirley Station is at the most a 30-minute run from the farthest population center in Prince William County, and forty-five minutes from any spot in Loudoun County.

Q. Will you describe very briefly the distribution and transmission system of Washington Gas Light Company?

A. Yes, the Washington Gas Light Company system is an integrated gas utility system comprising 3,300 miles of gas distribution mains. In addition to the distribution mains, the Company has over 100 miles of transmission mains carrying gas from the pipelines of Atlantic Seaboard Corporation

to various sections of our distribution system. The Company also owns the service pipes extending from the gas mains to the customers' meters.

Q. Does the Company have a maintenance program with respect to its system?

A. Yes, we are continually engaged in a program of main and service improvement and replacement. In addition, we periodically change and test the customers' meters.

Q. Have you had a map prepared showing the area served by Washington Gas Light Company?

A. Yes, I have.

page 50 } Mr. Berry: May it please the Commission, we would like to have this marked for identification.

Chairman Hooker: That will be received as Exhibit No. 1.

Mr. Berry:

Q. Will you state the source of this map?

A. Yes, this map was prepared by our Engineering Department.

Q. Have you had this map marked to show the location of the Washington Gas Light Company's service area?

A. I have.

Q. Will you describe the area served by Washington Gas Light Company with relation to this map?

A. The present service area of the Company is shown within the blue border lines on the map. The portion north of the Potomac River consists of Montgomery and Prince George's Counties, Maryland, and the District of Columbia. That portion of the area shown in blue south of the river consists of the Cities of Alexandria and Falls Church, and the Towns of Vienna and Fairfax, Arlington County, and the major portion of Fairfax County. The additional area which the Company is requesting the Commission to allot page 51 } in this proceeding for the development of public utility gas service is that set forth between the western boundary of the existing service area, shown in blue, and the red line to the west of it. The additional territory requested in Virginia consists of the balance of Fairfax County, all of Prince William County, and the portion of Loudoun County, east of the mountains. Such area is exclusive, in each case, of the territory either served by or allotted to Virginia Gas Distribution Corporation—which is shown in yellow on the map.

Commissioner Catterall: You have got the pipelines indicated as owned by Atlantic Seaboard Corporation. Are they owned by Atlantic Seaboard Corporation or by the Virginia Gas Distribution Corporation?

A. The 20-inch line and 26-inch pipeline are owned by the Atlantic Seaboard and the 8-inch pipeline, I understand to Quantico, is owned by the Virginia Gas Distribution Corporation.

Mr. Berry:

Q. And the area shown in yellow is shown subject to the application filed on October 1st?

A. Yes.

page 52 } Mr. Elliott: That application has not been set for hearing.

Mr. Berry: Thank you, Mr. Elliott.

Mr. Berry:

Q. Will you state the area, in square miles, of the portions of the service areas of the Company, shown on the map?

A. The land area in the District of Columbia is 61 square miles and in Maryland is 978 square miles. If the Commission grants the certificates requested in this proceeding, our land service area in Virginia would comprise 976 square miles. That exdludes, of course, all area alloted to Virginia Gas Distribution Corporation as shown by the certificates issued by the State Corporation Commission of Virginia.

Q. Would there be any similarity between the Maryland portion of the Company's service area and the Virginia portion, if the Commission allots the requested territory?

A. Yes, the Maryland and Virginia portions of our territory would contain approximately the same num-
page 53 } ber of square miles of area. The population in the Maryland portion in 1955 was approximately 545,000, and in the Virginia portion approximately 450,000. Moreover, the distance from the center of the city of Washington to the most distant boundary of the Maryland service area is approximately the same as the distance from the center of Washington to the most distant boundary of the Virginia service area, including the territory now requested. In addition, of course, the requested area is a part of the National Capital Region in which the metropolitan area of Washington will continue to grow.

D. S. Bittinger.

Mr. Berry: May it please the Commission, we offer here a single sheet entitled "Evolution of the National Capital." May it be marked for identification as Exhibit 2?

Chairman Hooker: It will be received as Exhibit No. 2.

Mr. Berry:

Q. Will you kindly identify this document?

A. Yes, this is a copy of a map developed by the National Capital Park and Planning Commission showing the evolution of the National Capital from 1800 to 1947. This map clearly indicates that the National Capital Region is being

page 54 } expanded by the continuous growth of metropolitan Washington, outward from its center into the National Capital Region. It is obvious that the National Capital started with a very small settlement in the heart of the District of Columbia and grew outward from that time forward. It is still growing, and undoubtedly will continue to grow.

Q. Will you describe the term "National Capital Region"?

A. The National Capital Region has been described by Congress in Public Law 592, 82d Congress, 2d Session. In that Act, Congress defined the National Capital Region as the District of Columbia, Montgomery and Prince George's Counties in Maryland, Arlington, Fairfax, Loudoun and Prince William Counties in Virginia, and all cities now or hereafter existing in Maryland or Virginia within the geographic area bounded by the outer boundaries of the combined area of said counties.

Q. What was the purpose of that Act?

A. As stated by the Congress, the purpose of the Act is to secure comprehensive planning for the growth and physical development, including, specifically, public utility services, of the National Capital and its environs by coor-

page 55 } dinating the activities, on a voluntary basis, of the local planning agencies in Virginia, Maryland and the District of Columbia.

Mr. Berry: May that be marked for identification? It is a copy of the Public Law 592.

Chairman Hooker: That will be received as Exhibit No. 3.

Mr. Berry:

Q. Can you identify this document?

A. Yes, this is a pamphlet copy of Public Law No. 592, 82d Congress, 2d Session. This and other copies of the pamphlet

were obtained from the Document Room of the United States House of Representatives.

Q. Will you please name the local regional planning groups in the Virginia portion of the National Capital Region?

A. Fairfax County Planning Commission
Loudoun County Planning Commission
Arlington County Planning Commission
Prince William County Planning Commission
City of Falls Church Planning Commission
City of Alexandria Planning Commission
page 56 } and the Northern Virginia Regional Planning and Economic Development Commission.

Q. Has the Washington Gas Light Company system experienced rapid growth in recent years?

A. Yes. The growth is set forth in a tabulation I have.

Mr. Berry: May that be marked for identification and is a single sheet designated "Washington Gas Light Growth in Recent Years."

Chairman Hooker: That will be received as Exhibit No. 4.

Mr. Berry:

Q. Will you describe this exhibit?

A. It shows various measures of growth of the business of Washington Gas Light Company. The growth is shown for the system to the left and for the Virginia portion of the system to the right.

Since 1945, in the metropolitan area, gas meters have increased from 229,020 to 368,832—at the end of 1957 and you will notice that this represents an increase of 61%. For Virginia, our growth has been far more pro-
page 57 } nounced—meters increasing by 160%, as shown in the right hand column.

In each of the categories shown, the result is the same—the metropolitan area has grown substantially, but the Virginia portion has grown spectacularly. Miles of main throughout the area grew 92%, approximately while in Virginia they increased 222%. Gas sales in the system grew 232%, while in Virginia they increased by 708%. That has come about because the Company has invested large amounts of new capital in the facilities needed to serve the rapid Virginia growth. This increase in the investment in Virginia has been over $28,000,000—an increase of 636%.

D. S. Bittinger.

Q. What does this show in relation to the Company's present application?

A. It shows that Virginia has been growing rapidly. It is reasonable, consequently, to expect continued growth. It shows, further, that this Company has been keeping pace with the growth in Virginia. This Company has been willing to invest substantial amounts of new capital in Virginia, to serve the public; it has been able to do so; and it page 58 } will continue to invest the capital required, as Virginia proceeds to develop further, particularly in the areas for which a certificate is now being requested.

Q. Has Washington Gas Light Company expanded its transmission and distribution facilities as the metropolitan community of Washington expanded?

A. Yes, we are constantly extending our lines, both in the states of Virginia and Maryland.

Q. What is the farthest extension of the pipelines of the Company in the Commonwealth of Virginia?

A. We are now planning construction of a major extension into Fort Belvoir to serve an initial development of 600 houses. We are actively considering the extension of our distribution facilities for the purpose of furnishing gas in the vicinity of Woodbridge, in Prince William County, in the event this application is granted.

Q. Are the rates and general service provisions of the Company uniform throughout the service area?

A. Yes.

Q. How does the application in this proceeding differ from previous applications filed by the Company or its former subsidiaries in the same regard?

page 59 } A. Heretofore we have requested certificates from time to time under the Utilities Facilities Act because in each instance it was necessary to extend service to an area being developed, where construction was imminent. It appears inevitable, now, that new developments will be springing up much more rapidly. As the act contemplates, this application is filed in order that we may plan our business on a longer range basis in the additional territory as that territory develops. We should plan now to meet the rapid future growth and development of the area. We can do such planning on a sounder basis and build our extensions more economically if our service area for a reasonable period in the future is definitely delineated. We have a staff of personnel in our Sales Department, who are in almost continuous contact with land developers and housing contractors. These

men will keep in touch with the developments in the new territory requested within the National Capital Region. If the requested area is allotted to this Company, our representatives will be able to talk definitely with builders and developers, and our Company will be in a better position to
page 60 } plan extensions of its service. The result will be better planning, better arrangement of gas distribution facilities, better service to the public, and lower operating and investment costs in the long run.

Q. What are the sources of information upon which the Company estimates the requirements for extension of gas service?

A. Through our field representatives and new business supervisors, we are kept currently informed as to the number and type of dwelling units and commercial establishments to be constructed in the various sections of the Washington metropolitan area. Our representatives maintain close liaison with builders, architects, land developers, lending institutions, and Federal, state, county and municipal agencies. These agencies include the Federal Housing Administration, Veterans Administration, local building and inspection offices, zoning authorities, and others. Contacts with builders, developers, and approving agencies enable us to develop information considerably in advance of actual construction operations. In addition, we are approached by persons who are interested in land acquisition and development.
page 61 } They are interested in obtaining information as to the availability of utility services in the areas in which they plan their developments. In some instances in the past, where the area has not been allotted, developers have not known where to go to get information on utility services.

Based upon the information obtained from many sources, we compile data and estimates on the expected growth of the gas business in the various areas served by the Company. This is a continuing operation. Estimates are made for each year and for a number of years in the future. On the basis of these estimates, we prepare operating and construction budgets and plans for enlarging and extending gas service. With the service area fully allotted, we can serve the public more effectively.

Q. Kindly indicate on the map the location of the Atlantic Seaboard natural gas transmission lines in relation to the requested area.

A. Yes. On Exhibit 1 the Atlantic Seaboard pipelines are shown in green, and beginning at the North, you will notice

the 26-inch pipeline runs in practically due East and West into the Lower part of Loudoun and Fairfax Counties here at Drainesville, Virginia, and joins a 20-inch pipe-
page 62 } line that comes up from Kentucky and West Virginia and runs in a Southwest-Northeasterly direction. As indicated here in this proceeding, the green 8-inch line does not belong to the Atlantic Seaboard Corporation but rather to the Virginia Gas Distribution Corporation.

Q. What is the significance of the Atlantic Seaboard transmission lines being located in this area?

A. We can negotiate for taps on lines to serve new communities, as necessary.

Q. Are you personally familiar with the additional territory which the Company is requesting in this proceeding?

A. Yes, I am personally familiar with it. I have driven through it by automobile many times. And I have looked at it especially from the point of view of the possibility of extending gas service in the area as it developed.

Q. Will you describe it generally from the point of view of an officer of a public utility company surveying it for potential growth as a public utility service area?

A. It is, at present, mostly rural. It is predominantly farming country, in the Tidewater and Piedmont
page 63 } areas. The western boundary of the area requested lies just east of the beginnings of the mountains in Loudoun County.

The territory is serviced by a number of main highways which provide good transportation and good means of circulation from one part of the area to another. Highways are being improved; new roads are planned; and highway transportation will continue to improve throughout the region.

Q. Why does the Company request allotment of territory in Prince William County?

A. There is considerable new development in Prince William County along the main highway to Washington—U. S. 1. In fact, there is considerable growth all along Route 1, down through Woodbridge to Triangle. Many new houses have been constructed in the Woodbridge area. Developers have acquired considerable acreage for construction purposes. As to recent construction, 150 houses have been built in the Garfield Estates Subdivision in Prince William County, and another 450 houses have been built in the Marumsco Village Development, with an additional 150 houses now in various stages of construction. There are thousands of additional lots

on hand.

page 64 } Q. Does Washington Gas Light Company have any requests for service extensions in that region?

A. Yes, we have been asked to extend our service by three builders. One of them, Mr. Melvin Kramer, is here today to testify. He has built the 150 houses in Garfield Estates and plans to build many more.

Q. Who are the other builders who have requested service?

A. One is Mr. Frank Calcara. He has written to the Company, stating that he has purchased a large tract of land near Woodbridge, and is urging us to consider extending our service to his project. He plans to construct approximately 2,000 houses in the next five years. The other is Mr. Morris Cafritz. He has also written to us, pointing out the need for gas service. He owns 1,100 acres near Woodbridge, which he plans to develop.

Q. Do you have copies of the two letters?

A. Yes, I have copies which can be filed with the record.

Mr. Berry: May it please the Commission, may the letter from Mr. Frank Calcara be marked for identification and the letter from the Cafritz Company?

page 65 } Mr. Gay: Are those gentlemen going to be offered for cross examination?

Mr. Berry: No, we are offering these letters as proof of our statements.

Mr. Gay: We could not let them go in without having the privilege to cross examine.

Chairman Hooker: They will not be received as exhibits, but let them in for what they are worth.

Mr. Berry:

Q. What else do you know about that part of Prince William County that indicates growth potential?

A. We understand that some other large blocks of acreage have been purchased recently in that area. Undoubtedly, they will be planned for development soon. If the Commission allots the territory to this Company, and if we can talk with such builders, with assurance about our right to supply gas, the further development of that area will be accelerated.

Q. Are there any other important facts that lead you to believe the area will grow?

D. S. Bittinger.

A. Yes, one important fact is the projected ex-
page 66 } tension of Shirley Highway. It will assist greatly
in the development of the County by improving *transporation* and access. Another factor is the Jones Point Bridge, which has just begun construction.

Q. Turning now to the western part of Fairfax County, why have you included that section in the application?

A. Because we foresee considerable growth in Fairfax County. We now serve about three-fourths of the county. It is inevitable that Fairfax will continue growing until saturation is reached. Chantilly Airport will be partly in the county. It will stimulate growth in that area. New roads will be built to provide access to the airport. In addition, other important thoroughfares are contemplated in Fairfax. One is the Washington circumferential highway. It is in the planning stage, with final location not yet agreed upon. As soon as these major highway locations are finally determined, builders will make their plans more definite, and we shall see the western part of the county fill in quite rapidly. This Company stands ready to serve that growth, and we want an allocation of the area, in order that we may be ready to plan
for the development of our gas service to the new
page 67 } communities as quickly as they begin to take form.

Q. Why, Mr. Bittinger, does the Company include northern Prince William County, and a large part of Loudoun County?

A. A large part of the reasoning is similar to that which I have just stated for Fairfax County. In addition, other highway plans will aid in Loudoun's growth. For example, the new Interstate Highway No. 66—will be a major transportation artery which will aid greatly in the development of Loudoun County.

There are also other reasons. Loudoun is, at present, an area with many large estates. It is exactly the kind of an area that large scale developers search for, in order to plan. Land costs are favorable for such large scale development. We have an example, in another part of the Washington Gas Light Company service area. The large Woodward estate—Belair—in Prince George's County, Maryland, was purchased last year by the famous builder, Mr. Levitt, for potential de-
velopment. We understand that he plans to con-
page 68 } struct a city on the thousand, or so, acres in that
location—

Mr. Gay: I have not objected when he has said, "I understand," but we do have to object to this.

Mr. Berry: Mr. Bittinger explained how we have service over in the Maryland area and how he has talked with builders and so on, and it is that source of information that he is relying upon in his statements to the Commission.

Chairman Hooker: It is over in Maryland anyhow and has no reference to Virginia.

Mr. Berry:

Q. Will you continue?

A. The point is that the Loudoun County area is susceptible to large development which can go ahead and be a sizeable development.

Q. What other factors influence the Company in its request?

A. It is clear that new centers of employment by the Federal Government will be established in outlying areas. That was done recently when the Central Intelligence Agency was located in Fairfax County, Virginia, and the Atomic Energy Commission was located at Germantown, page 69 } Maryland. As the centers of employment are dispersed farther away from the City of Washington, it is reasonable to expect that they will be focal points for the development of new residential communities with attendant commercial services. All of these factors, along with the generally expected growth in population of the entire National Capital Region, make it clear that gas utility service will be required in the enlarged service area as these various developments occur. Washington Gas Light Company stands ready to provide a gas service as the needs for its service develop.

Q. Will Washington Gas Light Company, in your opinion, be able to obtain whatever new capital might be required to pay for extensions of its gas distribution facilities in the areas requested, when and as such areas develop?

A. Yes, it certainly will, in my opinion. The Company is conservatively financed. It has substantial quantities of equity securities necessary to obtain additional capital and a reasonable debt ratio. When it becomes necessary to obtain additional capital, the Company will be able to do so, on a reasonable basis, in keeping with economic conditions—as it has done for many years in the past.

page 70 } Q. Do you, as President of Washington Gas Light Company, believe that the public will benefit by the extension of the service of Washington Gas Light Company into the territory requested, when such territory develops?

D. S. Bittinger.

Mr. Gay: Will you read that question, please, Mrs. Wootton?

Note: Question read as follows:

"Q. Do you, as President of Washington Gas Light Company, believe that the public will benefit by the extension of the service of Washington Gas Light Company into the territory requested, when such territory develops?"

A. Yes, I do, without any reservations. This Company has successfully served the public for over 100 years. It is locally owned and operated, and can offer the advantages of competent, trained management and personnel, alert and responsive to the needs of the community.

We operate a completely interconnected transmission and distribution system, and can bring to these new areas, as they develop, the advantages of our production and storage facili-
ties. We can thus offer flexibility and security of
page 71 } supply. We believe, that as the *underveloped* por-
tions of the National Capital Region develop and become a part of the metropolitan area of Washington, the citizens of such areas should have the advantages of a metropolitan gas utility system. Washington Gas Light Company is the only company with such a system in the areas for which we request certificates.

Moreover no other Company, within the requested area, has the organization or facilities to render the type of service presently being rendered by Washington Gas Light Company in the developed portions of the National Capital Region. For these reasons, I am confident, the granting of the certificates to this Company will result in substantial benefits to the public.

Mr. Berry: That is all for this witness.

Chairman Hooker: You may cross examine, Mr. Gay.

CROSS EXAMINATION.

By Mr. Gay:

Q. Mr. Bittinger, you filed a copy of the Public Law 592 creating the National Capital Region, and in connection with
your statement as to its purposes and plans, you
page 72 } stated, as I understood you, that it, as a Law, con-
templated the planning and rendering of public

service facilities in this area; is that correct?

A. Yes, sir.

Q. I ask you to look at Subparagraph B of Section 1 which defines the word "Region," or "National Capital Region," which includes certain counties in the two states and two cities, and Sub-section 2 of that paragraph speaks of the "environs" surrounding the District of Columbia included within the National Capital Region and Sub-section 3 says "National Capital" means the "District of Columbia and territory owned by the United States within the environs." So, with that definition in mind, I ask you to look at Section 4(b) on Page 6 and state to the Commission whether or not the provision in the Act relating to plans for development of the area with reference to Public Utilities and other service, is not confined to the National Capital as defined in the Act, and has no reference whatever to the National Capital area or Region, to which you have related there in your testimony? The point I am making is that there is no intimation in this Act that Congress was attempting to do page 73 } what this Petition says it has done, which contemplated the Commission making any plan with reference to Public Utility service in the National Capital Region as distinguished from the Capital itself.

A. Section 4(b) does say "The Commission's plan for the National Capital."

Q. And that is defined previously as being the District of Columbia?

A. Yes, and in it, it includes or mentions the Public Utility and service for the transportation of people and goods or the supplying of community facilities.

Q. That is the only place in the Act or the Public Law, as it is called, where any reference whatever is made to the planning of Public Utility Facilities, and that is confined to the National Capital itself, the area owned by the Federal Government, and is in no way related to the National Capital Region, to which you have referred in your testimony.

A. It could be. I am not absolutely sure, but in 4(b) it is addressing itself to the National Capital and mentions the Capital highways, streets and bridges, etc., and the whole Act is to establish a cooperative vehicle so that, page 74 } in order to achieve an orderly planning of the National Capital Region, of which the National Capital is a part.

Q. Am I not correct in saying that Paragraph 4(b) is the only paragraph in the Act which makes any reference to a

plan relating to Public Utility Facilities and that is under the heading "Comprehensive Plan for the National Capital," and in no way refers to the area referred to previously in the Act as the "Capital Region"?

A. I would have to accept your statement subject to check.

Q. And subject to whatever interpretation your Counsel may desire to put on the Act?

A. Yes.

Q. If it should subsequently appear that the interpretation I have put on the Act is the correct one and that the reference in there to the planning for purposes of Public Utility development is confined to that planning having reference solely to National Capital, there is nothing in this Act which would justify the hypothesis of this Petition that, because these conditions are a part of the National Capital Region, the Commission should accept that fact that this is

page 75 } the issue in planning for the future of the public?

Mr. Berry: I object to that. Mr. Gay is asking the witness to repudiate part of his testimony that that portion of the Act relates only to the National Capital and that—

Chairman Hooker: We don't pay too much attention to the Federal Government in Virginia anyway. We have the Act and will read it.

Mr. Gay: I am glad to hear that that is true, if Your Honor please. My purpose in asking that question of the witness was that he introduced the Law, and I assume for some purpose, and the only related purpose it could be—was that in the planning of the Act, in the consideration of it, that Public Utilities was a phase of the developing of it.

Commissioner Catterall: That would not have anything to do with us.

Mr. Gay: I tried to make that as a point in my Motion to Dismiss and I am trying to bring out the fact that this Act is not susceptible of the broad scope for which the Applicant invokes it and that—

page 76 } Chairman Hooker: I don't see any reason to continue on that subject any further. The application is not going to be granted or denied on the basis of this law.

Mr. Gay:

Q. Would you look at your Exhibit 4 for a moment, Mr. Bittinger?

A. Yes, sir.

D. S. Bittinger.

Q. As I understand it, this exhibit purports to show the growth in Metropolitan Washington and in Virginia. Now, when you say "Metropolitan Washington" on this exhibit, do you mean the Capital area itself and those counties in Maryland which are considered a part of the National Capital area?

A. Here it pertains entirely to the Washington Gas Light system.

Q. That is the whole system?

A. Yes.

Q. And under the Virginia heading you show percentage-wise what I understood you were trying to demonstrate as to the rapidity of the growth in Virginia as compared to the area as a whole; is that correct?

page 77 } A. That is correct.

Q. Is it not a fact that the greater number of customers served by the Washington Gas Light Company and the greater number of meter installations in Virginia are in the City of Alexandria and the County of Arlington?

A. The greater number of them?

Q. Yes.

A. Yes, Arlington County, Fairfax County and Alexandria have grown and all are included in these figures.

Q. The question I asked you was,—is it not a fact that the very substantial growth percentage-wise shown on this exhibit—is it attributable to the growth that has occurred in the corporate city of Alexandria and the county of Arlington, which is practically an incorporated community?

A. Not so much Alexandria, but the County of Arlington because that is the closest territory in and they had to grow before the environs could grow. The point here—

Commissioner Catterall: If you had related the Virginia experience to the non-Virginia experience, what would the effect have been?

A. The growth would have had to have been less for the whole system without Virginia than as shown because the total for the system, whether meters, mains or

page 78 } pipe or what else, would result in a lower percentage figure if Virginia is left out.

Commissioner Catterall: I would think that it would be just the opposite.

Mr. Elliott: You mean taking the Virginia figures—

D. S. Bittinger.

Commissioner Catterall: The part of Virginia figures, the Virginia figures compared with non-Virginia figures, would it be much more striking?

A. If you had taken Virginia out of the other figures, yes, sir.

Mr. Gay:

Q. The point of my question, Mr. Bittinger, is that the development which this Company has enjoyed is presently due to the immediate proximity of the City of Alexandria and Arlington County to the City of Washington, and to a lesser degree to that portion of Fairfax County in which it does business; is that a fair statement?

A. I am not sure that I can answer that "yes" or "no." The figures here show for the period 1945 through 1957 and for that period the growth in Arlington County in the early part of it undoubtedly accounted for the major increases shown in these figures. In the later years our

page 79 } greater growth has been in Fairfax County, as evidenced by our main system and transmission system in through that farther out area.

Q. Coming to the area particularly involved in this proceeding, and I generally indicated on this Exhibit No. 1, and directing your attention to Prince William County as part of the area involved in the application, am I correct in understanding that the County Line between Prince William County and Fairfax County is an irregular line passing up from Occoquan Creek in a generally northwestern direction towards the City of Middlesburg?

A. Yes, sir. That is supposed to be the boundary line, Mr. Gay.

Q. Do you know how far that gets away from the environs you emphasize so much in this proceeding,—how far that is from the natural boundary line between these two counties?

A. As I understand it, Prince William County is bounded by Bull Run, and Bull Run becomes the boundary line from approximately the vicinity of Route 610 or 614 in Prince William County, so it is a combination of Bull

page 80 } Run and Occoquan Creek.

Q. Looking at the area shown on this map, is it not a fact that the present eight-inch pipeline of the Virginia Gas Distribution Corporation runs for fairly approximating three-fourths of the County and fairly divides the Southeast three-fourths of it in two so that the areas on either side of

it are at least tributary to the facilities of the pipeline presently installed there?

A. It is true that it runs in a southeasterly direction through approximately three-fourths of the County. Is that what you stated?

Q. Yes. You said you had an application for the development of customer service in the area of Fort Belvoir, which is just in the lower central border line of Fairfax County?

A. Yes, sir.

Q. And also at the location known as Woodbridge?

A. Yes.

Q. What is the nature of those prospective developments, do you know?

A. Yes, sir. They are residential developments. The one at Fort Belvoir I mentioned approximately six hun-
page 81 } dred homes is information supplied us by the officers at the Military Reservation which are plans for the development nearby, and the others I mentioned, Garfield Estates and Marumsco Village Development, they are potential developments for residences.

Chairman Hooker: 11:35 A. M. The Commission will recess for ten minutes.

11:45 A. M. The Commission resumes its session.

Mr. Gay: Mr. Bittinger, at the time of the adjournment or recess, I was questioning you about what you considered to be the potential customer demand in the Fort Belvoir area. That is, as I understand this map, already in the area certificated to the Washington Gas Light Company for development?

A. It is. The point was, Mr. Gay, that even as of now, we are further extending our distribution facilities down nearer the area we were talking about.

Q. How close do you presently have any transmission or distribution facilities to the Fort Belvoir area?

A. May I consult with one of our engineers? I
page 82 } don't know the exact footage.

Q. If you could, after consultation with one of your assistants, give it to us quickly.

A. Your question is—how far are we from it?

Q. From the Fort Belvoir area about which you are testifying and already have in your certificated area.

A. Approximately four miles from the Fort Belvoir area.

D. S. Bittinger.

Q. What is the nature of that facility?

A. That facility is a transmission facility.

Q. Where does it come from and where does it go to?

A. It comes from the Atlantic Seaboard Gate Station at Drainesville and down to Hunters Lane Road, down Hunters Lane Road to Annandale and down Annandale Road to Springfield and runs due east and west to Hybla Valley.

Q. What is the size and capacity of that transmission line?

A. The size is twenty-four inches a high pressure line and designed for 250 pounds operating pressure, approximately 140,000,000 cubic feet per day capacity.

Q. What sort of load is it carrying now?

page 83 } A. Considerably less than that, of course. It is designed for development and particularly for transmission. This line ultimately will cross the Potomac River and tie in with transmission facilities on the other side.

Q. Are Garfield Estates and Marumsco Village in the general area of Fort Belvoir?

A. The Garfield Estates and Marumsco Village are across Occoquan Creek just south of Woodbridge approximately three miles.

Q. Three miles south of Woodbridge?

A. Yes, on Route 1.

Q. Is it correct or incorrect to say that that presently lies closer to the eight-inch transmission line of the Virginia Gas Distribution Corporation facilities than to your line?

A. Yes, that is correct.

Q. I understand your Counsel to state that this map, Exhibit 1, was prepared without accurate information as to the area presently served by the Distribution Corporation in the region of Manassas, Dumfries, etc.; is that correct?

page 84 } A. Well, as to whether you would label it as to "without accurate information," I leave it for you to judge, sir. We posted on this map the area shown under prior certificates.

Q. Did you know before you came into the Court Room today that the eight-inch line was owned by the Distribution Corporation rather than by the Atlantic Seaboard Company?

A. I had heard it, yes, sir. That line, as I first knew it, was a four-inch line and when it became an eight-inch line, I don't know, but I understood it was owned by the Atlantic Seaboard.

Q. And this map was prepared with that assumption?

D. S. Bittinger.

A. As I pointed out that was stated.

Q. When did you first discover that the map was inaccurate in that respect?

Mr. Berry: We are perfectly willing to admit the map is inaccurate in that respect.

Mr. Gay: That is not the purpose of my question. Will you read the question, please, Mrs. Wootton?

Note: Question read as follows:

page 85 } "Q. When did you first discover that the map was inaccurate in that respect?"

Chairman Hooker: I don't see the materiality of the question. He admitted it was an error.

Mr. Gay:

Q. Would you have applied in your Company's behalf for the extension of your facility into Prince William County if you had known the eight-inch line was owned by the Virginia Gas Distribution Corporation rather than the Atlantic Seaboard Corporation?

A. Oh yes, the fact of the ownership had nothing to do with that.

Q. The fact that there was an eight-inch facility extending from the transmission line southeast from Dumfries to Quantico would have no bearing on your application?

A. I would not say it would have no bearing. I would say that it would not have deterred our putting in the application. That line was put in to serve Quantico twenty-seven years ago, and in going by Manassas, it served Manassas. I have known of its existence for twenty-five years.

page 86 } Q. If you had known that the map did not accurately (I use that word "accurately" in no critical sense), but if you had known that the map did not accurately show the situation in the Dumfries-Quantico area, would you still have pursued the application you are now pursuing?

A. Yes, sir.

Commissioner Catterall: Isn't the Virginia Gas Distribution Corporation a wholly owned subsidiary of the Atlantic Seaboard Corporation?

A. No, sir, it is an affiliate. It is wholly owned by the Columbia group.

D. S. Bittinger.

Commissioner Catterall: But the ultimate ownership is the same for all of the companies, is it not?

Mr. Gay: It is wholly owned by the Columbia group.

Commissioner Catterall: There are no public stockholders?

Mr. Gay: No, all of its stock is wholly owned by Columbia Gas Company.

Mr. Gay:

Q. I believe you said your present pipeline was four or six miles from Fort Belvoir?

page 87 } A. Four miles.

Q. And you say the Woodbridge area is three miles south from Fort Belvoir?

A. No, I did not say that. I said it was further south Garfield Estates or this other area is three miles south of Woodbridge.

Q. Have you made an estimate of the cost of extending your pipeline and distribution system to serve these potential demands that you have been referring to at Fort Belvoir or Garfield Estates or that area south of Woodbridge?

A. Yes, we have. The supply to Fort Belvoir is a separate and distinct thing from the matter concerned with this application. That is a project which I mentioned that we are going forward with.

Q. What do you mean by "going forward with"? Have you gone so far as to prepare to issue securities in connection with any development to take care of that demand?

A. Not for a specific project such as that, but we have given assurance to the Military Reservation that we will supply it and the installation of the job is imminent.

Q. Do you know anything about the Seneca Cor-

page 88 } poration?

A. I have heard of it.

Q. Do you know what caused that corporation to be formed?

A. No.

Q. Would it be fair to say that it was lack of cooperation by the Washington Gas Light people that caused these people to form a private corporation?

Mr. Berry: Could we get some more information on that as to this Corporation?

Mr. Gay: All I know is that Counsel for the Commission filed a Petition this morning for Leave to Intervene by Mr. G. Frank Stinnett for a Corporation called the Seneca Gas Company, and that deals with a projected line to serve Fort

Belvoir and the contiguous area. I am asking you if it is a fair inference to make that it is because of a lack of cooperation by the Washington Gas Light Company that caused this Corporation to be formed to serve that community?

A. No, sir. The Belvoir territory is already in our allotted territory. How Seneca can even presume to say that they will supply that area, I don't know. There has been no lack of cooperation with Fort Belvoir that would cause page 89 } these people to say that they could supply that service.

Mr. Gay:

Q. You stated, I believe, that the greater portion of this area was farm or agricultural territory; is that correct?

A. I did say that it is largely rural.

Q. Have you made any population studies, Mr. Bittinger, to determine how many housing developments per acre in the area covered by your application?

A. No, I have not made a market survey and the purpose of our application is for development purposes, and I gave the Woodbridge area as an example of how quickly, with good highways and good available facilities, a development will develop.

Q. Do you remember testifying in the proceeding in which Virginia Gas Distribution Corporation was an Applicant to service the Herndon area and the Chantilly Airport?

A. Yes, sir.

Q. You were asked these questions and made these answers:

page 90 } "Q. In your opinion is it practicable to furnish gas service to the houses existing in this area as it stands today?"

You are familiar with the area dealt with in that application?

A. Yes.

Q. And you answered:

"It is not practicable to serve an area that averages thirty-seven acres per dwelling."

You had testified that that area had such a density?

A. Yes, sir.

Q. And you were asked:

"Why is that the case?" and you answered:

"The spacing is too sparse even if a company was to get each and every dwelling in order to economically justify the expenditure that would have to be made to serve them."

"Q. Is that opinion based on your experience as an operating officer of the Washington Gas Light
page 91 } Company?"

"A. Yes, it is."

"Q. What is your estimate of the average density for a suburban area in which it is reasonably practicable to furnish service from a distribution main?"

"A. The average suburban residential area, which, of course, varies from the more concentrated tract to areas around higher cost homes, in the more suburban area, the average suburban saturation is approximately six dwellings per acre, and here we are talking about one dwelling per thirty-seven acres."

Mr. Gay:

Q. Now, if you have not made any survey of this area, which you say is rural, how can you say that, even for development purposes, it has a potential that would warrant the granting of this application?

A. The basis of our present application is, admittedly, on a different *bases*. We were talking about the Chantilly area. At that time we testified that we had been in touch with the Chantilly people and we knew the progress and that there were no plans and no estimated load estimates at that time, and we were pointing out to this Commission that
page 92 } there was no urgency on the basis of imminent service to be granted that location but an Order has been entered granting the application for development. We are here before the Commission today on a basis that heretofore we have not come in on a basis of that kind. We pointed out in the Chantilly hearing that we had then asked for several extensions of our area only on the basis of ready-to-go new subdivisions such as Springfield.

Q. Is there anything substantially different, Mr. Billinger, in the areas in Fairfax County that you do not now serve, or in that part of Loudoun County in which you do not render service, but for which you are now applying for the certificate, or in general speaking of the whole of Prince William

County, other than the Town centers, that would differentiate that territory from the territory which you described to be in the Herndon and Chantilly Airport area in the previous application?

A. I tried to point out, Mr. Gay, that the basis upon which we are now asking for a certificate is different. I included in my testimony and statement that this area is predominantly rural and that was pointed out in the Chantilly page 93 } Airport case. At that time, so far as I know, no certificate had been issued on the basis of those words "and development" that appear in the Utilities Facilities Act, so what I am saying is that we found out, maybe the hard way, that we have to step forward and ask for it in the development of the area.

Commissioner Catterall: You would not be here at all if it had not been for this other Company taking in that territory that you expected to serve eventually?

A. Probably not.

Mr. Gay:

Q. Whatever may be the consequence of your action, it is a fact that you opposed the granting of the application in the Chantilly-Herndon area because you said the territory was not sufficiently settled to grant the certificate, whereas, you are now applying for a certificate comparable to it in the sense, that is, it is equally rural?

A. That was not our intention. We were pointing out the status and we were pointing out that to our sorrow you had beat us to it, but if this area had been as far along as other things are before we knock on the door of the Com- page 94 } mission, we would have been in here with an application to supply the area.

Mr. Elliott: I have no questions.

Chairman Hooker: You may stand aside. Call your next witness.

Witness stood aside.

I. MELVIN KRAMER,

a witness introduced on behalf of Petitioners, being first duly sworn, testified as follows:

I. Melvin Kramer.

DIRECT EXAMINATION.

By Mr. Berry:

Q. Will you please state your name and address?

A. I am Melvin Kramer, 4521 29th Street, N. W., Washington 8, D. C.

Q. Mr. Kramer, where were you born, sir?

A. Norfolk, Virginia.

Q. What is your business?

A. Builder and developer.

Q. How long in the business of building and developing?

A. Twelve years.

page 95 } Q. Tell the Commission generally where some of your projects are located in and around Washington.

A. Yes, sir. We have Wheaton Acres at Hyattsville, Maryland and Garfield Estates in Prince William County, Virginia.

Q. What do your developments consist of?

A. Single family homes.

Q. Will you describe the Garfield Estates Development you just referred to in Virginia? Tell us the location and status of it and size.

A. Garfield Estates consists of an 800 acre tract located four and a half miles south of Woodbridge, Virginia, the easterly boundary is U. S. Highway No. 1 and bounded on the north by Nebasco Creek, south by Powell Creek and west by transmission lines of the Virginia Electric and Power Company.

Q. How many houses have you built in that development?

A. One hundred and fifty.

Q. Do you plan to carry on any future developments with your building in that location?

page 96 } A. Yes, sir.

Q. How much undeveloped acreage do you have?

A. Eight hundred acres.

Q. Do you own that land?

A. Yes, personally.

Q. And you bought it for the purpose of developing the land with houses similar to those in Garfield Estates?

A. Yes.

Q. What is the approximate price range of those houses?

A. $12,000 to $15,000.

Q. Do you feel that the developing of houses in that area serves a definite public need in that area?

I. Melvin Kramer.

A. Yes.

Q. Why do you feel that that is the case?

A. Principally in that particular area we are building in price brackets that people can afford to buy in. The last analysis we made, about one-half of the people came from Quantico and the other half from around Washington, and we are able to build at a cost below that of com-
page 97 } parable houses around in the Washington area immediately available to Washington.

Q. Would you like to have Washington Gas Light service available to the remainder of your buildings in Garfield Estates?

A. Yes, Sir.

Q. Do you know of other developments in that area?

A. Yes.

Q. Do you conceive of increased growth in Prince William County?

A. Yes, Sir.

Q. Will you tell the Commission why you believe it will continue to grow?

A. The extension of the new highway from the present terminus of Shirley Highway to Richmond will open up a new territory, the Washington Circumferential Highway, meeting the Shirley Highway at Springfield, Virginia, coming across Jones Point Bridge. The possibility of industries locating in the area there is a natural procedure because they would be surrounded with the railroads, the river and super highways in Prince William County, and the steady
page 98 } growth of Washington which is just spilling over, all of which led me to feel that Prince William County was a natural spot for growth, and that is why I bought this land for development down there.

Q. In your opinion as a developer, is it helpful or advisable to have public utility gas service available by an established gas company in that area?

A. Yes, Sir.

Q. In what respect?

A. Initially, it is cheaper to build a house putting it in the house in the initial step and it is cheaper with gas than it is with oil because of the tanks which you have to furnish with oil, and the gas is cleaner, and you can hook up a stove if you have gas service and if you have an electric stove, it is more expensive, or if you don't have an electric stove and use bottle gas, the supply is always running out, and people don't have to order this because there is a constant supply.

I. Melvin Kramer.

Q. Have you had good working relationship with the staff of the Washington Gas Light Company?
A. Yes, Sir, I have.

page 99 } CROSS EXAMINATION.

By Mr. Gay:
Q. I take it from what you say you prefer natural gas to artificial gas or other forms of space heating?
A. Yes.
Q. When you made this development in the Garfield Estates in your initial development, you did not have the facilities to offer your purchasers?
A. No, Sir.
Q. Did you make any effort to get it at that time?
A. Yes, Sir.
Q. Where did you apply for the service?
A. The Virginia Gas Distribution Company.
Q. When was that?
A. In 1954.
Q. Do you have any choice as to the company from which you would get the service if the rate was competitive?
A. Yes, Sir.
Q. You have a choice as to the supplier?
page 100 } A. Yes, Sir.

CROSS EXAMINATION.

By Mr. Elliott:
Q. What is the choice you have?
A. I would prefer to get it from a company that would furnish it to me when I needed it.
Q. And you feel that the Applicants in this case could do that?
A. Yes, Sir.

By Mr. Gay:
Q. Would any company that met the requirements you just stated, that they could furnish it when you needed it, be acceptable to you?
A. Yes.

RE-DIRECT EXAMINATION.

By Mr. Berry:
Q. Do you have any reason for not accepting service from the Virginia Gas Distribution Corporation?

A. Yes, Sir.

Q. Will you explain the reason?

A. At the time of the request we made of them, their stipulations were such that I could not meet them.

page 101 } By Mr. Gay:

Q. Those stipulations had to do, I take it, with the cost of installing the facilities to serve you?

A. At the time I made the simple request for gas service for these homes that I was contemplating, the houses were under construction, the eight-inch main referred to previously today was in place at the time. There was a distance of about three miles from the point, the closest point I guess, for construction of the main up No. 1 Highway or through the back one, one or the other, and the Virginia Gas Distribution Corporation wanted me to put up about $300 per house for some group of houses which would have been upwards of $100,000. It was a minimum of over $200 or so on each house and it ran into a great deal of money, which at a later date, as I connected the houses, they would refund the money to me at that time.

Mr. Gay: Mrs. Wootton, will you read the last part of his statement, please?

Note: "Which at a later date, as I connected the houses, they would refund the money to me at that time."

Mr. Gay:

page 102 } Q. As a matter of fact, it was about seven miles from the Virginia Gas Distribution Corporation?

A. Your line crossed in the vicinity of Route 234 and you might say the southbound lane of U. S. No. 1, going through Dumfries, because subsequently you ran it from that point North to a sub-division which is known as "Tripoli Heights".

Q. That was subsequent to the application you made?

A. Yes, which brought it about one mile closer.

Q. But at the time you made the application, the distance from your development to the eight-inch pipeline was about seven miles?

A. It was about four miles at that time and about three miles now.

Q. Let's pass that. You said the proposal was that you put up so much per house and that that amount would be refunded to you if and when the connections were made?

A. Yes.

Q. You did not care to participate in the construction of the facility on those terms?

A. I guess you might answer it by saying "yes", but it is not often feasible for a developer to put up that page 103 } much money.

Q. And the reason for your not dealing with the Gas Distribution Company was that you wanted them to provide the service when you wanted it?

A. I considered that they did not provide the service that I wanted. I have done business with sewer and water companies and things of that nature and those requirements have never been made of me before.

Q. As an experienced business man now you know that extensions of service lines can be determined only by the amount of revenue that line will produce?

A. Yes.

Q. And you have no reason to believe that the Distribution Company's reason for not granting it to you was anything except the feasibility of extending the service?

A. No.

Witness Stood Aside.

page 104 } EDWARD R. CARR,

a witness introduced on behalf of Applicant, being first duly sworn, testified as follows:

DIRECT EXAMINATION.

By Mr. Berry:

Q. Please state your name and address.

A. My name is Edward R. Carr. I live at 19 Hillsville Place, Alexandria.

Q. What is your business?

A. I am a realty builder and my main business is land development and building of houses.

Q. How long engaged in that business?

A. Since 1925, thirty-three years.

Q. Some of us know that you are prominent and active in some other business and community service also. Would you be willing to name a few of your business and civic connections?

A. I think the only one that would be interesting in this case here would be the Washington Real Estate Board, of

which I am a past President, Active, and past President of the Home Builders Association of Washington, also the National Association of Home Builders—past President of that Corporation, and Director and past President of the Washington Board of Trade.

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Mr. Gay: We will concede that he is a reputable realtor.

Mr. Berry:

Q. Will you define the concept of a land developer in your business?

A. I would say that he would select a piece of land where the physical qualities satisfy him and where he felt there was a demand for houses, and which would be predicated on access first and, of course, equally important on the utilities.

Q. And does that go so far as planning the development is concerned?

Mr. Gay: I object to the leading of the witness.

Mr. Berry: I will reframe the question.

Q. Will you describe further the features of your work?

A. We take a piece of raw land and plat it and do the grading and installation of the facilities like the sewer, water and street facitities and arrange for the other facilities, the community facilities that we cannot supply ourselves.

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Q. You ordinarily own that land?

A. Yes.

Q. And have acquired it for that purpose?

A. Yes.

Q. And invested your money in it for that purpose?

A. Yes.

Q. Have you developed any land in Fairfax County?

A. Yes, we own 3200 acres in Fairfax County and have developed approximately one-half in Springfield and North Springfield.

Q. Where is that located?

A. West of the Shirley Highway and south of Braddock Road and bounded on the west by Rollingwood Road.

Q. How many dwelling units have been constructed in this part of Springfield approximately?

A. On our land something in excess of 3,000, probably 3200, and there have been others on land that we did not control.

Edward R. Carr.

Q. And you are not fully developed in Springfield?
A. No, we are half way through.
Q. Does Springfield have gas service?
page 107 } A. Yes.
Q. From whom have you secured that service?
A. From the Washington Gas Light Company.
Q. Where else have you made developments?
A. By political title I would say Washington, D. C., Prince George County, the City of Alexandria and Montgomery County.
Q. In your experience do you feel that you have considered all relevant factors in developing the facilities to be within the areas of Metropolitan Washington?
A. Yes, that is one of the things that we have to do.
Q. Tell the Commission what factors have to be considered in developing land to make it a successful development as this appears to be.
A. I think I have given some of them; the access is the most important, I should not say "the most important", considering you have a piece of land that you like and the utilities are extremely important. You can't develop without sewer and water and electricity and in my own case I have always used gas and certainly prefer to have gas if there is any way to get it to the property. Other than that,
page 108 } the only other consideration would be the zoning considerations and the market.
Q. Have you had satisfactory relations with Washington Gas Light Company?
A. I think I would be less than fair if I said anything else. I can say that I have used gas heat in practically every house that I have built since 1934, and I have never received finer consideration from any other gas company. They go out of their way in getting their lines in when we are ready and in all of those years I have never had one complaint from a customer that has not been immediately taken care of.
Q. In your experience as a builder and developer of Metropolitan Washington, particularly in Virginia, do you believe that the Metropolitan area of Washington will grow outward further into Fairfax County and on into Prince William and Loudoun Counties?
A. I don't think there is any question about it. The reason I mentioned the Board of Trade, Your Honor, is that, in addition to any additional service I have needed as a de-

Edward R. Carr.

veloper, we have a committee that is very well
page 109 } staffed to study the growth of Washington and the Metropolitan area, and all of our studies, which have been collaborated in and corroborated by the Planning Commissioner of the National Capital and the National Representatives and the Census Bureaus feel that Metropolitan Washington will reach the three to three and a half million mark by 1980 in population. I was surprised to find out that the Metropolitan area of Washington is the second fastest growing area in the United States and has been over the past two years. Only Houston, Texas has had a faster growing area than Washington. It is bound to expand and there is no place for it to go except out.

Q. Is it advisable, in your opinion, for gas to be supplied by a well established company into these sections in which this Metropolitan Washington will push out and grow?

A. I will say this—that you certainly should be in position to do your long range planning in the area under discussion as of right now. Obviously, the rate at which you would expand would be guided by economic considerations and I believe they are going to come a little faster than even some of us optimists think.

page 110 } Q. What is your opinion of the location of the Chantilly Airport in the small, remote location of Fairfax County? Will that be a factor in this growth?

A. I think it will have a tremendous effect on the growth. At present Washington Airport is the second biggest Airport in the Country and everyone realizes that there is dire need for a second airport now located at Chantilly, and with the building of the circumferential highway, and the access roads to the Chantilly Airport, you will see two things happen which will transform Prince William County. The employment at the Airport itself will be a very large factor. I have heard various estimates, but I think the most conservative estimate would be that there would be eight to ten thousand employed at the Airport in itself and practically around an airport of this size you will find very shortly industries established, and that means that around the Chantilly Airport you will find a great need for development and a great need for houses.

CROSS EXAMINATION.

By Mr. Gay:

Q. Would it be reasonable to infer from your testimony

Edward R. Carr.

page 111 } that, in the development of the Chantilly area in the manner you have described, that potential customers would likely go to the natural gas company presently in the area and able to render adequate service?

A. I would say the potential customers would go to any competent company.

Q. And one economically able to serve them?

A. I would certainly think they would want to deal with the company that could serve them, yes, Sir.

Q. In indicating that you think "access", by which I think you mean highway access and available utilities are certainly the prime things to consider in the developing of land or for real estate development, is it fair to say from your testimony that the word "availability" would relate to existing facilities that you could reasonably look for service rather than facilities that have to be brought to you from a distance and which were not in position at the moment to bring the desired service, but would have to rest on redevelopment?

Note: Witness hesitates.

Commissioner Catterall: Would you rather have a quick service or a later developed service?

page 112 } A. I will give you just as an ambiguous an answer as your question was. If you plan the land for development five years from now, you would not be in too big a hurry, but if you intended to develop it in the near future, obviously, you would want your utility right away.

Mr. Gay: I confess I don't find in your answer the same ambiguity you found in my question.

A. You lost me there several times.

Q. Addressing myself to the very clear answer you made to the ambiguous question I gave you, if you were considering desirability of a piece of land for the purpose of immediate development, you would reasonably look, I take it, to existing facilities and their proximity to the area you want to develop?

A. That is right.

Q. And if you were buying it for speculative purposes, isn't it fair to say that the speculative element would be largely removed as a factor, if there was already installed in the area available facilities?

A. I don't know that that naturally follows. I did not want to say this, but I think I should answer your question this way. The reliability of a company and the treat-
page 113 } ment of a customer that it has received from that company for years would certainly be a factor in my case and I was certainly glad to come and say a good word for this Company there which, when I started out in the Springfield area, they had wild deer and I think a few Indians out there, and they spent over a half million dollars to bring gas to my corner of the property on the assurance and the inspection they made with us that we were going to build houses. I have nothing to say against your Company. I don't know anything about them. I might be excused for showing a little loyalty, I think, to a Company that has treated me so well.

Q. You have not answered my question. You made a nice speech, but you didn't answer my question. You admitted that if you purchased a piece of land for immediate development you would certainly try to make use of the facilities that were immediately available to you?

A. That is true. I would certainly investigate them.

Q. And if they were economically able to render the service, you would look to that source of supply?

A. Yes.

page 114 } Q. And you injected the factor of speculation and that you might have a different view if you were buying it for development five years hence, that is if it was to be developed five years from now, and I say if that was lacking, you would not regard that as removing from your speculative idea this factor, that you thought important in selecting a site?

A. I still don't understand that question the way you state it.

RE-DIRECT EXAMINATION.

By Mr. Berry:

Q. Mr. Carr, does a developer such as yourself buy land in areas where there is gas service right across the street or do you buy it for a different reason?

A. You say do they buy it where gas is there?

Q. Was gas service in Springfield?

A. No, it was four miles away.

Q. So the fact that gas service was four miles away did not

stop you from undertaking this Springfield development?

A. That is true.

page 115 } Q. Do you expect that other developers will buy land where gas service is available?

A. I am sure they will buy where gas is available.

Q. But if you buy in that area you may expect a project might attract the necessary utility service and does it help that if the utility has the authority to render service where you buy the land?

A. It certainly does.

Mr. Gay: I object to that.

Witness Stood Aside.

Chairman Hooker: Is that your case?

Mr. Berry: Yes, Sir. I offer the exhibits.

Chairman Hooker: They have all been received. Proceed with your evidence, Mr. Gay.

page 116 } W. P. DICK,

a witness introduced on behalf of Objectors, being first duly sworn, testified as follows:

DIRECT EXAMINATION.

By Mr. Gay:

Q. Please state your name and place of residence.

A. W. P. Dick; Charleston, West Virginia.

Q. By whom, and in what capacity, are you now employed?

A. By Virginia Gas Distribution Corporation, as Vice President.

Q. How long and in what positions have you been employed by Virginia Gas, or by other operating companies of the Columbia Gas System?

A. I was employed as Cadet Engineer by Ohio Fuel Gas Company, a subsidiary of Columbia, on March 1, 1928 and subsequently held the positions of District Service Manager, District Superintendent and Assistant Distribution Engineer for that company. From 1950 to 1952, I was senior Distribution Engineer for the Columbia System Service Corporation and in February, 1952 transferred to Charleston Group Companies of Columbia as Vice President in charge of

page 117 } Distribution Companies, which include Virginia Gas.

Chairman Hooker: You all waive his qualifications?
Mr. Berry: We waive his qualifications.

By Mr. Gay:

Q. Is Virginia Gas a public utility now engaged in the distribution and sale of natural gas, at retail, in Virginia?

A. Yes.

Q. Where, and in what general territories?

A. Covington and Clifton Forge and their respective environs in Allegheny County; Staunton, Waynesboro and Stuarts Draft and their respective environs in Augusta County; Culpeper, Culpeper County; Herndon, Fairfax County; Warrenton, Fauquier County; Stanardsville, Green County; Manassas, Dumfries, Quantico and their respective environs in Prince William County; Lexington and Buena Vista and their respective environs in Rockbridge County; and numerous rural customers supplied from supply lines and Atlantic Seaboard Corporation's 20-inch and 26-inch lines. Virginia Gas serves approximately 24,980 retail customers, as of May, 1958.

page 118 } Q. How many of the 24,980 are in Prince William County?

A. Of the 24,980 accounts there are 491 customers in Fairfax County, 3,329 customers in Prince William County and nine rural customers in Loudoun County.

Q. Are you familiar with the application and amended application filed in this proceeding by Washington Gas Light?

A. I am.

Q. Are you familiar with the petition of Virginia Gas, filed in this case, for Leave to Intervene and Motion to Dismiss?

A. I am.

Q. Have you examined the maps filed as Annex A-1, Annex B-1 and Annex C to the amended application of Washington Gas Light?

A. I have.

Q. Is Virginia Gas a recognized public utility company distributing gas at retail in Fairfax, Loudoun and Prince William Counties?

A. It is, and has been so recognized by this
page 119 } Commission by the granting of certificates of public convenience and necessity in those counties.

Q. Now, directing your attention, Mr. Dick, to Prince William and Loudoun Counties, Virginia, are there any companies other than Virginia Gas which are authorized to and do serve natural gas at retail in either of those two counties?

W. P. Dick.

A. There are none, to my knowledge.

Q. Is Virginia Gas the sole distributor of natural gas, at retail, in Prince William and Loudoun Counties?

A. It is.

Q. To your knowledge, does any company have any distribution facilities for the sale of natural gas at retail in those two counties, other than Virginia Gas?

A. No, Sir.

Q. What distribution facilities does Virginia Gas have in Prince William County?

A. Virginia Gas has distribution facilities for the sale of natural gas at retail in Manassas, and its environs, as well as in the Dumfries-Quantico area. These facilities are generally those which are employed by any gas company selling natural gas at retail, such as pipelines, measuring
page 120 } stations, regulator stations, etc. In addition, Virginia Gas owns, maintains and operates an 8-inch gas transmission line extending for approximately 27 miles in a northwest-southeast direction through the county. The northwestern terminus of this 8-inch line is near Gainesville, Prince William County, where it connects with the interstate transmission line of Atlantic Seaboard Corporation, from whom Virginia Gas purchases all of its natural gas supply. The Southeast terminus of the line is at the corporate limits of the town of Quantico in the Southeast tip of Prince William County.

Q. Is the 8-inch gas transmission line of adequate size and capacity to serve the markets of Virginia Gas in Prince William County?

A. Yes. That line is not only adequate to serve the markets authorized by this Commission under Certificate No. G-37, but has a considerable reserve capacity. As a matter of fact, the 8-inch line is presently being used at only about 50% of its capacity. For instance, on the peak day of February 17, 1958, the estimated peak hour delivery through this line was 238,000 cubic feet per hour at a pressure of 125
page 121 } pounds per square inch gauge. A conservative estimate of delivery capacity of that line would be 550,000 cubic feet per hour at 250 pounds per square inch guage.

The present operating pressure on the 8-inch line is limited by the regulation and measuring equipment presently installed along the line. By the replacement of this equipment and with the installation of additional regulators to all stations, the operating pressure could be increased to the pres-

sure of Atlantic Seaboard's 20-inch line (380 to 425 psig). This higher initial pressure would increase the ultimate capacity of this line 45%.

The design terminus of the 27 miles of line is 80 psig.

Consistent with our requirements as a public utility, Virginia Gas is willing to construct facilities for gas service to communities within the environs of our present service area, if such construction estimates appear to obtain a reasonable or economic rate of return. Should a realtor, subdivider or developer require gas service in an area adjacent to our existing facilities, we can frequently offer service under a line extension contract. Under such a contract, the

page 122 } developer may contribute a part or all of the estimated cost of construction and be refunded at the average rate of the cost of construction of 100 feet of main with the connection of each new (or additional) customer.

It is my personal opinion that, because of our existing facility, Prince William County is logically within Virginia Gas' service area. Service to any community in this county, especially in the Dumfries area, by Washington Gas Light would require duplication of our approach facilities in this area.

Q. Have you made any estimate as to the number of years through which the 8-inch transmission line of Virginia Gas would be adequate to serve the normal growth of the markets in Prince William County?

A. Yes, I have. Conservatively speaking, it is my estimate that this line would serve the normal needs of Prince William County for at least 5 to 8 more years without any additions or looping.

In the foreseeable future, if the load on this 27 miles of 8-inch line shows any indication of exceeding the present line capacity, this line could be replaced for the first 7 miles with 12-inch. Assuming that the growth in the Manassas and the Dumfries areas was equal, the total line capacity

page 123 } could thus be increased another 20%. This replacement of the first 7 miles of the line gives the Manassas area ample capacity for much additional growth.

Q. Directing your attention, Mr. Dick, to Annex C of the amended application of Washington Gas Light. Does this map properly show the area now certificated to Virginia Gas under Certificate No. G-37, issued by this Commission?

A. It does not. This is particularly true in the area around Dumfries. Certificate No. G-37, issued by this Commission July 10, 1951, allots to Virginia Gas a territory between

Dumfries and Quantico of an area considerably larger than that shown on Annex C. In addition, the certificate provides for an area along the 8-inch gas transmission line.

Q. Should this Commission see fit to grant the application of Washington Gas Light with reference to Prince William County, as requested in its application and as shown on Annex C, what in your opinion would be the result?

A. The granting of such certificate as requested by Washington Gas Light would have the following results:

page 124 } (a) It would make the operation of the 8-inch transmission line of Virginia Gas much less economical and less useful for public service. This is particularly true inasmuch as we are utilizing that line only to about 50% of its capacity at the present time. Should the application be granted, the line as now utilized would remain fairly static;

(b) The granting of Washington Gas Light's request would serve to smother and completely throttle the normal, natural and reasonable growth of the Manassas market and of the Dumfries-Quantico market presently being served by Virginia Gas. In addition, it would have the same effect upon the market now being served by Virginia Gas to the Town of Herndon, and its environs, in Loudoun and Fairfax Counties under Certificate No. G-32a;

(c) It would result in the overlapping of certain certificates to some extent, inasmuch as the application of Washington Gas Light embraces a portion of the territory already authorized to Virginia Gas, particularly in the Dumfries-Quantico area; and

page 125 } (d) It would authorize the duplication of service around the Town of Manasses, inasmuch as the growth of the area being served in Manassas has extended beyond the limits authorized under Certificate No. G-37. This extension came about by reason of the normal growth of our distribution plant and facilities in Manassas."

Mr. Berry: May I hear the remainder of that answer, Mrs. Wootton?

Note: Answer read as follows:

"This extension came about by reason of the normal growth of our distribution plant and facilities in Manassas."

Mr. Gay:

Q. You have mentioned, as one of your reasons, the smothering of the present markets of Virginia Gas. Can you illustrate what you mean by this?

A. Yes, as I have stated, the normal, reasonable and natural growth of the distribution plant in the Town of Manassas has actually extended out beyond the corporate limits into Manassas Park. If, by the granting of a certificate, Washington Gas Light or any other company had been authorized to draw a line at the corporate limits of Manassas and could thereby say to Virginia Gas, "You cannot go over this line," then the normal growth of the distribution plant in that town would be completely smothered. We would have

page 126 } a situation then where, under present circumstances, Washington Gas Light would be authorized by certificate to serve right up to the town borders of Manassas and would not have the available facilities to serve the area in which it is certificated. On the other hand, Virginia Gas could be prevented from extending its normal and natural growth from the distribution plant which it had already installed in the Town of Manassas across the corporate line. The result naturally would be that the public interest would not be served. Potential customers across the corporate line could not be served by Virginia Gas because it could not encroach upon Washington Gas Light's territory. These same potential customers could not secure gas from Washington Gas Light because it has no facilities in that neighborhood through which it could serve such potential customers. Moreover, Washington Gas Light could not in these circumstances economically extend its present facilities to serve these customers.

Q. Would the same example you have used with reference to the Town of Manassas apply to the Herndon area which was certificated to Virginia Gas under Certificate No. 32a?

A. Yes, it would.

page 127 } Q. Does Virginia Gas now stand ready, willing and able to serve those portions of the territory requested by Washington Gas Light which are economically feasible to serve and as may in the judgment of this Commission, be considered reasonable appendages to the markets now authorized to be served by Virginia Gas?

A. It does.

Q. If Virginia Gas were authorized by this Commission to serve an area which could be economically justified under

the extension rules as applied by this Commission, at what rate would Virginia Gas serve those customers?

A. At the rates and tariffs of Virginia Gas now filed with and approved by this Commission.

Q. Mr. Dick, are there any areas within Prince William County wherein there is a present demand for gas and which Virginia Gas is willing to extend its service to under the rules and rates now on file by Virginia Gas with this Commission?

A. Yes, sir, there are.

(1) The territory which may be described as the environs of the Town of Manassas, including all of Manassas Park to the Fairfax County line.

page 128 } (2) The territory surrounding Dumfries, which may be likewise classified as the environs of Dumfries.

(3) The Town of Haymarket, which is north of the interconnection of the 8-inch lateral of Virginia Gas with Atlantic Seaboard's interstate transmission line.

Q. Have you filed an application with this Commission for service to these extended markets?

A. We have.

Q. Would the Town of Haymarket, and environs, be served by your present distribution facilities, or would it require another tap on the Atlantic Seaboard line?

A. Such area would be served from our present distribution facilities and would not require another tap.

Q. Have you been requested to serve any other areas in Prince William County?

A. Yes, we have had a request, or application, for service to the Woodbridge-Occoquan area for some time. We have made a careful analysis or study of this proposal and have determined that it would take approximately 7

page 129 } miles of approach piping and an additional 80,000 feet of distribution main. The total cost of the project would be somewhere in the neighborhood of $186,000 to $187,000 for a potential of 1,500 customers. At the present time, this does not look economically feasible to us, even though we are the only company which has distribution facilities in that general vicinity. We are continuing to study the project and if it appears to be economically feasible, either through the addition of customers or through a refund

contract, we, of course, will at that time file an application with this Commission for authority to serve.

1:05 P. M. Chairman Hooker: The Commission will recess until 2:15.

2:15 P. M. The Commission resumes its session.

CROSS EXAMINATION.

By Mr. Berry:

Q. Mr. Dick, may I ask you one or two questions concerning extensions for service. Who in the Dumfries or Manassas region would be responsible for extensions of gas service in that area?

page 130 } A. We have a local manager at Manassas who periodically examines the figures on growth and increase in customer concentration in the area who, in turn, reports to Mr. M. O. Wiggins at Staunton.

Q. You have this gentlemen at Manassas. Who do you have at Dumfries?

A. Dumfries is operated from Manassas.

Q. Who would a person talk with if he was at Dumfries and wanted to get an extension to Dumfries, would he talk to this gentleman at Manassas?

A. Yes.

Q. Is this the gentleman who keeps posted as to the growth?

A. Yes.

Q. And that means you have an office at Manassas?

A. Yes.

Q. And is Manassas your eastern-most office?

A. Yes, sir.

Mr. Gay: Speak a little louder, please, Mr. Dick.

Mr. Berry:

Q. Does Virginia Gas Distribution Corporation have any gas production facilities?

page 131 } A. No.

Q. How about storage facilities for gas?

A. No, sir.

Q. To what extent does Virginia Gas Distribution Corporation furnish customer service to the customers on its lines?

A. It furnishes free service for investigation orders such

as odors of gas or leakage of gas and complaints and the combustion loading on ranges, water heaters, etc., and controls for those same appliances, like thermostatic safety pilots and that sort of accessory.

Q. What is the base of operations of that service crew?

A. From Manassas.

Q. And does that take them up and down the eight-inch line?

A. Yes.

Q. And the Dumfries area too?

A. Yes.

Q. And is that the same office as the office referred to in Manassas a few moments ago?

A. Yes.

page 132 } Q. How many service crews are located at Manassas?

A. At Manassas we have ten employees in addition to the local manager.

Q. Are these ten employees all engaged in service work for customers?

A. Five of these gentlemen are capable appliance servicemen.

Q. Has Virginia Gas Distribution Corporation ever sought any alternative supplier of natural gas? By "alternative," I mean other than by its present supplier the Atlantic Seaboard Corporation?

A. No, sir.

Q. You were testifying before the luncheon recess concerning the fact that if Washington Gas Light's application is granted, it would smother and throttle Virginia Gas Distribution Company. Are you familiar in your experience with the fact that in many competing areas that the utilities abut each other?

A. Yes.

Q. Are there some places in the Columbia System where that occurs?

A. Yes.

page 133 } Q. Can you identify a few of them for us?

A. The Ohio Fuel Company, the Company I worked for—extends northward to Parma near Cleveland; the Parma service, and service to Cleveland are parallel and within six miles. Cleveland is served by East Ohio, and from my experience the growth of their plant has been re-

solved as to which Company could serve the adjacent area more effectively.

Q. There is a similar situation between Portsmouth and Ohio Fuel, is there not?

A. Yes, sir, there's a slight difference in corporate limits. Their corporate limits seem to be divided differently. At New Boston is the dividing limits, I believe there has been an understanding that the corporate limits would serve as the boundary of the two companies' operations.

Q. You were testifying earlier in your direct testimony concerning studies you had made of extending from your eight-inch pipeline Northward, did you consider furnishing gas service to Garfield Estates?

A. I believe in my testimony I mentioned that we had examined that area and I believe Garfield Estates was the subdivision we examined.

page 134 } Mr. Gay: Mr. Dick, talk to the Commission. We can't hear you.

Mr. Berry:

Q. Do you recall how many houses were contemplated there?

A. I can't tell you by identifying them as Garfield Estates, Sir, but my most recent examination which included Woodbridge and Occoquan with the customers that might be picked up on approaching pipelines, amounted to approximately 1600 customers.

Q. Do you think that number might have included the section known as the Marumsco Village?

A. At least I don't identify that area by that name, but this was a comprehensive examination of the existing structures.

Q. But you do not have any extensions now of your service North into the Woodbridge area?

A. As I recall, our extension to the area is approximately one mile east of the Triangle area. You can check with Mr. Wiggins, Manager of our property.

Commissioner Catterall: Somebody said Tripoli Heights.

page 135 } Mr. Berry:

Q. Show us where Tripoli Heights is.

W. P. Dick.

Mr. Elliott: The Commission knows very well where Tripoli Heights is after trying the water case.

Mr. Berry: It will not be necessary to look it up if the Commission knows.

Q. Has the Virginia Gas Distribution Corporation ever made any financial or monetary arrangements independent of the Columbia Gas System?

A. Not to my knowledge.

Q. When it needs funds it obtains it from the Columbia Gas System?

A. Yes.

Q. Have you any information that you can give us as to any dividends paid by the Columbia Gas to the Distribution Corporation?

A. I can't. The only dividends I am familiar with are the Parent Company.

Q. Are you familiar with the fact that the Columbia Gas Company is being asked to divest itself of some of its holdings, one of which is the Virginia Gas Distribution

page 136 } Corporation?

A. I know that it is being investigated.

Q. If that was consumated, it might be necessary for the Virginia Gas Distribution to finance its own self?

A. It might be possible.

Q. One thing we want to get straight between your testimony now and your testimony in July when the hearing was in progress on the application of the Virginia Gas Distribution Corporation. You testified in July that you did not have a crew at Herndon and you were asked where your service crew was and you said at Culpeper?

A. Yes.

Q. Did you have a service crew at that time at Manassas?

A. Yes, and I might correct one thing. Generally, the service has been from Manassas but during the heavy construction period we handle service from Herndon because of the heavy work load in the Manassas area.

Q. How long have you had the Manassas office?

A. I know for at least six years and I have reason to believe for over eighteen years and I can check that with Mr. Wiggins who is familiar with that.

Q. We will accept your answer. How long have

page 137 } you had service men, four or five, which you say are there at that location?

A. When we build facilities to serve customers, we try to

build facilities for growth for ten to fifteen years, however, we don't immediately secure the employees to serve the planned number of customers of that facility, but as the need for service people develop, we employ and maintain the needed employees for that territory, and going back five or six years there our growth has been 4½% to 6% per year and with the growth of the property we have added employees and trained them for service work.

Q. Mr. Dick, has Virginia Gas Distribution Corporation extended its service beyond the area authorized by certificates of this Commission in or near Manassas?

A. Yes, sir, it has.

Q. Did it extend its service beyond the Town borders of Manassas prior to the time the town borders were enlarged effective in 1957?

A. Yes, sir.

Q. Has it extended its service beyond the area certificated to it in the region of Dumfries?

A. Yes, sir.

page 138 } Q. Has it extended its service or facilities in the town or vicinity of Gainesville, Virginia?

A. Yes, sir.

Q. And is the area into which service has been extended now included in that with respect to which Virginia Gas Distribution Corporation is now filing an application for certificate to this Commission?

A. Yes, sir.

Q. And is that one of the reasons why one of the exhibits of the Washington Gas Light Company is in error?

A. That could have been the reason, however, I believe the exhibits as shown by Washington Gas Light Company did not include the area presently served by Virginia Gas Distribution Corporation.

CROSS EXAMINATION.

By Mr. Elliott:

Q. When did Virginia Gas Distribution Corporation make these extensions beyond the area certificated to it by this Commission?

A. They were not made all in one year. I believe at Manassas—let me look in the book—as I remem-
page 139 } ber in 1952, or it might have been 1953, we extended our facilities in Manassas eastward to serve Manassas Park and there have been areas added, there

have been units added yearly in that Manassas Park area. Dumfries, there has been a real estate growth, so it makes an extensive facility from our Manassas plant.

Q. How about Gainesville?

A. Gainesville is a small area we are serving out of our certificated area of the Florence Sub-division.

Commissioner Catterall: Where is Gainesville?

A. It is near the connection of the eight-inch line of the Virginia Gas Distribution Corporation.

Mr. Elliott:

Q. That has been going on for some six years, extending service outside of your service area, has it not?

A. As to my recollection of the start of this, yes, sir.

Q. You have just in July concluded a hearing before this Commission for an additional certificated area?

A. Yes, sir.

Q. And you made no application in that proceeding to cover these areas that you extended your lines into

page 140 } without a certificate?

A. That is right.

Q. When was the eight-inch line built?

A. I have to jog my memory but it was originally a four-inch line and that was built in 1931, and the four-inch was replaced by the eight-inch in three sections, the first section being replaced in 1951, the second section in 1952 and the last in 1953.

Q. Why did you replace the four-inch line with an eight-inch line?

A. Well, for two reasons, sir. The four-inch line as I can remember it, was a bare pipe installation, and since 1931 when we had pipeline construction, we have preceded that construction with a firm surface to determine the resistivity of it to justify pipe coating and creosotive protection or some other type of protection. That four-inch pipeline was demolished at substantial cost to replace and it was also too small to serve the territory and we could no longer serve Quantico on that.

Q. The four-inch line was built primarily to serve Quantico, was it not?

A. I don't remember the background but I

page 141 } assume that was true.

Q. And the eight-inch was built to serve Quantico?

A. Yes, and the Quantico load had increased.

Commissioner Catterall: Do you serve the whole Military base?

A. Yes.

Mr. Elliott:

Q. Who built that line?

A. Virginia Gas Distribution Corporation.

Q. How long do you say that line is?

A. 26.94 miles and we call it 27 miles.

Q. Over what counties does it traverse?

A. Prince William.

Q. How many service taps have you taken off that eight-inch line in the last year?

A. To serve communities or single customers?

Q. To serve individuals or communities.

A. I could not give you the exact number without checking with Mr. Wiggins, but for rural customers, there are less than 100 taps, and in addition to that, there are

page 142 } taps serving Manassas, Quantico, Dumfries and that group of customers in Triangle and Tripoli Heights.

Q. When was the service in Dumfries installed? When did you start serving Dumfries?

A. It was prior to my time with the Company, sir. I would say prior to 1952.

Q. When did you make the tap to serve Tripoli Heights?

A. I am unable to give you the exact date.

Q. Was that a separate tap or an extension of the tap that serves Dumfries?

A. I think it was an extension. Mr. Wiggins tells me that it is.

Q. Have there been any major taps to serve customers in Prince William County in the past year?

A. Not to my knowledge.

Q. In your testimony you spoke of the fact that your Company was ready and willing to make service extensions under your Rules and Regulations and spoke out about contributions. What Rule and Regulations do you have reference to?

page 143 } A. The Rules which are on file, sir. I think I have it here. I will read here from our Rules and Regulations governing the sale of natural gas by Virginia

Gas Distribution Corporation applicable to all territories served by said Company effective July 1st, 1957, and I read from Rule 11 which heading is "Extension of Mains," Section D:

"When extensions of the Company's mains are greater than that provided for in Paragraph A, which provides 100 feet of free extension per customer, Paragraph A of this Rule will necessarily apply in order that an Applicant or group of Applicants or Real Estate Developers may receive gas service the Company may request the Applicant to deposit an amount equal to the estimated cost of the project before construction is started, which deposits shall not draw interest. At the end of each calendar year for the period of ten years the Company will refund the Applicant who paid for the extension, or his authorized agent, a sum equivalent to the cost of 100 feet of pipe installed
page 144 } in the extension for each additional customer as of December 31st, but in no case shall the total amount of refund exceed the amount paid to the Company. After ten years from the date of the extension agreement, no refunds will be made. The extension when built shall be and remain the property of the Company."

Q. Have you had occasion to use that Rule in the area that we are talking about in this case?

A. It was used in the development of Manassas Park.

Q. Which was outside of your certificated area, you say?

A. Yes, sir.

Q. Do you know what the recovery was from the people who put up the money for that line?

A. They have recovered the entire amount.

Q. Is that the only instance in which it has been used?

A. No, sir, there have been others I know, but I can't think of them.

Q. Well, in each and every instance, will you
page 145 } state whether there has been a recovery by the customer of the money he had to put up to get service?

A. I am not entirely informed on that, but it is my opinion that each and every customer has recovered.

Q. And there has been no interest paid?

A. No.

Q. Are you an officer of all the companies?

A. Of all the Companies of the Charleston Group.

Q. You don't have anything to do with the Pipe-Line Company?

A. Nothing to do with the Pipeline Company.

Q. Did you, or anyone in your Organization confer with Seneca Gas Company in connection with this proceeding?

A. I did not.

Q. Do you know whether any of your employees did?

A. Not to my knowledge.

Q. Do you know how they obtained a copy of your Petition for Intervention and, in effect, used that same Petition of Intervention in this proceeding?

A. I have no idea.

page 146 } Q. You have not talked with Mr. Stinnett?

A. I have not.

Q. Has anybody talked with Mr. Stinnett about a supply of gas from the Columbia Gas System to Woodbridge?

A. Normally that would not come within my jurisdiction. I would imagine more properly if any discussion has been held with Mr. Stinnett, it would be with our President, Mr. John Partridge or our Assistant President, Mr. Bob Barnett.

Q. Is Mr. Partridge an officer of Virginia Gas Distribution Corporation?

A. Yes, sir.

Q. What office does he hold?

A. He is President.

Q. Are you familiar with the application of the Seneca Gas Company for Petition to Intervene and Motion to Dismiss?

A. I heard it read; I did not get a copy.

Q. Are you familiar with the physical layout? Isn't it true that Seneca Gas Company would have to build approximately twenty miles of pipeline in order to get gas from the Columbia Gas System?

page 147 } A. I would not say how far, but almost the same distance as our Quantico line.

Q. And that is about 20 miles?

A. 20.7, 20 plus, I will say.

Q. I believe you stated, sir, that the Virginia Gas Distribution Corporation served approximately 24,000 customers?

A. Nearly 25,000.

Q. That is in all of its operations?

A. All of its operations.

Q. How many in this area?

A. If my recollection is right, 3,229.

Mr. Gay: When you say "this area," what do you mean?

W. P. Dick.

Mr. Elliott: The area in controversy.
Mr. Gay: Do you mean the three counties or just Prince William County?
Mr. Elliott: The three counties.

A. It is 3,229 in Prince William County; and 491 customers in Fairfax County and nine in Loudoun County, and I believe that adds up to 3,729 customers in the area we are talking about.

page 148 } Q. That includes the customers in Manassas?
A. Yes.

Q. How many customers have you added in that area since January 1, 1958?
A. I would have to guess, but I would guess 125 to 200, but we have our monthly customer statements.
Q. An approximation is sufficient for my purpose. You say 125 to 200?
A. Yes.

Commissioner Catterall: When the Company built these illegal lines you are testifying to, did they do it by mistake or knowing it?

A. It is entirely my responsibility. A subdivider comes in and he wants to build, he has the land and we are immediately available to him, and from an economy standpoint it looked as if we were the ones to supply him—we did so but in no way did we—

Commissioner Catterall: Your answer is that you did it wilfully and knowingly?

A. Well, yes, sir.
Q. Do you do that in all of the areas where you have a certificate in Virginia?

page 149 } A. No, I don't think that is true. In these we examined these and found we had exceeded our area and we wanted to correct it.

Q. You think this is the only part of the State where you are operating in violation of the statute?
A. We do but are investigating to see if there are any other places.
Q. You don't have a legal advisor at your elbow?
A. No, not at my elbow.
Q. Did you get legal advice before you crossed the line?

A. No, because we did not think we were doing wrong. We have to admit that it was thoughtless.

Mr. Gay: If it was *thoughtles,* it was not wilfully so.

A. No.

Commissioner Catterall: Did you know where the line of your certificated area was?

A. Yes.

Q. And you went beyond that line, knowingly you went beyond it?

page 150 } A. But we did not sit down and examine it at the time we made the extensions into the vicinity.

Q. I understand that answer to be that you knew where the line was and walked across the line?

A. Yes, sir, and we did not examine our service area and we knew we were the only gas company in the area.

Commissioner Dillon: And the only reason there was not malice aforethought, was that there was no forethought?

A. You could say that is correct.

Mr. Gay:

Q. When did you find out that your certificated area did not cover these areas such as Manassas and Dumfries?

A. In recent examinations.

Commissioner Catterall: You did not care where it was?

A. I would not say we did not care but we were running wide of it in this instance.

Mr. Berry:

Q. Coming back to Page 3, Mr. Dick, you constructed the four-inch pipeline to Quantico, it was installed in 1951, who did that?

page 151 } A. The Virginia Gas Distribution Corporation.

Q. The Virginia Gas Distribution Corporation installed it in the first place?

A. Yes.

Q. And the Virginia Gas Distribution Corporation has

continued since that date without that ownership being in any other system?

A. To my knowledge there has never been any ownership except the Virginia Gas Distribution Corporation.

Q. So there has not been any transfer from any brother or from the Seaboard Corporation, but it has been owned by the Virginia Gas Distribution Corporation?

Mr. Gay: I acquired the right-of-way for this line for the Virginia Gas Distribution Corporation and *and* it has been continuously owned by the Virginia Gas Distribution Corporation and it has never made any conveyance of it to any other company.

We would like to have the annual reports of the Virginia Gas Distribution Corporation for the years 1955, 1956, 1957 considered as a part of the record.

page 152 } Chairman Hooker: There is no objection?

Mr. Berry: No objection.

Witness stood aside.

Mr. Gay: I don't know that Mr. Elliott intentionally sought to create an inference that someone with the Virginia Gas Distribution Corporation had furnished a copy of its Application to the Seneca Gas Company or to its president, Mr. Stinnett. Mr. Goodwin and I prepared this Petition, and so far as I know, it has not been in any one elses hands and he tells me that he provided no such copies, I certainly provided no such copy, but I want to say that Mr. Stinnett called my partner, Mr. Pasco, Friday of last week to know if he would represent him in an application to serve this area, Mr. Pasco having represented Mr. Stinnett of the Blue Ridge Gas Company in the Harrisonburg area. Mr. Pasco told him that he could not represent him and as a result of that conversation Mr. Pasco received in the mail yesterday a copy of this Petition filed by Mr. Stinnett.

Mr. Elliott: I meant to create no insinuation whatsoever, and I was merely inquiring about it. It is cer-

page 153 } tainly a coincidence to me that this Petition of Intervention which came in yesterday, makes the same allegation and Motion to Dismiss as that of the Virginia Gas Distribution Corporation, and I wanted to know where they got it from. That was the purpose of my question.

Mr. Gay: Could it not be that they came up and looked at the Commission's file?

Mr. Elliott: It might be.

Mr. Berry: I don't want to burden the Commission with a long summary argument but I would like for the Commission to inquire if there is anyone present in this room representing the Seneca Gas Company.

Chairman Hooker: Is there any one in the Court Room representing the Seneca Gas Corporation?

Note: No response.

Chairman Hooker: The Commission hears no response to the inquiry, Mr. Berry.

Mr. Berry: Mr. Elliott referred to a resolution adopted by the Board of Supervisors of Prince William County, adopted at an adjourned meeting on July 25th, not page 154 } a regular meeting, and if Mr. Stinnett was here, I would like to ask him some questions about that.

Mr. Elliott: That is not a part of the record.

Mr. Berry: I want to state that if such a Resolution was adopted by the Board, it was done so with no notice given anyone concerning the hearing, and with Washington Gas Light having no notice, and after Washington had served the attested copies of notice of this hearing on the Chairman and Commonwealth Attorney. So they knew about it and Washington Gas Light told them that, if they wished any further information, we would be glad to supply it, and the burden of my statement is that the resolution was passed without any notice to anyone.

There was quite a little emphasis in the hearing of the cross examination of our witnesses and testimony of Mr. Dick to the effect that it is important for the developers to consider the fact that there might be a gas company authorized to serve nearer than *than* one further away. We would like to make it plain as to the availability of gas from the two pipelines of the Atlantic Seaboard, their 26-inch line and 20-inch pipeline and to state that they are page 155 } available for service by Washington Gas Light Company throughout those portions of Loudoun and Prince William Counties. We believe we can serve from that pipeline just as well as any other seller or retailer from that area. There is nothing wrong with having two utilities in a service area such as Prince William County.

From the evidence disclosed today, I think it was very well that Washington Gas Light Company made this application as it shows that the Virginia Gas Distribution Corporation had fallen off their reservation, which may be inadvertant,

but really is a violation of their franchise, and we have shown that Washington Gas Light Company is capable of serving the area and has been serving the Metropolitan area of Washington for many a day, and has established relations with a number of high developers, and we believe that, if this certificate is granted, it will faithfully serve the greater neighborhood and the Commonwealth of Virginia, and we ask for the Certificate to be granted in accordance with the application.

Mr. Gay: We would like to say a few words.

page 156 } First, in connection with that Resolution of the Board of Supervisors. The first knowledge we had of that was when we read about it in the newspapers.

Commissioner Catterall: Where is it? I would like to see it. I haven't seen it.

Mr. Gay: Neither have I. I addressed myself to it because I don't want it to appear that we have any more to do with it than Washington Gas Light Company had.

Coming to the merits of this case, I will state my position very quickly. It is the position of the Intervener here that the effect of granting this application "for development purposes," and that is what I understand is the basis for the application in Fairfax County and in Loudoun County, would be to completely surround and bottle up the present distribution facilities of the Virginia Gas Distribution Corporation in the Herndon-Chantilly area, and you would have a situation in which public service is being rendered there by a company which could not under any concept of

page 157 } the law expand any more because it is completely bottled up. I don't think that is the kind of development that the statute contemplates. I think it contemplates, at most, that in granting of an area, you would not reasonably interfere with the normal and natural growth of an existing utility.

As to Prince William County, it is true, as Mr. Bittinger said, that the 26-inch line and 20-inch line of the Seaboard traverses that area and Washington Gas Light Company has just as much right to buy gas from that facility as the Virginia Gas Distribution Corporation, but when you come to Prince William, you see that there has already been erected an eight-inch line to serve that community and it would be uneconomical to allow Washington Gas Light Company to extend its service into an area already served by an adequate pipeline.

We all know that the rates of a public service corporation are related to its capital investment and what it costs to render the service, and it is perfectly obvious that Washing-

ton Gas Light Company could not come into
page 158 } Prince William County and render the service
at the rates the Distribution Corporation already has there, and we feel that this application, which is predicated on development only, should not be granted as to these counties, and for those reasons, we think the Application should be denied.

Chairman Hooker: The Commission will take this case under advisement.

page 159 } COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, OCTOBER 28, 1958.

CASE NO. 10314.

Application of
WASHINGTON GAS LIGHT COMPANY

For Amended and New Certificates under Utility Facilities Act.

ORDER GRANTING CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY.

THIS proceeding, which was instituted by order entered herein under date of September 4, 1958, upon the application of Washington Gas Light Company for amended and new certificates of public convenience and necessity covering new and additional territories in Fairfax, Loudoun and Prince William Counties proposed by the applicant to be allotted to it for development of natural gas service, came on to be heard on October 2, 1958, and was thereupon taken under advisement, pending the clearing up of certain discrepencies in the territorial maps. Appearing at the hearing were the applicant by C. Oscar Berry, Edward B. Longyear and S. T. Hollingsworth, its counsel, Virginia Gas Distribution Corporation by Thomas B. Gay and C. E. Goodwin, its counsel, and the Commission by its counsel;

WHEREUPON, revised and corrected maps having been filed, as requested by the Commission, this matter now comes on this day to be finally heard and considered upon the ap-

plication of Washington Gas Light Company and exhibits filed therewith; upon petition to intervene by Virginia Gas Distribution Corporation, upon the testimony of witnesses at said hearing; upon exhibits introduced at the hearing hereof; upon the entire record herein; and upon argument of counsel;

UPON CONSIDERATION WHEREOF, the Commission is of the opinion and finds that the certificates, applied for by the applicant, should be granted in accordance with the revised and corrected maps referred to above; accordingly,

page 160 } IT IS, THEREFORE, ORDERED:

(a) That amended and new certificates of public convenience and necessity be issued to Washington Gas Light Company, authorizing the furnishing of gas service, as follows:

(1) Certificate No. G-45a, in the Cities of Alexandria and Falls Church, in the Towns of Fairfax and Vienna, and in the territory outlined in red on map of Fairfax County, attached thereto, excluding 100 feet on both sides of pipelines of Atlantic Seaboard Corporation; which said Certificate No. G-45a is to cancel and replace (a) Certificates Nos. G-14 and G-16, issued January 22, 1951, in the name of Rosslyn Gas Company, (b) Certificate No. G-43, issued March 17, 1952, in the name of Rosslyn Gas Company, and (c) Certificate No. G-45, issued December 1, 1954, in the name of Washington Gas Light Company;

(2) Certificate No. G-50, in the territory outlined in red on map of Loudoun County, attached thereto, excluding 100 feet on both sides of pipeline of Atlantic Seaboard Corporation; and

(3) Certificate No. G-51, in the territory outlined in red on map of Prince William County, attached thereto, excluding the yellow shaded area and 1500 feet on both sides of the pipelines of Atlantic Seaboard Corporation and Virginia Gas Distribution Corporation.

(b) That an attested copy of this order, together with Certificates Nos. G-45a, G-50 and G-51, with maps attached, be sent to the applicant, in care of C. Oscar Berry, General Counsel, 1100 H Street, N. W., Washington 5, D. C.; and that attested copies of this order be sent to Virginia Gas Distribution Corporation, in care of Thomas B. Gay, Counsel,

Electric Building, Richmond 12, Virginia, and C. E. Goodwin, Counsel, P. O. Box 1273, Charleston 25, West Virginia.

A True Copy.

Teste:

N. W. ATKINSON
Clerk of the State Corporation Commission.

page 161 } BEFORE THE

STATE CORPORATION COMMISSION OF THE COMMONWEALTH OF VIRGINIA.

CASE NO. 10,314.

In the Matter of the
Application and Amended Application of
WASHINGTON GAS LIGHT COMPANY

PETITION OF VIRGINIA GAS DISTRIBUTION CORPORATION FOR REHEARING.

To the Honorable Commissioners of the State Corporation Commission of the Commonwealth of Virginia:

Comes now Virginia Gas Distribution Corporation in the above-entitled matter and presents this, its Petition for Rehearing (pursuant to Rule 14 of the Rules of Practice and Procedure of the State Corporation Commission adopted and promulgated by the Commission under Section 155 of the Constitution of Virginia) to the order of the Commission entered therein on October 28, 1958. In support of its Petition, Virginia Gas Distribution Corporation (hereinafter referred to as "Petitioner") respectfully says that:

page 162 } 1. Case No. 10,314 was instituted by order of the Commission entered on September 4, 1958 upon an Original Application filed by Washington Gas Light Company (hereinafter referred to as "Applicant") on July 11, 1958 for certificates of public convenience and necessity respecting additional service territory in Fairfax and Loudoun Counties, Virginia and the amendment thereto, filed by Ap-

plicant on September 3, 1958, requesting certificates of public convenience and necessity for additional service territory in Fairfax, Loudoun and Prince William Counties, Virginia.

2. Petitioner was an interested party in that proceeding and, on September 15, 1958, properly filed a formal written Petition to Intervene and Motion to Dismiss, both of which were set for hearing by the Commission in its order entered on that day. On October 2, 1958, the Application, Amended Application, Petition to Intervene and Motion to Dismiss, filed herein, came on to be heard; whereupon Petitioner appeared, by counsel, and opposed the granting of the Amended Application of Washington Gas Light Company. Petitioner further submitted testimony and exhibits in support of its opposition. All of which was taken under advisement by the Commission.

3. By order entered in said proceeding on October 28, 1958, the Commission found that the certificate for ad-
page 163 } ditional territory in Fairfax, Loudoun and Prince William Counties applied for by Applicant should be granted in accordance with revised and corrected maps filed at the request of the Commsision by Applicant on October 27, 1958 and by Petitioner on October 30, 1958. Accordingly, the Commission ordered that amended and new certificates of public convenience and necessity be issued to Applicant authorizing it to furnish gas service in said additional territories of Fairfax, Loudoun and Prince William Counties, subject to certain exclusions defined in its said order.

4. Previously, on June 9, 1958, Petitioner had filed its application requesting that a certificate of public convenience and necessity respecting additional service territory in Fairfax and Loudoun Counties, Virginia (referred to as "the Chantilly area") be granted it. The designation of Case No. 10,620 was assigned to this application. Applicant was permitted to, and did formally, intervene in said proceeding. By order issued July 15, 1958, the aforesaid case came on "to be finally heard and considered upon the application of Virginia Gas Distribution Corporation and exhibits filed therewith; upon petition to intervene by Washington Gas Light Company; upon the testimony of witnesses at said hearing; upon exhibits introduced at the hearing hereof; upon the en-
tire record herein; and upon argument of counsel."
page 164 } Upon consideration thereof, the Commission found that the certificates applied for by Petitioner should be granted, and they were accordingly issued.

5. On October 1, 1958, Petitioner presented to the Commission an Application, under the Utility Facilities Act, re-

questing certificates of public convenience and necessity for additional territory expanding its markets in a portion of Prince William County, Virginia. This Application was not assigned a new case number but was treated by the Commission as supplementing the proceeding instituted by it on June 9, 1958, and dealt with in the Commission's aforesaid order of July 15, 1958, Case No. 10,620. However, on October 24, 1958 (six days prior to the entry of a further order of October 30, 1958 in Case No. 10,620), Petitioner presented to the Commissoin an amendment to its Application, which adopted a part of the Original Application filed October 1, 1958 and requested certificates of public convenience and necessity for the whole of Prince William County and a portion of Loudoun County necessary to operationally connect therewith its presently certificated markets in the Herndon, Virginia area. Neither the Original Application filed October 1, 1958, nor the Amended Application filed October 24, 1958, was set for hearing by the Commission.

6. By order entered October 30, 1958 (in Case No. 10,620), the Commission, without hearing other than that had on October 2, 1958 in Case No. 10,314, found that the page 165 } additional territory in Prince William County, requested by Petitioner in its Original Application received October 1, 1958, should be granted in accordance with the revised maps filed by Petitioner and referred to in the Commission's order of October 30, 1958. Accordingly, the Commission ordered that Amended Certificate of Public Convenience and Necessity No. G-37a be issued to Petitioner, authorizing it to furnish gas service in said additional territory in Prince William County, which, in fact, was more extensive than was requested in Petitioner's said Original Application received October 1, 1958.

7. Code of Virginia, §56-265.3, among other things, provides:

"On application by any company, the Commission, after formal hearing upon such notice to the public as the Commission may prescribe, may, by certificate of convenience and necessity, allot territory for development of public utility service by the applicant if the Commission finds such action in the public interest."

On October 1, 1958, when Petitioner filed its Original Application for authority to expand its service area in a portion of Prince William County and on the hearing had in Case No. 10,314 on October 2, 1958, Petitioner and its counsel took the position that the words in the above Code section, pre-

scribing that the Commission could "allot territory for development of public utility service," referred to an
page 166 } area in which future needs of the public are likely to develop in such manner as to presently warrant certification for purposes of future development; and, conversely, that it did not refer to the certification of large areas such as were included in Applicant's request in said proceeding, unless it is affirmatively shown that present circumstances demonstrate that a demand for development of service is reasonably to be expected.

Subsequent to the hearing herein on October 2, 1958, in Case No. 10,314, Petitioner and its counsel reviewed the foregoing position and interpretation and came to the conclusion that Virginia Code, §56-265.3, could be more liberally construed so as to authorize the Commission, in its discretion, to grant certificates of public convenience and necessity for public utility service territory in areas where there was no imminent demand for development. Consequently, Petitioner considered it in the public interest, for reasons hereinafter set forth, to file an Amended Application requesting certificates of public convenience and necessity for the whole of Prince William County and a portion of Loudoun County. Such Amended Application, as hereinbefore noted, was presented to the Commission on October 24, 1958.

In its Amended Application, a copy of which is hereto annexed, Petitioner makes the following averments, *inter alia*:

page 167 } (a) That the 8-inch gas transmission line, 26.95 miles long, extending throughout the greater length of Prince William County, is the only facility now being maintained and operated by any company to serve the retail demands of the public in Prince William County; that said 8-inch transmission line is presently being operated at only about 50% of total capacity, even on peak days; and that there is adequate reserve capacity therein to serve the demands of the whole of Prince William County abutting on said line for several years;

(b) That the boundary lines of Prince William County, comprising a single political unit of the State of Virginia, constitute and are ideal boundaries for a service area;

(c) That it is highly desirable, in the public interest, to connect its service area previously certificated in Loudoun County with the areas which it now serves and proposes to serve in adjoining Prince William County;

(d) That it has facilities and capacity, already present in each of said counties, available for those persons presently

requiring retail natural gas service under the rules and tariffs of Petitioner on file with and approved by the Commission;

page 168 } (e) That such facilities and capacity afford natural and economical basic installations from which gas service can be properly extended, under the Rules and Regulations of the Commission, in the most feasible and expeditious manner; and

(f) That the public interest and public convenience will be served by granting the amended certificates of public convenience and necessity sought in said Amended Application by Petitioner.

8. A rehearing in Case No. 10,314 should be granted and Petitioner should be permitted to introduce further evidence in said case, or at a consolidated hearing on Case No. 10,314 and the Amended Application of Petitioner filed October 24, 1958 (to which no case number has been assigned), respecting the certificates of public convenience and necessity here at issue, on the grounds that:

(a) It is in the public interest to certificate Petitioner for all of Prince William County and a portion of Loudoun County under its Amended Application heretofore presented to the Commission on October 24, 1958 and not heard by the Commission.

(i) Petitioner is presently serving the demands for gas service in a substantial portion of Prince William

page 169 } County and presently has adequate pipelines and other facilities for the transmission of gas therein to meet the normal growth of all the markets in Prince William County for several years.

(ii) Petitioner can, and does, serve gas to the retail markets in Virginia and would so serve in the additional territory requested by it in said Amended Application at substantially lower rates than Applicant. The rates of both companies are now on file with and approved by the Commission.

(iii) The boundary lines of Prince William County, comprising a single political unit of the State of Virginia, constitute and are ideal boundaries to delineate the adjoining service areas of Petitioner and Applicant.

(b) It is not in the public interest to certificate Applicant for the area described in the order entered herein on October 28, 1958, in Case No. 10,314, for the following reasons:

(i) Such final certification will result in making Petitioner's 8-inch gas transmission line extending through Prince William County less economical and useful for public serv-
page 170 } ice.

(ii) It will result in duplication of service facilities, all of which will have an adverse impact upon the rates to be charged the general public.

(iii) It will restrict the normal growth of markets now being served by Petitioner.

(iv) Applicant has no present facilities in the area described by the order and cannot economically render service therein without the investment of a disproportionate outlay of capital, which would be to the detriment of the gas-consuming public.

(v) There are some portions of the area described in the order, adjoining territory certificated to Petitioner, which will have isolated demands for service, if any, that cannot be economically or profitably served by Applicant but can be by Petitioner. Unless the present order is rescinded, such demands cannot be satisfied.

(vi) The rate differential for service between Applicant and Petitioner in contiguous areas, within the same political governmental unit, will be a source of continual public discontent.

(c) Irrespective of the fact that Petitioner may have improperly construed the language in Virginia Code,
page 171 } §56-265.3, and, as a consequence, did not file its Amended Application requesting certificates of public convenience and necessity for the whole of Prince William County and a portion of Loudoun County until after:

(i) Applicant had filed for the same service territory;

(ii) The hearing was held on the request of Applicant; and

(iii) The Commission had, without formally entering its order of October 28, 1958, reached a decision to grant such territory to Applicant as a result of such hearing,

nevertheless, the prime consideration is not one of priorities but, rather, one of what is best in the public interest.

(d) Petitioner should be afforded the opportunity of presenting additional evidence not yet heard by the Commission respecting the allegations and matters set forth in its Amended Application of October 24, 1958 directly bearing upon the vital issue here of the public interest before any

decision of the Commission becomes final and large sums of money are expended in furtherance thereof.

page 172 } In view of the indisputable facts hereinbefore set forth in this Petition, it patently appears that the public interest will be served by granting to Petitioner the right to be reheard on the important questions here in issue. For the reasons stated above, Petitioner therefore prays that a rehearing be granted on the order of the Commission of October 28, 1958 in Case No. 10,314; and that on such rehearing, or upon a consolidated rehearing of this case with a hearing on the October 24, 1958 Amended Application of Petitioner upon which no hearing has been had, the order of this Commission entered herein on October 28, 1958 in Case No. 10,314 be rescinded and annulled, and that this Petitioner be granted the certificates of public convenience and necessity requested in its said Amended Application of October 24, 1958.

Respectfully submitted,

VIRGINIA GAS DISTRIBUTION CORPORATION
By W. P. DICK
Vice President.

THOMAS B. GAY, Esquire
HUNTON, WILLIAMS, GAY, MOORE & POWELL
Electric Building
Richmond 12, Virgniia.

C. E. GOODWIN, Esquire
Virginia Gas Distribution Corporation
P. O. Box 1273
Charleston 25, West Virginia.

page 173 } State of West Virginia,
County of Kanawha, to-wit:

I, Ruth G. McCormick, a Notary Public in and for the county and state aforesaid, do hereby certify that W. P. DICK, whose name as Vice President for Virginia Gas Distribution Corporation is signed to the above Petition for Rehearing, this day appeared before me and, after being by me first duly sworn, says that he was duly authorized to sign

the above Petition for Rehearing and that the matters therein stated are true, to the best of his information, knowledge and belief.

W. P. DICK.

Given under my hand and notarial seal, this 14th day of November, 1958.

My commission expires September 23, 1964.

RUTH G. McCORMICK
Seal Notary Public.

page 174 } BEFORE THE STATE CORPORATION COMMISSION OF THE COMMONWEALTH OF VIRGINIA.

CASE NO.....

In the Matter of the
Amended Application of
VIRGINIA GAS DISTRIBUTION CORPORATION

For amended certificates of public convenience and necessity, under the Utilities Facilities Act, authorizing it, as a public utility, to distribute and sell natural gas to domestic commercial and industrial customers in territory comprising the whole of Prince William County and a portion of Loudoun County, Virginia.

Virginia Gas Distribution Corporation, hereinafter called Applicant, respectfully represents and shows unto this Honorable Commission that:

I.

It here refers to and makes a part of this Amended Application, as though set forth verbatim herein, the statements and allegations of Paragraphs I and II of its Original Application, filed with this Commission on October 1, 1958, for a certificate of public convenience and necessity under the Utilities Facilities Act, authorizing it, as a public
page 175 } utility, to distribute and sell natural gas to domestic, commercial and industrial customers in an additional territory adjoining its present markets in Prince William County, Virginia.

II.

The certificates which Applicant seeks to amend hereby are Certificates No. G-37 and No. G-49, issued by this Commission on July 10, 1951 and July 15, 1958, respectively. The service areas authorized under Certificates No. G-37 and No. G-49 in Loudoun and Prince William Counties are shown colored in yellow in Map Exhibits 1 and 2, attached hereto and made a part hereof.

The Quantico Marine Base, under gas service contract between Applicant and the United States Government, and the areas into which Applicant has extended its gas service by reason of gradual and normal growth from certificated markets in Prince William County are shown in hatched yellow coloring.

The additional service areas requested hereunder, excepting the yellow and hatched yellow coloring mentioned above, are shown encircled in red.

page 176 } III.

In Prince William County, Applicant owns and operates an 8-inch gas transmission line, 26.95 miles long, extending from its interconnection with Atlantic Seaboard Corporation's 20-inch interstate gas transmission line at or near Gainesville, Virginia to the Quantico Marine Base on the Potomac River, at the southern tip of Prince William County; that said 8-inch gas transmission line is the only facility now being maintained and operated by any company to serve the retail demands in Prince William County; that from said 8-inch gas transmission line, Applicant serves its markets of Manassas and environs, of Dumfries and environs, and the entire demands of the Quantico Marine Base; that said 8-inch gas transmission line of applicant is presently operated at only about fifty per cent of total capacity, even on winter peak days; that there is adequate reserve capacity therein to serve the demands of the whole of Prince William County, abutting on said line, for several years; and that Applicant is advised it will be able to purchase all its natural gas requirements for the proposed service in the whole of Prince William County from its said supplier, Atlantic Seaboard Corporation.

page 177 } IV.

A portion of the new territory in Prince William County, for which approval is sought by this Amended Application,

is presently being served as a result of gradual growth and normal extensions from the present plant and facilities serving the Towns of Manassas and Dumfries. Said extensions resulting from the gradual growth of said markets are also served by gas transported by Applicant through said 8-inch gas transmission line, and no additional tap was required on the 20-inch interstate gas transmission line of Atlantic Seaboard Corporation to serve these extensions. At the time said extensions were made, no other natural gas company was ready, willing or able to serve the customers requesting gas and no other company has had, nor now has, facilities in that area from which these customers can be served.

A substantial portion of Prince William County, comprising the area occupied by the Quantico Marine Base, is being served through said 8-inch lateral line of Applicant under contract with the United States Government.

V.

page 178 } Applicant will continue to distribute and sell natural gas and furnish natural gas service in those portions of Prince William County, Virginia embraced within Certificate No. G-37, issued by this Commission, and embraced within the area operated as the Quantico Marine Base, all as shown on Map Exhibit 1 attached hereto. Applicant here proposes to amend said Certificate No. G-37 by adding, as additional territory, the entire balance of Prince William County.

VI.

In Loudoun County, Virginia, Applicant is authorized to serve that portion of the county shown on Map Exhibit 2, attached hereto and made a part hereof, colored in yellow, under its Certificate No. G-49, issued by this Commission on July 15, 1958. Applicant will continue to distribute and sell natural gas and furnish natural gas service in this portion of Loudoun County embraced within Certificate No. G-49, and here proposes to amend such certificate by adding thereto an additional territory shown on Map Exhibit 2, outlined in red. This proposed new area may be delineated as that area extending along and from a line 100 feet north of the 26-inch interstate gas transmission pipe line of Atlantic Seaboard Corporation south to the county boundaries of Fauquier, Prince William and Fairfax Counties. Applicant is advised it will be able to purchase all of its natural gas requirements

for the proposed service in said new territory of Loudoun County from its said supplier, Atlantic Seaboard Corporation.

page 179 } VII.

Applicant will be able to render the service for which it seeks authorization in this proceeding and such service will be made under the rules, requirements, specification and tariffs of Applicant now on file with and approved by this Commission.

VIII.

Applicant is advised, believes and therefore states that there is a public demand and necessity for the development of natural gas service in the new territory in Prince William and Loudoun Counties proposed to be included and authorized under Amended Certificates No. G-37 and No. G-49.

Applicant represents that the boundary lines of Prince William County, comprising a single political unit of the State of Virginia, constitute and are ideal boundaries for a service territory. Applicant further represents that it is highly desirable to connect its service area now certificated in Loudoun County with the areas which it now serves and proposes to serve in adjoining Prince William County; that it has the facilities and capacity already present in each of said counties available for those persons presently requiring retail natural gas service under the rules and tariffs page 180 } of Applicant now on file and approved by this Commission; that such facilities and capacity afford natural and economical basic installations from which gas service can be properly extended under the rules and regulations of this Commission in the most feasible and expeditious manner, both from the standpoint of gas customers in the Counties of Prince William and Loudoun and the gas distributor therein; and that the public interests and public convenience will be served by granting the amended certificates of public convenience and necessity herein sought by Applicant.

WHEREFORE, Applicant requests that Certificates No. G-37 and No. G-49 be amended and that it be issued certificates of public convenience and necessity authorizing it to operate, sell and distribute natural gas to domestic, commercial and industrial consumers in the proposed new territories as hereinbefore described and as shown on Map Ex-

hibits 1 and 2 attached hereto and made a part hereof, and to construct, enlarge and acquire all facilities necessary for use in such public utility's service in the proposed
page 181 } territories, and for such other purposes in respect to this Amended Application as the Commission may deem proper.

Respectfully submitted,

VIRGINIA GAS DISTRIBUTION CORPORATION
By /s/ W. P. DICK
Vice President.

/s/ THOMAS B. GAY, Esquire
HUNTON, WILLIAMS, GAY, MOORE & POWELL
Electric Building
Richmond 12, Virginia.

/s/ C. E. GOODWIN, Esquire
Virginia Gas Distribution Corporation
Post Office Box 1273
Charleston 25, West Virginia.

page 182 } State of West Virginia,
County of Kanawha, ss:

W. P. Dick, who executed the within application on behalf of Virginia Gas Distribution Corporation, being first duly sworn, says that he is Vice President of Virginia Gas Distribution Corporation; that the facts and allegations contained in the foregoing application are true, except so far as they are therein stated to be upon information, and that so far as they are therein stated to be upon information, he believes them to be true.

/s/ W. P. DICK.

Taken, sworn to and subscribed before me, a Notary Public of and for the County and State aforesaid, this 23rd day of October, 1958.

/s/ RUTH G. McCORMICK.

My commission expires September 23, 1964.

page 183 } COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, NOVEMBER 24, 1958.

CASE NO. 10314.

APPLICATION OF
WASHINGTON GAS LIGHT COMPANY

Under the Utility Facilities Act.

ON NOVEMBER 17, 1958 came again Virginia Gas Distribution Corporation by counsel and filed its petition for rehearing of the Commission's order of October 28, 1958.

NOW ON THIS DAY the Commission having fully considered said petition and the entire record herein is of the opinion that such petition should be denied and dismissed.

IT IS, THEREFORE, ORDERED:

(1) That the petition of Virginia Gas Distribution Corporation for a rehearing of the Commission's order of October 28, 1958 be denied and dismissed; and

(2) That an attested copy hereof be sent to each of counsel of record and to the Engineering Division of the Commission.

A True Copy.

Teste:

N. W. ATKINSON
Clerk of the State Corporation
Commission.

page 184 } COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

CASE NO. 10314.

January 2, 1959.

Application of
WASHINGTON GAS LIGHT COMPANY.

Opinion, CATTERALL, *Commissioner*.

Since about 1848, Washington Gas Light Company has sold gas in the District of Columbia. When the population of the District expanded into the adjoining states the company extended its mains to serve the suburbs. It first served Virginia territory through a subsidiary known as Rosslyn Gas Company. On December 31, 1953, it merged with Rosslyn and became a Virginia corporation.

Washington Gas Light purchases its supply of natural gas from Atlantic Seaboard Corporation, which is a wholly owned subsidiary of The Columbia Gas System, Inc. Virginia Gas Distribution Corporation is also a wholly owned subsidiary of The Columbia Gas System, Inc. It gets gas from Atlantic Seaboard's transmission lines and serves the Quantico Marine Base and other places in the northern Virginia region. The present controversy is actually between Washington Gas Light and the Columbia System.

By petitions filed July 11 and September 3, 1958, Washington Gas Light sought certificates of public convenience and necessity covering all of the northern Virginia region not already served by Virginia Gas.

page 185 } Before 1950, the State of Virginia did not require gas companies to have certificates of public convenience and necessity. There are some kinds of utilities that cannot serve the public efficiently and economically unless they have a territorial monopoly, and those utilities did have territorial monopolies before 1950; but their monopoly position rested on economic necessity and not on state law. The Utility Facilities Act was passed in 1950 for the purpose of encouraging the expansion of utility services throughout the state while avoiding the evils of border warfare between neighboring companies.

§56-265.3 of the new law confirmed existing companies in their existing territorial areas, and provided that no new company could enter the electric, gas, telephone, sewer or water business without a certificate. §56-265.2 forbids a company to go beyond its certificated territory without a new certificate.

The last paragraph of §56-265.3 is the one involved in the present case. It deals with those more thinly populated parts of the state where no utility is rendering service, where the present demand for service is insufficient to make immediate service economically possible, but where expanding population makes it appear that service will be needed before many years have passed.

That paragraph reads:

"On application by any company, the Commission, after formal hearing upon such notice to the public as the Commission may prescribe, may, by certificate of convenience and necessity, allot territory for development of public utility service by the applicant if the Commission finds such action in the public interest."

page 186

The Commission finds that the public interest requires the allotment of the territory in question for development by the applicant, the Washington Gas Light Company; and has therefore issued to it a certificate of convenience and necessity. By accepting the certificate, the company has put itself in a position where it *may* extend service whenever it thinks it can profitably do so, and where it *must* extend service whenever this Commission thinks that the public need *jusitifies* it.

The petitions of Washington Gas Light above referred to were set down for public hearing on October 2, 1958, by order dated September 4, 1958.

On September 15, 1958, Virginia Gas Distribution Corporation filed a petition to intervene and a motion to dismiss the applications on the ground that there was no immediate public need for service throughout the northern Virginia region. Apparently Virginia Gas did not understand the purpose of the statute that we have quoted. It objected to the allotment of territory for development by any company. It wanted the territory to remain open, because it might want to serve selected parts of the territory at some future date.

The question presented by the opposing claims is whether it is better to leave this region open for future scrambles to serve isolated fragments of the region, or whether it is more in the public interest to allot the whole territory for development by a single company.

page 187

The question is rendered more acute by reason of the fact that the contest is between the wholesaler and the retailer. The lines of the Columbia System run through the territory and it is thus possible for the wholesaler to make a profit by setting up one or more retail outlets along its lines. Thus the wholesaler could elect to serve some of the more profitable spots and let the retailer take care of the rest of the countryside.

After hearing the evidence and the arguments on October 2, the Commission was persuaded that Washington Gas Light ought to be allotted the whole region for future development.

The utility that serves a large city is best fitted to serve the outlying neighborhoods. Necessarily the more profitable part of the business of a public utility comes from the thickly settled metropolitan center. The people who live in and beyond the suburbs get better service at lower rates than if they were served by local suburban companies, because the utility charges the same rates in the suburbs that it does in the heart of the city.

During the course of the hearing it transpired that Virginia Gas had been operating illegally without any authority in various communities adjoining its certificated areas. The maps filed with Washington Gas Light's applications had been prepared on the assumption that Virginia Gas was operating properly. In order not to injure the innocent
page 188 } customers who were receiving gas from Virginia Gas illegally, the Commission directed both parties to file new maps. In the course of this procedure, the Commission gave Virginia Gas certificates for all the territory that it had been serving illegally, for all the territory that it had applied for, and for some additional territory that the Commission thought it should be prepared to serve.

As a result of the Commission's decision, Virginia Gas learned that the Commission interpreted the statute hereinbefore quoted to mean that territory could be alloted for future development. As a result of the necessity for preparing new maps (caused by Virginia Gas's illegal conduct) the Commission's final order in this case could not be entered until October 28. A few days before that day, Virginia Gas requested the Commission to allot the disputed territory to it instead of to Washington Gas Light. The entry of the order of October 28 allotting the territory to Washington Gas Light made it impossible to allot the same territory to Virginia Gas, and consequently the application of Virginia Gas was not set down for hearing. On November 17, Virginia Gas filed a petition for a rehearing, which was denied by order dated November 24th.

It seems to us to be clearly in the public interest and clearly within the intent of the applicable statute that this rapidly growing area around Washington be allotted now for future development instead of being left open for future
page 189 } isolated scrambles. Virginia Gas did not apply for an allotment of territory until after it learned that the Commission had decided to make the allotment to Washington Gas Light. Its dominant motive was to block Washington Gas Light. We have not the slightest doubt that the welfare of this region will be served better by allotting it

to Washington Gas Light Company instead of to Virginia Gas Distribution Corporation.

HOOKER, *Chairman,* and *DILLON,* Commissioner, concur.

page 190 } COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

RICHMOND

January 26, 1959.

CASE NO. 10314.

Application of
WASHINGTON GAS LIGHT COMPANY

For Amended and New Certificates under Utility Facilities Act

Virginia Gas Distribution Corporation having filed due notice of appeal in this case.

IT IS ORDERED that the original exhibits filed with the evidence and extracts from the annual reports of Virginia Gas Distribution Corporation and Washington Gas Light Company which were made a part of the record, numbered and described as follows, be certified and forwarded to the Clerk of the Supreme Court of Appeals of Virginia, to be returned by him to this Commission with the mandate of that Court:

Exhibit No.	*DESCRIPTION*
A	Proof of service by registered mail of the order of the State Corporation Commission of Sept. 4, 1958.
1	Map. Pipe lines, franchise areas and requested franchise area.
2	Map. Evolution of the National Capital. 1800-1947.
3	Public Law 592-82 Congress. To amend an Act relating to the National Capital Park and Planning Commission.
4	Washington Gas Light Co., growth in recent years, 1945-57.

Extracts, Annual Reports, Virginia Gas Distribution Corporation:

1955	Pages 12 and 13, Comparative Balance Sheet.
	Page 18, Income.
	Page 55, Taxes.
	Page 73, Operating Revenues.
	Pages 74 and 75, Sales by Communities.
1956	Same
1957	Same

page 191 } *Extracts, Annual Reports, Washington Gas Light Company*:

1955	Page 73, Operating Revenues.
	Pages 74 and 75, Sales, by Communities.
1956	Same
1957	Same

END.

A True Copy.

Teste:

N. W. ATKINSON
Clerk of the State Corporation Commission.

page 192 } COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

RICHMOND

CERTIFICATE.

Pursuant to an order entered herein on January 26, 1959, the exhibits listed therein are hereby certified to the Supreme Court of Appeals of Virginia, to be returned by the Clerk thereof to this Commission with the mandate of that Court.

It is further certified to the Supreme Court of Appeals of Virginia that the foregoing transcript of the record in this proceeding, with the exhibits, contains all of the facts upon which the action appealed from was based, together with all the evidence introduced before or considered by this Commission.

Witness the signature of H. Lester Hooker, Chairman of the State Corporation Commission, under its seal and attested by its Clerk this 26th day of January, 1959, at Richmond, Virginia.

H. LESTER HOOKER
Chairman.

Seal

Attest:

N. W. ATKINSON
Clerk.

CERTIFICATE.

I, N. W. Atkinson, Clerk of the State Corporation Commission, certify that within sixty days after the final order in this case Virginia Gas Distribution Corporation by Thomas B. Gay, Electric Building, Richmond 12, Virginia, and C. E. Goodwin, 1700 MacCorkle Avenue, S. E., Charleston, West Virginia, its Attorneys, filed with me a notice of appeal therein which had been delivered to C. Oscar Berry, 1100 H Street, N. W., Washington 5, D. C., opposing counsel, to Counsel for the State Corporation Commission, and to the Attorney General of Virginia, pursuant to the provisions of Section 13 of Rule 5:1 of the Rules of Supreme Court of Appeals of Virginia.

Subscribed at Richmond, Virginia, January 26, 1959.

N. W. ATKINSON
Clerk.

• • • • •

A Copy—Teste:

H. G. TURNER, Clerk.

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RULE 5:12—BRIEFS

§1. Form and Contents of Appellant's Brief. The opening brief of appellant shall contain:

(a) A subject index and table of citations with cases alphabetically arranged. The citation of Virginia cases shall be to the official Virginia Reports and, in addition, may refer to other reports containing such cases.

(b) A brief statement of the material proceedings in the lower court, the errors assigned and the questions involved in the appeal.

(c) A clear and concise statement of the facts, with references to the pages of the printed record when there is any possibility that the other side may question the statement. When the facts are in dispute the brief shall so state.

(d) With respect to each assignment of error relied on, the principles of law, the argument and the authorities shall be stated in one place and not scattered through the brief.

(e) The signature of at least one attorney practicing in this Court, and his address.

§2. Form and Contents of Appellee's Brief. The brief for the appellee shall contain:

(a) A subject index and table of citations with cases alphabetically arranged. Citations of Virginia cases must refer to the Virginia Reports and, in addition, may refer to other reports containing such cases.

(b) A statement of the case and of the points involved, if the appellee disagrees with the statement of appellant.

(c) A statement of the facts which are necessary to correct or amplify the statement in appellant's brief in so far as it is deemed erroneous or inadequate, with appropriate references to the pages of the record.

(d) Argument in support of the position of appellee.

The brief shall be signed by at least one attorney practicing in this Court, giving his address.

§3. Reply Brief. The reply brief (if any) of the appellant shall contain all the authorities relied on by him not referred to in his opening brief. In other respects it shall conform to the requirements for appellee's brief.

§4. Time of Filing. As soon as the estimated cost of printing the record is paid by the appellant, the clerk shall forthwith proceed to have printed a sufficient number of copies of record or the designated parts. Upon receipt of the printed copies or of the substituted copies allowed in lieu of printed copies under Rule 5:2, the clerk shall forthwith mark the filing date on each copy and transmit three copies of the printed record to each counsel of record, or notify each counsel of record of the filing date of the substituted copies.

(a) If the petition for appeal is adopted as the opening brief, the brief of the appellee shall be filed in the clerk's office within thirty-five days after the date the printed copies of the record, or the substituted copies allowed under Rule 5:2, are filed in the clerk's office. If the petition for appeal is not so adopted, the opening brief of the appellant shall be filed in the clerk's office within thirty-five days after the date printed copies of the record, or the substituted copies allowed under Rule 5:2, are filed in the clerk's office, and the brief of the appellee shall be filed in the clerk's office within thirty-five days after the opening brief of the appellant is filed in the clerk's office.

(b) Within fourteen days after the brief of the appellee is filed in the clerk's office, the appellant may file a reply brief in the clerk's office. The case will be called at a session of the Court commencing after the expiration of the fourteen days unless counsel agree that it be called at a session of the Court commencing at an earlier time; provided, however, that a criminal case may be called at the next session if the Commonwealth's brief is filed at least fourteen days prior to the calling of the case, in which event the reply brief for the appellant shall be filed not later than the day before the case is called. This paragraph does not extend the time allowed by paragraph (a) above for the filing of the appellant's brief.

(c) With the consent of the Chief Justice or the Court, counsel for opposing parties may file with the clerk a written stipulation changing the time for filing briefs in any case; provided, however, that all briefs must be filed not later than the day before such case is to be heard.

§5. Number of Copies. Twenty-five copies of each brief shall be filed with the clerk of the Court, and at least three copies mailed or delivered to opposing counsel on or before the day on which the brief is filed.

§6. Size and Type. Briefs shall be nine inches in length and six inches in width, so as to conform in dimensions to the printed record, and shall be printed in type not less in size, as to height and width, than the type in which the record is printed. The record number of the case and the names and addresses of counsel submitting the brief shall be printed on the front cover.

§7. Effect of Noncompliance. If neither party has filed a brief in compliance with the requirements of this rule, the Court will not hear oral argument. If one party has but the other has not filed such a brief, the party in default will not be heard orally.

C. K
SUPREME C. OF APPEALS
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RICHMOND, VIRGINIA