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Supreme Court of Appeals

Record No. 7091

In the
Supreme Court of Appeals of Virginia
at Richmond

CLERK
SUPREME COURT OF APPEALS
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RICHMOND, VIRGINIA

TRANSCONTINENTAL GAS PIPE LINE CORPORATION

v.

PRINCE WILLIAM COUNTY

FROM THE CIRCUIT COURT OF PRINCE WILLIAM COUNTY

RULE 5:12—BRIEFS

§5. Number of Copies. Twenty-five copies of each brief shall be filed with the clerk of this Court and three copies shall be mailed or delivered by counsel to each other counsel as defined in Rule 1:13 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. 7091

VIRGINIA:

In the Supreme Court of Appeals held at the Supreme Court of Appeals Building in the City of Richmond on Wednesday the 16th day of October, 1968.

TRANSCONTINENTAL GAS PIPE LINE CORPORATION, Plaintiff in error,

against

PRINCE WILLIAM COUNTY, Defendant in error.

From the Circuit Court of Prince William County
James Keith, Judge

Upon the petition of Transcontinental Gas Pipe Line Corporation a writ of error is awarded it to a final order entered by the Circuit Court of Prince William County on the 20th day of December, 1967, in a certain proceeding then therein depending, wherein the said petitioner was plaintiff and Prince William County was defendant; upon the petitioner, or some one for it, entering into bond with sufficient security before the clerk of the said circuit court in the penalty of $300, with condition as the law directs.

RECORD

* * * * *

page 2 }

* * * * *

APPLICATION FOR CORRECTION OF ERRONEOUS TAX ASSESSMENTS

To the Honorable Judges of the Circuit Court of Prince William County:

The applicant, Transcontinental Gas Pipe Line Corporation (Transco), by counsel, represents to the Court that:

1. Transco is a corporation organized and existing under the laws of the State of Delaware and duly authorized to transact business in Virginia.

2. Transco is a natural gas company within the terms of the Natural Gas Act of the United States (15 U.S.C.A. § 717 *et seq.*) and is engaged in the business of transporting natural gas in interstate commerce under certificates of public convenience and necessity issued by the Federal Power Commission for the construction and operation of its
page 3 } gas pipe lines and appurtenances; and pursuant to such certificates Transco has constructed and now owns, operates and maintains gas pipe lines and appurtenances thereto and other facilities and property in Prince William County, Virginia.

3. Prior to April 15, 1966, Transco filed with the State Corporation Commission of Virginia its annual report, as required by Section 58-588 of the Code of Virginia, listing its property in Virginia and giving the value of such property. A copy of pertinent portions of this report, consisting of seven pages, is attached hereto marked Exhibits A-1 through A-7, with entries respecting Prince William County marked in red.

4. Upon information and belief, Transco avers that thereafter, the State Corporation Commission assessed the value of such property as required by Virginia Code Section 58-590 and the Clerk of the Commission forwarded to the Board of Supervisors of Prince William County a certified copy of such Statement of Assessed Value showing the character of such property and its value and location for the purpose of

county taxation, as required by Virginia Code Section 58-592. A copy of the pertinent portion of such Statement of Assessed Value is attached hereto marked Exhibit B, with entries respecting Prince William County marked in red.

5. On October 20, 1966, Transco received from the Commissioner of the Revenue of Prince William County five tax statements for the year 1966, due on or before December 5, 1966, copies whereof are attached hereto marked Exhibits C-1, C-2, C-3, C-4 and C-5, respectively showing the following assessments:

page 4

REAL ESTATE:

Magisterial District	*Total Value*	*Tax Rate*	*Total County Tax*	*Exhibit Number*
Brentsville	$ 295,855	3.60	$ 10,650.78	C-1
Gainesville	5,017	3.60	180.61	C-2
Manassas	2,688,028	3.60	96,769.01	C-3
	Subtotal		$107,600.40	

TANGIBLE PERSONAL PROPERTY:

Gainesville	$ 12,624	5.65	$ 713.26	C-4
Manassas	45,936	5.65	2,595.38	C-5
	Subtotal		$ 3,308.64	
Total Tax on Tangible Personal Property and Real Estate			$110,909.04	

6. The foregoing taxes were determined by classifying Transco's property in Columns 1, 2 and 4 of Exhibit B as real estate, and classifying all other of Transco's property shown in Exhibit B as personal property. Transco avers that this was a proper classification.

7. On November 21, 1966 Transco received from the Commissioner of the Revenue of Prince William County two second or amended, personal property tax statements, copies of which are attached hereto marked Exhibits D-1 and D-2, and two memorandums of corrected real estate assessment, copies of which are attached hereto marked Exhibits D-3 and D-4. The effect of these amended statements is to assess Prince William County taxes for the year 1966 against Transco as follows:

page 5 } REAL ESTATE:

Magisterial District	*Total Value*	*Tax Rate*	*Total County Tax*	*Exhibit Number*
Brentsville	0	3.60	0	D-1
Gainesville	$ 5,017	3.60	$ 180.61	(No change)
Manassas	220,221	3.60	7,927.96	D-2
Subtotal			$ 8,108.57	

PERSONAL PROPERTY:

Brentsville	$ 295,855	5.65	$ 16,715.81	D-3
Gainesville	12,624	5.65	713.26	(No change)
Manassas	2,467,807	5.65	139,431.10	D-4
Subtotal			$156,860.17	
Total Amended Tax on Tangible Personal Property and Real Estate			$164,968.74	

The increase from the aggregate tax initially assessed to the aggregate tax shown by the amended assessments is $54,059.70.

8. This increase in tax assessed was brought about by the device of changing the classification of Transco's property in Prince William County so as to apply the higher tax rate on personal property to a greater portion of Transco's property, as follows:

(a) *Brentsville Magisterial District.* Underground gas mains having an assessed value of $295,855 and installed within permanent easements granted to Transco and within other areas under permits from The State Highway Commission of Virginia, other governmental authorities and public service corporations, were reclassified from real estate to personal property. (See column 4, Exhibit B at-
page 6 } tached.)

(b) *Gainesville Magisterial District.* No changes.

(c) *Manassas Magisterial District.* (i) Machinery having an assessed value of $1,625,833, affixed to real estate owned in fee simple by Transco, was reclassified from real estate to personal property. (See column 2, Exhibit B attached, and Exhibit A-3 attached.)

(ii) Underground gas mains having an assessed value of $841,974 and installed within permanent easements granted to Transco and within other areas under permits from The

State Highway Commission of Virginia, other governmental authorities and public service corporations, were reclassified from real estate to personal property. (See column 4, Exhibit B attached.)

(iii) The Commissioner of the Revenue apparently failed, in the amended statement of personal property tax, to levy any tax for the assessed value of automobiles and trucks (column 3A, Exhibit B), or for the value of furniture and miscellaneous equipment (column 3B, Exhibit B), or the value of materials and supplies (column 7, Exhibit B), owned by Transco in Prince William County and duly reported in the Statement of Assessed Value prepared by the State Corporation Commission.

9. Transco avers that all its property in Prince William County which has been reclassified from real estate to personal property, as more fully set forth in paragraph 8 of this application and the Exhibits therein referred to, is real estate, and not personal property, and therefore the amended personal property tax statements and corrected real estate assessments received by Transco on November 21 and attached hereto as Exhibits D-1, D-2, D-3 and D-4 are not uniform in application, and constitute an erroneous levy.

page 7

10. Transco avers that its property in Prince William County always has been classified in the manner described in paragraphs 5 and 6 of this Application, and the changes made by the Commissioner of the Revenue of Prince William County with respect to tax statements and assessments of property owned by Transco in Prince William County are contrary to law, are not in accordance with statutory procedure, were made without notice to Transco and without opportunity for Transco to be heard, in violation of due process of law, and constitute an erroneous levy.

11. Transco, upon information and belief, avers that alterations were made in the copy of the land book and personal property book after delivery to the county treasurer, in violation of Sections 58-807 and 58-885 of the Code of Virginia, and the assessments and levies made pursuant to such alterations are erroneous.

12. Transco has by its check dated November 23, 1966 and received by the Treasurer of Prince William County on or about November 25, 1966, paid the initial tax statements in the correct amount of One Hundred Ten Thousand Nine Hundred Nine and 04/100 Dollars ($110,909.04), but has re-

fused to pay the amount by which the amended tax statements and assessments are erroneous.

Wherefore, Transco makes this application under the authority of Section 58-1145 of the Code of Virginia and prays that (a) the Commonwealth's Attorney for Prince
page 8 } William County be directed to defend this Application; (b) the Commissioner of the Revenue of Prince William County be examined as a witness touching this Application; (c) the tax statements and assessments attached hereto as Exhibits D-1, D-2, D-3 and D-4 be declared erroneous and that such statements and assessments be corrected by classifying Transco's property as shown in paragraphs 5 and 6 hereof, and reducing the assessment to the amounts stated in the initial tax statements received by Transco attached hereto as Exhibits C-1, C-2, C-3, C-4 and C-5; (d) the Commissioner of the Revenue and the Treasurer of Prince William County, Virginia, or other proper officer, be directed to rescind the statements and assessments attached hereto as Exhibits D-1, D-2, D-3 and D-4; (e) an order exonerating applicant from the payment of so much of the statements and assessments as is erroneously levied be entered and delivered to the tax collecting officer of Prince William County, Virginia, restraining him from collecting the tax erroneously assessed; and (f) the Court enter such further orders as it deems proper.

Transcontinental Gas Pipe Line
Corporation

By Ralph H. Ferrell, Jr.
Counsel

* * * * *

Filed in the Clerk's Office the 27 day of Dec., 1966.

Teste:

Leda S. Thomas, Clerk

....., D.C.

* * * * *

page 11 }

* * * * *

ORDER

This day came the applicant, Transcontinental Gas Pipe Line Corporation, by counsel, its Application for Correction of Erroneous Tax Assessments having been filed on December 27, 1966, and served on the Commonwealth's Attorney and the Commissioner of the Revenue of Prince William County on December 28, 1966, and moved the Court to docket the same.

Upon consideration where of the Court doth order that such Application be docketed, and that the respondent, Prince William County, be given 21 days after service of such Application as aforesaid, within which to file responsive pleadings, if it be so advised.

January 4, 1967

Enter: G. V. Bryan, Jr., Judge

* * * * *

page 12 }

* * * * *

DEMURRER

Comes now the Respondent, Prince William County, Virginia, by Counsel and says that the Application for Correction of Erroneous Tax Assessments is insufficient of law, because of the facts alleged do not show any grounds for relief requested by the Applicant.

Prince William County, Virginia

By: H. Selwyn Smith
Counsel

* * * * *

Filed 1/19/67

L. E. Atley, Clerk/Deputy Clerk

page 13 }

* * * * *

MOTION TO DISMISS

The Respondent, Prince William County, Virginia, by Counsel moves the Court to dismiss this Application for Correction of Tax Assessments for reason that the Circuit Court of Prince William County is without jurisdiction in that the matter should have been brought in the Circuit Court for the City of Richmond pursuant to Title 58, Section 676 and 677 of the Code of Virginia.

Prince William County, Virginia

By: H. Selwyn Smith
Counsel

Filed 1/19/67

L. E. Atley, Clerk/Deputy Clerk

page 14 }

* * * * *

ANSWER

For answer for the Application for Correction of the Erroneous Tax Assessment, the Respondent, the County of Prince William, Virginia answers as follows:

1. It admits paragraphs 1, 2, 4, 5, 7 and 8b of the said Application.

2. It denies paragraphs 3, 6, 8, 8a, 8c, 8(ii), 8(iii), 9, 10, 11, 12.

3. For further answer, the Respondent answers and says that the complaint of which the Applicant is *agrieved* is not an erroneous assessment, but the fact that the Commissioner of Revenue made a correction of an erroneous application of the Prince William County levies to assessments made by the State Corporation Commission, when the original statements, Applicant's Exhibits C-1, C-2, C-3, C-4, and C-5, were made.

And having fully answered, the Respondent requests that this Application be dismissed.

Prince William County, Virginia

By: H. Selwyn Smith

* * * * *

Filed 1/19/67

L. E. Athey, Clerk/Deputy Clerk

* * * * *

page 16 }

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REQUEST FOR ADMISSIONS

* * * * *

Pursuant to Rule 4:11 of the Rules of the Supreme Court of Appeals of Virginia, as amended effective February 1, 1967, the Applicant (Transco) requests the Respondent, Prince William County, by or through its authorized officer or agent, to admit for the purposes of this proceeding only and subject to all pertinent objections to admissibility which may be imposed at the trial, within 15 days after service of this request, the truth of the following matters of fact:

a. Prior to April 15, 1966, Transco filed with the State Corporation Commission of Virginia its annual report, listing its property in Virginia and giving the value of such property. Copies of pertinent portions of this report, page 17 } consisting of seven pages, were attached to the Application heretofore filed, marked Exhibits A-1 through A-7, with entries respecting Prince William County marked in red, and copies thereof have been furnished to counsel for Respondent.

b. The five tax statements for the year 1966, due on or before December 5, 1966, prepared by and mailed to Transco by the Commissioner of the Revenue of Prince William County about October 20, 1966 (copies of which were attached to the Application heretofore filed marked Exhibits C-1, C-2, C-3, C-4 and C-5, respectively, copies whereof have

been furnished to counsel for Respondent), were determined by classifying Transco's property in Columns 1, 2 and 4 of Exhibit B (attached to the Application heretofore filed and a copy whereof has been furnished to counsel for Respondent) as real estate, and classifying all other of Transco's property shown in said Exhibit B as personal property.

c. The corrected assessments by the Commissioner of the Revenue involved in this proceeding were made in the copy of the land book and personal property book after such books were delivered to the County Treasurer.

d. In changing the classification of Transco's property in the Brentsville Magisterial District of Prince William County the Commissioner of the Revenue reclassified from real estate to tangible personal property underground gas mains within permanent easements granted to Transco and within other areas under permits from the State Highway Commission of Virginia and other governmental authorities and public service corporations, having an assessed value of $295,855.

e. In changing the classification of Transco's
page 18 } property in the Manassas Magisterial District of Prince William County the Commissioner of the Revenue reclassified from real to tangible personal property (i) machinery affixed to real estate owned in fee simple by Transco having an assessed value of $1,625,833; (ii) underground gas mains within permanent easements granted to Transco and within other areas under permits from the State Highway Commission of Virginia and other governmental authorities and public service corporations having an assessed value of $841,974; and (iii) made no change in the assessed value of automobiles and trucks of $3,585, or the assessed value of furniture and fixtures and miscellaneous equipment (excluding automobiles and trucks) of $28,179, or the assessed value of materials and supplies of $26,796; all of which had been reported in the Statement of Assessed Value prepared by the State Corporation Commission.

f. By check dated November 23, 1966 and received by the Treasurer of Prince William County on or about November 25, 1966, Transco has paid the initial tax statements in the amount of One Hundred Ten Thousand Nine Hundred Nine and 04/100 Dollars ($100,909.04), and Transco has refused to pay the amounts by which the amended tax statements

and assessments were increased over the original tax statements and assessments by the Commissioner of the Revenue.

Transcontinental Gas Pipe Line
Corporation

By Ralph H. Ferrell, Jr.
Counsel

* * * * *

Filed Feb 6 1967

Leda S. Thomas, Clerk

* * * * *

page 20 }

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GROUNDS OF DEMURRER

For the grounds of demurrer heretofore filed, the Respondent alleges the following:

1. The Applicant admits in paragraph Four (4) that, "the State Corporation Commission assessed the value of such property as required by Virginia Code Section 58-590 and the Clerk of the Commission forwarded to the Board of Supervisors of Prince William County a certified copy of such statement of assessed value showing the character of such property and its value and location for the purpose of county taxation as required by Virginia Code Section 58-592".

2. Virginia Code Section 58-596 provides that there shall be local levies extended on the real estate and tangible personal property of corporations coming under the provisions of the article, the same as upon other real estate and tangible personal property of the locality.

3. Virginia Code Section 58-851 provides that governing bodies of any county may impose one rate of levy or real estate and another rate on tangible personal

page 21 } property.

4. The Applicant admits in its paragraph Seven (7) that the corrected statement of taxes owed upon real estate was arrived at by extending the local real estate levy

to column One (1) of their Exhibit "B", titled "Value of land and improvements thereon". This is the value fixed by the State Corporation Commission.

5. The Applicant also admits in its paragraph Eight (8) that the corrected statement of taxes owed upon personal property was arrived at by extending the local personal property levy to all other columns of property on their Exhibit "B". These columns show the value as fixed by the State Corporation Commission of all property other than real estate and improvements.

6. Virginia Code Section 58-597 provides that real estate and tangible personal property of a pipe line transmission company shall be assessed on the valuation fixed by the State Corporation Commission.

7. Virginia Code Section 58-1142 permits the Commissioner of Revenue to correct an erroneous assessment and to certify a correction to the Treasurer of the correct tax.

Prince William County, Virginia

By: H. Selwyn Smith

* * * * *

Filed March 13 1967

Betty Thurston, Deputy Clerk

* * * * *

page 23 }

* * * * *

ANSWER TO REQUEST FOR ADMISSIONS

1. The Respondent, relying upon what it believes to be reliable information, admits paragraph "A".

2. The Respondent has heretofore admitted and does again admit the allegation as contained in paragraph "B".

3. Paragraph "C" is denied, assessments were corrected pursuant to Section 58-1142 of the Code of Virginia.

4. The Respondent does not admit paragraph "D" for reason that it does not know what the property valued by the State Corporation Commission consisted of or where it is located; it does admit that the property valued in column

Four (4) of Exhibit "B" was treated in the correction made by the Commissioner of Revenue as tangible personal property.

5. The Respondent does not admit paragraph "E" for reason that it does not know whether the machinery is affixed to real estate owned in fee simple by the Company, or where the mains are located; however, the Respondent does admit that, in Manassas Districts, the property assessed by the State Corporation Commission in Columns Two page 24 } (2) and Four (4) of Exhibit "B" was treated in the correction made by the Commissioner of Revenue as tangible personal property along with that in columns 3A, 3B and 7.

6. The Respondent admits paragraph "F".

Prince William County, Virginia

By: H. Selwyn Smith
Counsel

* * * * *

Filed March 15 1967

Leda D. Thomas, Clerk

* * * * *

page 65 }

Fairfax County Courthouse,
Fairfax, Virginia, 22030,
April 4, 1967.

Mr. W. Hill Brown, Jr.
Attorney at Law,
National Bank Building,
Manassas, Virginia.

Mr. H. Selwyn Smith,
Commonwealth's Attorney,
Post Office Box 289,
Manassas, Virginia.

Re: Transco v. Prince William Co;
At Law No. 3742.

Gentlemen:

I have considered the pleadings, the oral arguments and the memoranda of authorities submitted in this cause and it is my opinion that the demurrer should be overruled and the motion to dismiss should be denied. The question raised is whether this Court has jurisdiction to hear and determine this cause. A reading of the applicable constitutional and statutory provisions will show that it does.

a. Section 171 of the Constitution segregates real estate and tangible personal property for local taxation and provides they "shall be assessed—in such manner—as the General Assembly—may prescribe by general laws."

b. Section 169 of the Constitution provides, however, that real estate and tangible personal property of public service corporations "shall be assessed by the State Corporation Commission—in the manner prescribed by law."

c. Sections 58-588, et seq., of the Code deal with pipeline companies and prescribe the means whereby each company's property is assessed and taxed.

Every company is required to report annually to the commission an *itemized* report of its real and personal property.

page 66 The itemization required is fixed by the Commission, but as pointed out by Judge Catterall in his Memorandum, the Commission does not undertake to categorize these items as "real" or "personal." Based upon this report the Commission "assesses the value of the property." The Commission furnishes to the Board of Supervisors a copy of the "assessment of value" of the corporation's real and personal property, "which shall definitely show the character of the property," its value and location for the purpose of taxation. The real and personal property of such corporation "shall be assessed on the valuation fixed by the Commission" with county taxes.

d. Finally Section 58-839 provides that the Supervisors shall order the levy on real estate and taxable personal property of public service corporations based on the assessment fixed by the Commission.

From the foregoing it appears that the value of the corporation's property is fixed by the Commission. It reports this valuation to the County. The Commission report shows the character of the property but does not undertake to determine whether it is real or personal. This determination is made at the county level.

Therefore when a county levy is imposed on an item re-

ported by the Commission, and the county applies the personal property rate rather than the real property rate, the taxpayer is not aggrieved by any action of the Commission.

The only question remaining is whether the taxpayer is entitled to relief under 58-1145. Under the rule of *Hoffman* v. *Augusta County,* 206 Va. 799, I find that the relief is available under this section.

To summarize, it might be well to paraphrase the Court in the Hoffman case to clarify the situation in the case at bar: "Under the system of taxation provided by these code sections, the assessment of the value of the property of the pipe line company is fixed by the State Corporation Commission every year. But an assessment of taxes is made upon such property by using such fixed valuation and applying the tax rate fixed by the levy. In this system of taxation the duality of the word *assessment* has been made clearly apparent by the Legislature."

Messrs. Brown and Ferrell can prepare an order
page 67 } in accordance with the foregoing and submit it to
Mr. Smith to afford him the opportunity to state his exceptions.

Very truly yours,

James Keith.

JK:elc

Copy to:
Mr. Ralph H. Ferrell, Jr.,
c/o Hunton, Williams, Gay, Powell & Gibson,
700 E. Main Street,
Richmond, Virginia. 23212

Filed 4/5/67

L. E. Athey, D.C.

page 68 }

* * * * *

ORDER

This action came on to be heard on March 15, 1967, upon the Respondent's Demurrer and Motion to Dismiss and was argued by counsel.

Whereupon, the Court, after hearing argument and con-

sidering the pleadings and the memoranda of authorities submitted by counsel for the parties, is of the opinion that the Respondent's Demurrer should be overruled and the Respondent's Motion to Dismiss should be denied for the reasons stated in the Court's opinion letter, dated April 4, 1967, a copy of which is filed herewith.

ACCORDINGLY, the Demurrer is overruled
page 69 } and the Motion to Dismiss is denied, and this action is continued.

To these rulings, the Respondent, by counsel, noted its exceptions.

Enter this 27th day of April, 1967.

James Keith, Judge

* * * * *

page 70 }

* * * * *

STIPULATION

Subject to objections as to relevancy and without prejudice to the right of either party to introduce other and further evidence not inconsistent herewith, the parties by counsel hereby stipulate the following:

1) That the State Corporation Commission assessed the value of all property of the Transcontinental Gas Pipe Line Corporation, and the Clerk of the Commission forwarded to the Board of Supervisors of Prince William County a certified copy of such statement of assessed valuation showing the character of such property and its value and location for county taxation. A copy of pertinent portions of such statement of assessed value is attached to this stipulation and marked Exhibits K-1, and K-2, with entries respecting Prince William County marked in red.

2) That Transcontinental Gas Pipe Line Corporation received and paid tax bills on property assessed in Prince William County, Virginia, for the years of 1963, 1964 and 1965. Copies of said bills having been stamped "Paid" are on file in the Treasurer's Office of Prince William County and the copies thereof are attached to this stipulation and marked Exhibits L-1, L-2 and L-3.

page 71 } 3) That for the years 1963, 1964 and 1965, the

Commissioner of the Revenue of Prince William County, Virginia, assessed all classes of property of the Transcontinental Gas Pipe Line Corporation as personal property.

4) That the Transcontinental Gas Pipe Line Corporation paid the 1963, 1964 and 1965 taxes by checks with stubs or invoices attached as is shown on Exhibits M-1, M-2 and M-3.

Transcontinental Gas Pipe Line Corporation

By Ralph H. Ferrell, Jr., Counsel

Prince William County, Virginia

By H. Selwyn Smith,
Commonwealth's Attorney

Filed Oct 4/67 J. S.

page 72 }

* * * * *

STIPULATION

Subject to objections as to relevancy and without prejudice to the right of either party to introduce other and further evidence not inconsistent herewith, the parties by counsel hereby stipulate the following:

1. Transcontinental Gas Pipe Line Corporation (Transco) is a corporation organized and existing under the laws of the State of Delaware and duly authorized to transact business in Virginia.

2. Transco is a natural gas company within the terms of the Natural Gas Act of the United States (15 USCA § 717 *et seq.*) and is engaged in the business of transporting natural gas in interstate commerce under certificates of public convenience and necessity issued by the Federal Power Commission for the construction and operation of its gas pipe lines and appurtenances; and pursuant to such certificates Transco has constructed and now owns, operates page 73 } and maintains gas pipe lines and appurtenances thereto and other facilities and property in Prince William County, Virginia.

3. Prior to April 15, 1966, Transco filed with the State Corporation Commission of Virginia its annual report, listing its property in Virginia and giving the value of such property. A copy of pertinent portions of this report, consisting of eight pages, is attached to Transco's application herein marked Exhibits A-1 through A-7, with entries respecting Prince William County marked in red.

4. The State Corporation Commission assessed the value of such property, and the Clerk of the Commission forwarded to the Board of Supervisors of Prince William County a certified copy of such Statement of Assessed Value showing the character of such property and its value and location for county taxation. A copy of the pertinent portions of such Statement of Assessed Value is attached to Transco's application herein marked Exhibits B-1 and B-2, with entries respecting Prince William County marked in red.

5. On October 20, 1966, Transco received from the Commissioner of the Revenue of Prince William County five tax statements for the year 1966, due on or before December 5, 1966, copies whereof are attached to Transco's application herein marked Exhibits C-1, C-2, C-3, C-4, and C-5, respectively, showing the following assessments:

page 74 } REAL ESTATE:

Magisterial District	*Total Value*	*Tax Rate*	*Total County Tax*	*Exhibit Number*
Brentsville	$ 295,855	$3.60	$ 10,650.78	C-1
Gainesville	5,017	3.60	180.61	C-2
Manassas	2,688,028	3.60	96,769.01	C-3
	Subtotal		$107,600.40	

TANGIBLE PERSONAL PROPERTY:

Gainesville	$ 12,624	$5.65	$ 713.26	C-4
Manassas	45,936	5.65	2,595.38	C-5
	Subtotal		$ 3,308.64	
Total tax on real estate and tangible personal property			$110,909.04	

6. The foregoing taxes were determined by classifying Transco's property in Columns 1 (Value of land and improvements thereon), 2 (Value of machinery), and 4 (Value of mains) of Exhibit B-2 as real estate, and classifying all of Transco's other property shown in Exhibit B-2 as personal property.

7. On November 21, 1966, Transco received two memoranda of Corrected Assessment by the Commissioner of the Revenue of Unpaid Local Levies, copies of which are attached to Transco's application herein marked Exhibits D-1 and D-2, and two personal property tax statements from the Treasurer of Prince William County attached to Transco's application herein marked Exhibits D-3 and D-4. The effect of these memoranda and tax statements is to
page 75 } change the assessment of Prince William County taxes for the year 1966 against Transco as follows:

REAL ESTATE:

Magisterial District	*Total Value*	*Tax Rate*	*Total County Tax*	*Exhibit Number*
Brentsville	$ none	$3.60	$ none	D-1
Gainesville	5,017	3.60	180.61	C-2 (no change)
Manassas	220,221	3.60	7,927.96	D-2
Subtotal			$ 8,108.57	

TANGIBLE PERSONAL PROPERTY:

Brentsville	$ 295,855	$5.65	$ 16,715.81	D-3
Gainsville	12,624	5.65	713.26	C-4 (no change)
Manassas	2,467.807	5.65	139,431.10	D-4
Manassas	45,936	5.65	2,595.38	C-5 (no change)
Subtotal			$159,455.55	
Total tax on real estate and tangible personal property			$167,564.12	

The increase over the aggregate tax initially assessed of the aggregate tax as so revised is $56,474.47.

8. This increase in taxes assessed was the result of changing the classification of Transco's property in Prince William County so as to apply the tax rate applicable to personal property to a greater portion of Transco's property, as follows:

(a) *Brentsville Magisterial District.* Underground gas mains having an assessed value of $295,855 were
page 76 } reclassified from real estate to personal property (see Column 4, Exhibit B-2, attached to Transco's application herein).

(b) *Gainsville Magisterial District.* No change.

(c) *Manassas Magisterial District.*

(i) Machinery having an assessed value of $1,625,833 was reclassified from real estate to personal property (see Column 2 of Exhibit B-2, and Exhibit A-3 attached to Transco's application herein).

(ii) Underground gas mains having an assessed value of $841,974 were reclassified from real estate to personal property (see Column 4, Exhibit B-2, attached to Transco's application herein).

(iii) The Commissioner of the Revenue did not levy any additional tax or change the assessed value of the following personal property: automobiles and trucks (Column 3-A, Exhibit B-2, attached to Transco's application herein); furniture and fixtures and miscellaneous equipment (Column 3-B, Exhibit B-2, attached to Transco's application herein); and materials and supplies (Column 7, Exhibit B-2, attached to Transco's application herein) owned by Transco in Prince William County and reported in the Statement of Assessed Value by the State Corporation Commission.

page 77 } 9. A copy of the Extension of Local Levies on Real Estate and Tangible Personal Property of Public Service Corporations in Prince William County for the Tax Year 1966, certified by the Commissioner of the Revenue on September 30, 1966, and filed on or about the same date with the County Treasurer, was used as the basis of the original tax statements of October, 1966, and is filed herewith marked Exhibit E. A copy of Supplemental I Extension of Local Levies on Real Estate and Tangible Personal Property of Public Service Corporations in Prince William County for the Tax Year 1966, certified by the Commissioner of the Revenue on November 15, 1966, and filed on or about the same date with the County Treasurer, which reclassified as tangible personal property certain property previously assessed as real estate was used as the basis of the aforesaid corrected assessments of November, 1966, and is filed herewith marked Exhibit F.

10. By check dated November 23, 1966, received by the Treasurer of Prince William County on or about November 25, 1966, Transco paid the initial tax statements in the amount of $110,909.04, but has refused to pay the amount of the increase in taxes as shown by the November, 1966, tax statements in the amount of $56,474.47, upon the ground that such increase is erroneous.

11. All of Transco's underground gas transmission pipe lines in Prince William County, namely, its main lines A,

B and C, consisting of approximately 21.94 miles of 30-inch outer diameter (O.D.) steel pipe and approxi-
page 78 } mately 10.97 miles of 36-inch O.D. steel pipe, are buried underground at such depth that there is at least 30 inches between the top of the pipes and the normal surface of the ground.

12. The following As-Built Alignment Sheets, filed herewith, show the location of Transco's gas transmission pipe lines in Prince William County:

Sheet Number	*Exh. No.*
VR-66, revised to 3-15-67	G-1
VR-67, revised to 3-16-67	G-2
VR-68, revised to 3-2-67	G-3
VR-69, revised to 1-14-66	G-4
VR-70, revised to 11-21-63	G-5

13. All of Transco's aforementioned gas transmission pipe lines are essential parts of Transco's interstate gas transmission system. They have been laid within easements of right of way granted Transco in perpetuity by the respective fee owners of the land and under permits from the Virginia Department of Highways, other governmental authorities and public service corporations or on land owned in fee by Transco. Such gas transmission pipe lines are a permanent part of Transco's system and will remain in place for their normal life, subject only to the necessities of replacement, maintenance and repair.

14. Transco's right of way and easement agreements in Prince William County are recorded in the Clerk's Office of the Circuit Court of Prince William County, and they and the aforesaid permits are listed in the "Virginia Property Descriptions" Schedules to the Second, Fifth, Sixth, Twelfth, Thirteenth and Fourteenth Supplemental Inden-
page 79 } tures to the Mortgage and Deed of Trust, dated May 15, 1949, from Transcontinental Gas Pipe Line Corporation to Chase Manhattan Bank (successor to Chase National Bank of the City of New York) and Arthur F. Henning (successor to Carl E. Buckley), as trustees, which instruments also are recorded in the Clerk's Office of the Circuit Court of Prince William County. Copies of the portions of such schedules that relate to Prince William County are filed herewith marked Exhibits H-1 through H-6.

15. Transco has 32 right of way and easement agreements from the fee owners of the land in Prince William County for a distance of approximately 10.437 miles.

16. Transco has permits from the Virginia Department of Highways for 11 highway crossings in Prince William County for a distance of approximately 0.17 miles and a permit for one railroad crossing for a distance of approximately 0.13 miles. Transco's compressor station No. 185 is located on a tract of land owned in fee. The distance of its pipe lines under such tract is approximately 0.30 miles.

17. Transco has constructed its gas transmission pipe lines and appurtenant facilities in Prince William County, including its compressor station No. 185 and equipment therein and its microwave structures and equipment, under certificates of public convenience and necessity issued by the Federal Power Commission to Transco authorizing their construction and operation for the transportation and sale of natural gas in interstate commerce, as follows:

page 80 }

Project	*FPC Docket Number*	*Date of Certification*
10.97 miles of 30″ main line A	G 1277	4-28-50
10.97 miles of 30″ main line B	G 10000	7-11-56
.73 miles of 36″ main line C	CP 62-86	5-17-62
10.24 miles of 36″ main line C	CP 65-181	6-25-65
10,000 HP compressor at station 185	G 12059	6-12-57
2,000 HP additional compressor at station 185	CP 61-194	4-27-62
2,000 HP additional compressor at station 185	CP 62-86	5-17-62
4,000 HP additional compressor at station 185	CP 63-84	3-8-63
Microwave structures and equipment at microwave site 187	G 1277	4-28-50
Additional microwave structures and equipment at microwave site 187	G 12059	6-12-57
Microwave equipment at microwave site 187 and station 185	G 12059	6-12-57

All of the foregoing certificates of public convenience and necessity are in effect at the present time.

18. The photographs filed herewith marked Exhibits I-1 through I-25, inclusive, portray accurately the subject matter hereinafter described as follows:

I-1. The Company sign at the entrance road to Transco's

compressor station 185 located near Manassas in Prince William County, Virginia.

I-2. The entrance road to compressor station 185. From left to right: the small meter and regulator building, the main compressor building, the office-shop-and-
page 81 } warehouse building, and the pipe line department district warehouse building.

I-3: The office-shop-and-warehouse building. The front part with the window awnings is the office section; the center section is the warehouse area; and the end section on the far right is the shop area. The microwave tower at station 185 is behind the building on the right. To the far right, on the outside of the building is the stack to the heating boiler that provides steam heat to the several buildings at compressor station 185.

I-4: Interior view of a portion of the office at compressor station 185.

I-5: A portion of the warehouse section in the office-shop-and-warehouse building. Three-deck storage cabinets are on the left. Many small spare parts necessary for the operation and maintenance of compressor station 185 are stored in these cabinets. The panels mounted on rollers are gasket boards where replacement gaskets are stored. The steps on the far right lead to an overhead storage area where many of the larger spare parts and supplies necessary for the operation and maintenance of compressor station 185 are stored.

I-6: A portion of the shop area in the office-shop-and-warehouse building. In the foreground is the shop lathe. In the right center is the end of the boiler that supplies steam heat to the buildings at compressor station 185. In the right background is the gas engine that drives the elec-
page 82 } tric generator shown in the center. This generator is a "stand by" for use in operating this station when electric power, purchased from Prince William Electric Cooperative, is interrupted. The emergency generator as sures continuity of service because it can provide the electric power to run all motors and provide all lighting and other electric requirements at the compressor station. To the left is a portion of the electric switchboard controlling various pump motors. Some of these pump motors are shown in I-18.

I-7: A view of one end of the main compressor building in which the nine engines that pump the natural gas are located. On the near side of this building are air-intake filters and

exhaust mufflers, explained in more detail in the description of I-8.

I-8: Exterior of the main compressor building showing the 9 air-intake filters and the 9 exhaust mufflers for the 9 main compressor engines. The horizontal vessels with short vertical stacks are the mufflers suppressing the exhaust noise from the main units. The vertical vessels on the ground between each of the exhaust mufflers are air-intake filters that purify the air drawn into the combustion chambers of the 9 main compressor engines. In the combustion chambers the air is mixed with fuel gas, and the mixture is ignited by a spark plug, providing the driving force of the engine. These air-intake filters rest on concrete foundations that
page 83 } are approximately one foot above and 5½ feet below ground level.

The building partially shown on the left is the pump building, shown and described in I-18. The vertical tank next to the pump building is a surge tank which is an integral part of the engine jacket-water system required to cool the main compressor engines. The surge tank provides for uniform water pressure in this *sytem.*

I-9. View of the "flywheel end" of the 9 main compressor engines in the compressor building. On the left are large pipes that bring natural gas into each of the 9 main units where it is compressed. The view of the first engine, on the extreme left, shows the protective cover mounted over the engine's flywheel. On the right are instrument panel boards for each engine.

I-10: View of the main engines from the end opposite to that shown in I-9. The stairways on both sides of each engine provide access to the top of the engines. A turbocharger is mounted on each engine at the head of its pair of stairways. The pipes that go overhead from the engines to the building wall carry air, water, oil and exhaust to and from the main engines.

I-11: View from the catwalk on top of one of the main engines. On the second engine from the front, both turbochargers can be seen. The shiny pipe (insulated and covered with a stainless steel jacket) coming from the turbocharger on the right and passing over the engine and out through the building wall on the left carries the exhaust from the turbocharger.

page 84 } On the second engine, the tops of 6 of its 12 power cylinders are visible. This is a V-type engine, and the other 6 cylinders are on the opposite side. The

engine is rated at 2,000 horsepower and is approximately 22 feet long, 16 feet wide, and 12 feet high, and weighs approximately 180,000 pounds.

The instrument panel boards shown in I-9 are on the operating floor next to the wall on the right.

On each wall there are several space heaters supplied by the steam boiler shown in I-6. Two exhaust fans are mounted in the far wall.

I-12: The basement of the main compressor building. The large blocks of concrete on the right are the foundations of the main compressor engines. Each foundation block is approximately 10 feet high, 22 feet long and 18 feet wide. The vertical vessels mounted at the end of each engine foundation are fuel gas volume bottles that supply fuel gas to each compressor engine at a constant pressure.

The large overhead pipes are located just below the main compressor building operating floor. They bring the natural gas from the headers, which are the large pipes located outside the main compressor building, shown in I-14, to the main engines to be compressed and returned to such headers after compression. Two pipes of medium size are mounted on supports against the basement wall on the left. The smaller pipe supplies compressed air for starting the main compressor engines; the larger pipe carries fuel gas to each
page 85 } engine.

The two small pipes linked to the inner leg of each support are utility and instrument air lines and are necessary to operate the main compressor engines.

I-13: The opposite side of the basement of the main compressor building from that seen in I-12. The large vessels on the right are oil filters. About 600 gallons of oil are circulated through each engine and are pumped through these filters for purification.

The three large pipes on the left are additional headers for operating the main compressor engines. The lower two pipes circulate water to and from the main compressor engines for cooling the lubricating oil. The top pipe receives cooling jacket-water from these engines. The header that sends jacket-water to these engines is not shown, but appears in I-11 above the space heaters on the left.

The small pipes adjacent to the three large ones are an oil drain header, a water drain header, and a utility air supply header, all of which are required to operate the main compressor engines.

I-14: View from the catwalk running the length of the

outside of the main compressor building. The two headers going diagonally from the left to the center are natural gas headers. The header near the building is the suction header, which brings gas from the main gas transmission lines to each compressor engine. The other header is the discharge header which takes the gas, after it is compressed

page 86 } by the main compressor engines back to the main gas transmission lines. To the left of the catwalk on each of the suction and discharge headers are valves used to close off the gas to and from any main compressor engine when not in service.

I-15: The large vertical vessels are gas-scrubbers. As the gas comes from the gas transmission pipe lines into the station, it is scrubbed to remove impurities before it enters the main compressor engines. Large above ground pipes in front of the scrubbers transport clean gas into the suction header shown in I-14. Each scrubber rests on a concrete foundation that is roughly 6.5 feet square and 7 feet thick (1 foot above ground and 6 feet below ground).

I-16: Two of the gas-scrubbers shown in I-15 are on the right. The purpose of the four vessels in the center is to store the scrubber oil, pump it to and from the natural gas-scrubbers and purify the contaminated scrubber oil.

I-17: The building on the right houses the pumps shown in I-18. On the left are radiators for cooling the water circulating through the main compressor engines. Large blower fans are mounted on concrete blocks under the radiator sections.

I-18: View of the inside of the building housing the pumps that circulate the cooling water referred to in I-17. The electric motors that drive these pumps are on both sides of this building. These pumps are located behind

page 87 } the individual motors and cannot be seen in this picture. The large valves with hand wheels are used to shut off the flow of cooling water.

I-19: The large upright tank on the right stores 80,000 gallons of raw water for use at the compressor station. The elevated horizontal vessels near ground level contain compressed air used for starting the main compressor engines. Behind them are the radiator coolers shown in I-17. The microwave radio tower in the background is described in I-25.

I-20: View of the meter building, which contains equipment for metering the fuel gas used to operate the main compressor engines. Attached to the piping on the outside of this

building is a relief valve that will open if gas pressure exceeds safe limits.

I-21: A general view of the above ground piping arrangement from the three gas transmission pipe lines outside the fence of the compressor station.

I-22: Another view of the piping arrangement shown in I-21. The right of way easement for the three main gas transmission pipe lines going north from compressor station 185 is visible in the distance.

I-23: The pipe line department district warehouse building, housing, vehicles, tools, parts and equipment used by a crew of men who maintain about 57 miles of Transco's pipe lines and rights of way.

I-24: View of six company houses (three on each side of the Company's street) assigned to personel at the
page 88 } compressor station operating on around-the-clock shifts.

I-25: View of microwave site 187, located on Bull Run Mountain about 15 miles from compressor station 185. This is one of the 79 microwave towers in Transco's private communications system required in the operation of its interstate gas transmission pipe lines.

19. The statements in paragraph 18 of the functions and purposes of the subject matter shown in the photographs filed herewith marked Exhibits I-1 through I-25 are true.

20. Compressor station 185 and the equipment described above and shown in the pictures filed as Exhibits I-1 through I-25 are essential parts of Transco's interstate gas transmission system (portrayed on the System Map filed herewith marked Exhibit J), and such station and equipment are permanent parts of such system and shall remain in place for the normal life thereof, subject only to the necessities of replacement, maintenance and repair.

Transcontinental Gas Pipe Line
Corporation

By Ralph H. Ferrell, Jr., Counsel

Prince William County, Virginia

By H. Selwyn Smith
Commonwealth's Attorney

Filed Oct 4, 1967 J. K.

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page 120 }

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ORDER FILING STIPULATION

This day came the parties, Transcontinental Gas Pipe Line Corporation and the County of Prince William, by counsel, and tendered Stipulations agreed upon by them, without prejudice to the right of either party to introduce other and further evidence not inconsistent with the facts stipulated, and asked leave to file the same, which leave is granted and the said Stipulation are hereby ordered filed.

Enter: Oct 4th 1967

James Keith, Judge

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STIPULATION

Subject to objections as to relevancy and without prejudice to the right of either party to introduce other and further evidence not inconsistent herewith, the parties, by counsel, hereby stipulate the following:

1. That Transco is the grantee of right of way easement agreements with unspecified widths for the construction and operation of multiple gas pipe lines upon approximately 21 tracts of land in Prince William County, Virginia, over a distance of about 5.237 miles; and the agreement by M. J. Shepherd *et ux.*, dated February 27, 1960, recorded in the Clerk's Office of the Circuit Court of Prince William County in Deed Book 143, page 344, copy of which is attached marked Exhibit Q, represents generally the nature of such unrestricted easement agreements.

2. That Transco is the grantee of right of way easement agreements with specified widths for the con-
page 122 } struction and operation of multiple gas pipe lines upon approximately 11 tracts of land in Prince William County, Virginia, over a distance of about 5.20

miles; and the attached agreements from Thomas J. Carey *et ux.,* dated December 15, 1949, recorded in the Clerk's Office of the Circuit Court of Prince William County in Deed Book 142, page 414, as amended by the Supplemental Right of Way Agreement dated November 9, 1961, recorded in said Clerk's office in Deed Book 277, page 527, between Transco and the Carey's successor in title, Robert L. Garner, copies of which are attached marked Exhibits R-1 through R-6, represent generally the nature of such restricted easement agreements.

3. That the method generally followed in constructing Transco's gas transmission pipe lines is shown by drawings G-919 and G-921 attached marked Exhibits S and T.

4. That the rates of county and district levies in Prince William County on real estate and personal property for the tax years 1963, 1964, 1965 and prior tax years were the same; and for the tax year 1965 the county levies on real estate and personal property were both at the rate of $5.65 per $100 of assessed value, as shown by Resolution No. 6 adopted by the Prince William County Board of Supervisors on June 29, 1965, attached marked Exhibit U.

5. That on June 27, 1966, the Prince William County Board of Supervisors adopted Resolutions No. 10 and 12, copies whereof are attached marked Exhibits V and W, assessing general levies in Prince William County for the
page 123 } tax year 1966 at the rate of $5.65 per $100 of assessed value of personal property and $3.60 per $100 of assessed value of real estate.

Transcontinental Gas Pipe Line
Corporation

By Ralph H. Ferrell, Jr., Counsel

Prince William County, Virginia

By H. Selwyn Smith
Commonwealth's Attorney

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Filed Oct. 25 1967

Leda S. Thomas, Clerk

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MOTION FOR SUMMARY JUDGMENT

COMES NOW the Respondent, by its attorney, and moves the Court for a summary judgment in this action, and for grounds thereof, states as follows:

(1) That it has heretofore been agreed and stipulated that the Applicant, Transcontinental Gas Pipe Line Corporation, was assessed and billed for all of its property within Prince William County as though the same was all personal property; that this manner of assessment by the Commissioner of the Revenue existed for the years 1963, 1964 and 1965; and that pursuant to Title 58, Section 514.2, the County is specifically authorized to assess on January 1, 1966, property of any class taxed as tangible personal property before January 1, 1966, in the same manner, so long as the taxing rate is no higher than those levied on other tangible personal property on January 1, 1966.

(2) It is further stipulated and agreed that the personal property rate of all taxpayers in Prince William County in 1966 was $5.65 a hundred, which is the rate that the Applicant was taxed at.

ACCORDINGLY, the Respondent County was privileged by statute to tax the Applicant in the manner in page 125 } which it was taxed; as a matter of fact, could have taxed that which the County admits to be real property as though it were personal property since the County had, for at least three years prior thereto, taxed all property of the Applicants as personal property, therefore the County moves the Court for summary judgment dismissing the Applicant's petition.

Prince William County, Virginia

By: H. Selwyn Smith

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Filed Oct 30/67 J. K.

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ORDER CORRECTING AND FILING STIPULATIONS

This day came the parties, Transcontinental Gas Pipe Line Corporation and Prince William County, Virginia, by counsel, and by leave of Court corrected a typographical error in paragraph 16 on page 8 of the first stipulation, filed October 9, 1967 (changing "0.13" to "0.013"), filed a revised page 2 of the second stipulation, filed herein on that day, and filed a third stipulation dated October 25, 1967, all without prejudice to the right of either party to introduce other and further evidence not inconsistent with the facts stipulated.

Enter: November 2, 1967

James Keith, Judge

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STIPULATION

Subject to objections as to relevancy and without prejudice to the right of either party to introduce other and further evidence not inconsistent herewith, the parties by counsel hereby stipulate the following:

1. That prevention of corrosion of Transco's underground pipeline is accomplished by installing a dielectric coating of either coal tar or asphalt enamel on such pipelines supplemented by cathodic protection units consisting of rectifier units installed as required along the pipelines, to impress direct current onto the underground facilities wherever there is no coating.

2. The attached drawings show the following:

(a) Three rectifiers on the pipelines in the area of Prince William County and one rectifier at Compressor Station 185 (Drawing G-808, Exhibit X):

(b) The rectifier on the Larkin Property in Prince William County (Drawing B-3959, Exhibit Y); and

(c) Typical Groundbed Arrangements with rectifiers used by Transco (Drawing G-2654, Exhibit Z).

November 3, 1967

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ORDER FILING STIPULATION

This day came the parties, Transcontinental Gas Pipe Line Corporation and Prince William County, Virginia, by counsel, and by leave of Court filed a fourth stipulation dated November 3, 1967, all without prejudice to the right of either party to introduce other and further evidence not inconsistent with the facts stipulated.

Enter: November 3, 1967

James Keith, Judge

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FINAL ORDER

This proceeding came on to be heard upon the papers formerly filed, including the application and exhibits thereto by Transcontinental Gas Pipe Line Corporation (the Applicant) the answer of Prince William County, Virginia (the County), the Applicant's request for admissions and the County's answer to request for admissions, the four stipulations of facts (as amended) and all exhibits referred to therein and filed therewith, heretofore filed and made a part of the record in this proceeding, the County's motion for summary judgment, filed November 3, 1967, the Court's view of Applicant's Compressor Station No. 185 taken at the suggestion of counsel for both parties, the testimony of witnesses taken *ore tenus* at the hearing on November 3, 1967, and all exhibits then received in evidence (the transcript whereof and said exhibits are hereby made a part of the record), and upon the briefs and arguments of the counsel for the parties.

page 136 } The Commonwealth's Attorney for the County of Prince William was present and defended the application, and the Commissioner of the Revenue

who made the assessments was present and was examined as a witness touching the application.

Upon consideration whereof, the Court doth certify proof of all facts admitted in the answer to Applicant's request for admissions, those recited in the foregoing stipulations and exhibits, and in the testimony and exhibits filed at the hearing, and for the reasons stated in the Court's written opinion dated November 15, 1967, a copy whereof is filed herewith, the Court doth

ADJUDGE, ORDER and DECREE as follows:

1. The County's motion for summary judgment is denied, to which action the County duly objected and excepted.

2. While the revised assessment by the Commissioner of the Revenue was improperly made, however, when the Applicant applied to the Court under Section 58-1145 to correct such erroneous assessment, the Court has jurisdiction to impose on Applicant an assessment of all the taxes with which it is assessable by the County; accordingly, Applicant's motion that it be exonerated from payment of such revised assessment because it was erroneous as a matter of law is denied, to which action the Applicant duly objected and excepted.

3. The machinery at Applicant's Compressor Station No. 185, assessed at $1,625,833.00, which was classified by the County as personal property was erroneously classified and assessed as personal property, for the reasons
page 137 } stated in the Court's written opinion, and such classification and assessment is hereby cancelled and ordered to be stricken from the tax records as an erroneous assessment, and said assessment is hereby declared void and of no effect, to all of which actions the County duly objected and excepted.

4. Applicant's mains, assessed at $1,137,829.00, were properly classified and taxed by the County as personal property for the reasons stated in the Court's written opinion, to which action the Applicant duly objected and excepted.

5. The Clerk of this Court is directed to cause certified copies of this final order to be delivered to the Commissioner of the Revenue and to the Treasurer of Prince William County, Virginia.

6. The Applicant shall recover from the County its costs in its behalf expended in this proceeding, to which action the County duly objected and excepted.

And the Applicant having indicated its intention to petition for appeal to the Supreme Court of Appeals of Virginia,

the Court doth further ORDER that the execution of the portion of this final order that Applicant's mains were properly classified and taxed as personal property be suspended for a period of four (4) months from the day of this order and until the Supreme Court of Appeals finally acts upon such petition, provided notice of appeal and assignments of error are filed within sixty (60) days from the date of the entry of this order and the Applicant, or someone for it, page 138 } within such period, enters into bond with surety approved by the Clerk of this Court in the penalty of $1,000 for costs on appeal, conditioned as the law directs, and provided further that such appeal is perfected in the manner required by law.

Enter this 20 day of December, 1967.

James Keith, Judge

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page 139 } Sixteenth Judicial Circuit of Virginia

Prince William County Fairfax County Alexandria City

Fairfax County Courthouse,
Fairfax, Virginia, 22030,
November 15, 1967.

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Gentlemen:

The first question to be answered is that raised by the County's motion for summary judgment under Code Section 58-514.2. In my opinion the statute does not apply. The purpose of this section is clear. It is to eliminate the very problem which is the basis of this case. It should not be twisted to authorize the thing it seeks to abolish. I agree with the Commonwealth's Attorney that it is not effective until 1967. Any doubt on this point is removed by reference to the Acts, whose last sentence is omitted in the Code Section in question. Therefore the defendant's motion for a summary judgment is denied.

The next question raised is whether the action of the County in revising the assessment under the provisions of Virginia Code 58-1141, *et seq.*, is lawful. These sections and

the form used by the Commissioner of Revenue apparently are intended to apply to challenges by the taxpayer. Sections 58-1153 through 58-1159 appear to be the proper sections to correct assessments at the instance of the Commissioner. When a taxpayer, however, applies to the Court under Section 58-1145 to correct an erroneous assessment, as was done in this case, he subjects himself to
page 140 } the jurisdiction of the Court and the Court has the right to impose on him an assessment of all the taxes with which he is assessable in the jurisdiction of the defendant's taxing power (18 Michie Juris 248, Taxation, Sec. 71, Scope of Relief; also, *Commonwealth* v. *Schmely,* 114 Va. 364). Therefore this Court has jurisdiction to hear this case on the merits.

Now to consider the case on the merits. Two questions are raised: 1) Whether the *machinery* is personality or realty; and 2) Whether the *mains* are personalty or realty. These are the items appearing in the report of assessment by the State Corporation Commission.

The machinery was assessed at $1,625,833.00. The County seeks to tax it as personalty. The evidence shows it is all located at Compressor Station #185. The Court visited the site and many photographs were introduced in evidence showing the machinery and describing it. The land on which the station lies belongs to the Company. Without belaboring this point, it will be sufficient to say it is controlled by the rule now firmly established in Virginia and well stated in the case of *Danville Holding Corp.* v. *Clement,* 178 Va. 223. The *machinery* in this case should be classified as real property.

The mains, assessed at $1,137,829.00, were likewise classified by the County as personalty and taxed as such. The question here is not as simple as that relating to the machinery. Here the right-of-way agreement between the Company and the landowner provides that the Company has the right to remove the mains. Therefore as between these two parties, the rights are determined by the law of contracts and not by the law relating to fixtures. (See *Bolen* v. *Ladenberg,* 207 Va. 795, and cases cited). As our Court said in *Bolling* v. *Hawthorne Coal Co.,* 197 Va. 554, 571, "The controlling question is what was the agreement between the parties as to the removal or non-removal of the improvements placed on the property by Hawthorne." *Newport News* v. *Warwick County,* 159 Va. 571, relied on by the Company is not controlling. It is applicable only to these cases where the intent of the parties is in doubt. An agreement exists in this case that the gas pipes or

mains can be removed. Clearly the parties do not intend that they become a part of the realty. When such an intent is found to exist, it follows that the property in question is personalty as between the parties. That it may be so considered by the County for tax purposes would
uage 141 } follow from the holding in the *Newport News* v. *Warwick County* case, *supra*. See also *Hagan* v. *Richmond Trust Co.*, 148 Va. 548, and *Mullins* v. *Sturgill*, 192 Va. 653. Therefore it is my opinion that the County tax on the gas pipes or mains as personalty is proper.

Mr. Smith can prepare an order in accord with the foregoing and submit it to Messrs. Brown and Farrell for their approval as to form.

Very truly yours,

James Keith.

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NOTICE OF APPEAL AND ASSIGNMENTS OF ERROR

To: Clerk of the Circuit Court of Prince William County:

NOTICE OF APPEAL

You are hereby notified that a petition for appeal and *supersedeas* in this proceeding will be filed by the Applicant named below in the Supreme Court of Appeals of Virginia within the time prescribed by the Rules of that Court; and you are accordingly requested to make up the record on appeal as provided by the said Rules of the Supreme Court of Appeals of Virginia.

ASSIGNMENTS OF ERROR

Applicant assigns the following errors:

1. The trial court erred in holding that (a) it had the power to impose upon Applicant all taxes which the trial court considered properly assessable against Applicant, and that therefore (b) Applicant is not entitled to be exonerated from pay-

page 144 } ment of the revised assessment of Applicant's property by Prince William County even though such revised assessment was improper and was not made in accordance with law.

2. The trial court erred in holding that Applicant's mains in Prince William County, valued at $1,137,829.00, were properly classified and taxed by the County as personal property.

3. The trial court erred in admitting the testimony of the witness Charlton E. Gnadt, over Applicant's objection and exception, respecting the manner in which property owned by Applicant was taxed by the County prior to 1966, and certain incidents of such taxation.

Transcontinental Gas Pipe Line Corporation

By Hugh V. White, Jr.
Counsel

* * * * *

Filed Feb 16 1968

Leda S. Thomas, Clerk

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NOTICE OF THE ASSIGNMENT OF CROSS ERROR

To: Clerk of the Circuit Court of Prince William County:

Notice is hereby given that the Respondent, Prince William County, Virginia, intends to assign cross-error in the decision of the Circuit Court in this matter, as follows:

1. That the Court erred in overruling the Respondent's demurrer.

2. That the Court erred in denying the Respondent's motion to dismiss filed January 19, 1967.

3. That the Court erred in denying the Respondent's motion for summary judgment.

4. That the Court erred in finding that all of the property of the Applicant classified and assessed as machinery was, in fact, real estate.

Prince William County, Virginia

By: H. Selwyn Smith
Counsel

* * * * *

Filed February 29 1968

Rebecca H. Irwin, Deputy Clerk

* * * * *

page 3 } Note: The reporter was sworn. Written stipulations were tendered to the Court. The witnesses were sworn. Counsel made opening statements, following which the Court viewed the subject property.

THELMA MOORE HENSLEY, upon being called as an adverse witness, being duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Ferrell:

Q. Would you please state your full name, Mrs. Hensley?

A. Thelma Moore Hensley.

Q. And your occupation?

A. Commissioner of Revenue.

Q. And how long have you been the Commis-
page 4 } sioner of Revenue for Prince William County?

A. Since December 31, 1965.

Q. Had you had any prior experience in the Commissioner of Revenue's office?

A. Yes, sir.

Q. How many years, and what were your duties?

A. Since 1955 to 1965. I served as chief deputy to Mr. Gnadt. Prior to that, I was clerk-typist and office assistant.

Q. Now, on or about September 30, 1966, did you assess Transco's property in Prince William County for local taxation for the tax year 1966?

Thelma Moore Hensley

A. Yes, sir.

Q. In doing so, did you extend the local levies on Transco's property on evaluations made by the State Corporation Commission, copies of which have been filed in this proceeding as Exhibit E?

A. Yes, sir.

Mr. Ferrell: May the Court please, in order to speed this matter, we put in as an exhibit to a stipulation portions of this statement of assessed value, but it would help in the examination of this and other witnesses to put in page 5 } another one. And I would like to submit the one that is on the corner there as Transco Exhibit 1, because we will refer to some other categories. And this is unmarked.

There is one for you, Mrs. Hensley, and Mr. Smith has a copy.

The Court: Any objection?

Mr. Smith: No, Your Honor.

Mr. Ferrell: It has a certificate on the back by the clerk of the State Corporation Commission.

The Court: Plaintiff's Exhibit No. 1.

Q. (By Mr. Ferrell) Turning to Page 48 of Transco Exhibit No. 1, we have a continuation of the assessment for Transco, and at the bottom of Transco just before United Fuel Gas Company are the entries for Prince William County, is that correct—Brentsville, Gainesville, and Manassas Districts?

A. That's right.

Q. Now, in making your extensions, did you prepare and file with the treasurer of Prince William County on or about the 30th day of September, 1966, the local assessments on Form 757 supplied to you by the Department of Taxation?

A. Let me see that form that you have there. page 6 } I'm not familiar with that number, sir.

That is the form supplied by the Department of Taxation. Yes, sir.

Q. And you brought your copy with you today at my request, didn't you?

A. That is over in front of Mr. Smith, the Public Service Corporation Book. That's right. Yes, sir.

This is it. Can I put this up here?

Thelma Moore Hensley

Q. Yes. Please, ma'am. Public Service Corporation Book, 1966 to blank, is that correct?

A. Yes, sir.

Q. Now, looking at Transco there in Brentsville District on the first sheet—

A. Yes, sir.

Q. —you assessed real estate of $295,855?

A. That is correct.

Q. No personal property in that district, right?

A. That is correct.

Q. Now, look at Transco or Plaintiff's No. 1 and see if that isn't Item 4, value of mains, $295,855.

A. Yes, sir.

Q. Now, let's turn the sheet to the next district where you find Transco. And I believe that is for—What?

page 7 } A. Gainesville District. In Gainesville District.

Q. All right.

A. $5,017 was assessed as real estate.

Q. Right. And then there you had some personal property of $12,624?

A. That's right.

Q. And—

A. The $5,017 was the value of the land and improvements thereon.

Q. That is under Column 1. And the personal property was—

A. The value of furniture and fixtures and miscellaneous equipment, excluding automobiles and trucks, $15,555.

Q. So you broke it down between land and personal property, or real estate and personal property.

A. Wait a minute. I gave you the wrong figure. It's $12,624 in Gainesville District. I dropped down to your figure for Manassas District.

Q. Twelve thousand six—

A. $12,624.

Q. Is under 3-B, which is the value of furniture and so forth?

page 8 } A. Personal property.

Q. Fixtures, including automobiles?

A. No, sir.

Q. Doesn't it say that?

A. No. The value of automobiles and trucks would fall in 3-A.

Thelma Moore Hensley

Q. All right.
A. There were no automobiles in Gainesville District.
Q. Right. All right.
A. Trucks.
Q. Let's go to Manassas District.
A. Manassas. You have real estate, $2,689,028.
Q. Now, that is made up of $1,625,833, value of machinery under Column 2, plus the value of the mains of $841,974, is it not, for real estate?
A. And for—
Q. Real estate?
A. For real estate. It's made up—
Q. And Column 1, two hundred—
A. Land and improvements.
Q. $220,221?
A. That's right.
Q. In other words, Columns 1, 2 and—
page 9 } A. Four.
Q. Four. One, two and four were real estate?
A. One, two and four are real estate.
Q. And the rest you classified as personal property?
A. As personal property.
Q. Now, as required by law, you have to file in addition to this Form 757 a summary showing the distribution by districts and towns of value and local levies on the property of public service corporations on values ascertained by the State Corporation Commission for the year 1966, isn't that correct?
A. Yes, sir.
Q. And attached to this first, we will call it, assessment sheet is your certification—

Mr. Smith: Excuse me, Mr. Ferrell. Could you tell me what exhibit number that is?
Mr. Ferrell: This is E.
Mr. Smith: E under our stipulation?
Mr. Ferrell: Yes, sir. I have an extra copy of it here, if you want it.

A. I will find it, too.
page 10 } Q. This certificate in the back of that. Here we are (indicating).
A. I have it.

Thelma Moore Hensley

Q. Look at Page 2.
A. Uh huh.
Q. The certificate is dated September 30, 1966, is it not?
A. Yes, sir.
Q. And there you had some extensions. In fact, you summarized the total value of real estate assessed of $36,635,435, and personal property of $3,514,727.
A. Wait a minute. The first figure you gave me was 36 million?
Q. Yes, ma'am. 635,435.
A. All right. Yes, sir. Now, what was the second figure?
Q. $3,514,727, personal property.
A. Right.
Q. Personal property.
A. Yes, sir.
Q. And the aggregate, $40,150,162?
A. Yes, sir. That is the total.
Q. Now, on the right-hand side after you have the total levies, there were some figures there that were
page 11 } typewritten and over that you have revised them, I believe?
A. That's right.
Q. And you have initialed them, isn't that true—
A. Yes, sir.
Q. —the changes?
A. That's correct.
Q. And that came about as a result of an error in the Dumfries and Occoquan assessments—
A. Yes, sir.
Q. —which has nothing to do with this particular case?
A. (Witness shaking head)
Q. Because Transco is not in those areas, correct?
A. That's right.
Q. And in accordance with the statute, you filed this first assessment not only with Mr. Kincheloe, the County Treasurer, but with the Clerk of the Circuit Court—
A. Yes, sir.
Q. —of Prince William County, and then sent a copy to the Tax Department in Richmond—
A. This is correct. Yes, sir.
Q. —as the statute requires?
A. (Witness nodding head)
page 12 } Q. And after it had been sent to the people or

Thelma Moore Hensley

persons I have just enumerated, you found this mistake?

A. That is correct.

Q. And you wrote a letter to Mr. Dobyns, I believe, in Richmond—

A. Yes, sir.

Q. —who is with the State Tax Department to tell him to please make this change on the papers that you had sent him in the Public Service Corporation Book for Prince William?

A. That is correct.

Mr. Ferrell: We would like to have this filed in evidence. It's dated October 18, 1966.

The Court: Call this Exhibit No. 2?

Mr. Ferrell: Please, Your Honor.

Q. Do you have a copy of this?

A. I don't have one before me. If you want—

Q. (Handing paper to witness)

A. Thank you, sir.

Q. Let's put it this way: At the time you made this assessment and filed it with Mr. Kincheloe, you also sent

page 13 } him the tax bill to send out to all the public service corporations listed, did you not?

A. I did.

Q. And the assessments on Transco were made the way we have just covered in brief?

A. That is correct.

Q. And is it your understanding that Mr. Kincheloe mailed those out, or do you know that of your own knowledge—that they were mailed to the corporations involved?

A. It's my understanding that they were mailed out.

Q. At the time that you filed that with him on the 1st or the 30th of September, and at the time that you wrote to Mr. Dobyns, you considered that those assessments had been made in proper fashion, did you not?

A. Yes, sir.

Q. And that the classifications that you had made of Transco's property, some of it real and some of it personal, were proper?

A. From the information that I had at that time, I made the assessments to the best of my ability.

Thelma Moore Hensley

Q. Yes, ma'am. Now, subsequently some question was raised about the assessment, was there not?

A. Yes, sir.

page 14 } Q. The 1966 tax year rate had been split in Prince William County for the first time, hadn't it?

A. Yes, sir.

Q. And the real estate tax was $5.65 per hundred dollars evaluation, wasn't it?

A. The real estate tax?

Q. No. I'm sorry. The personal property tax.

A. In 1965, the tax rate was $5.65 for both real estate and personal property; but in 1966, $3.60 was the base rate on real estate, and $5.65 was the base rate on personal property.

Q. Now, in 1966, this tax ratio was hiked in Prince William County from approximately 17½ percent to 25 percent, wasn't it?

A. On individuals?

Q. Yes. But I mean on all other properties that you assessed—everybody but public service corporations—where you made an evaluation as well as a tax assessment, you increased it, did you not?

A. We had a general reassessment.

Q. Right.

A. In 1966. That was first shown on the 1966 books. And the ratio did rise.

Q. Now, you assessed real estate at approxi-

page 15 } mately 25 percent of the actual value?

A. At 25 percent of the actual value.

Q. And personal property?

A. 25 percent is the way—that's right—personal property is assessed.

Q. Now, when this question was raised, did you prepare and write a letter to the Board of Supervisors of Prince William County dated October 25, 1966, explaining certain things that had happened in the estimate of the taxes in April, and what you had done in August and September, and what you planned to do thereafter and the reasons therefor?

A. I did.

Mr. Ferrell: We ask that this be received in evidence, this one-page letter dated—

Thelma Moore Hensley

The Witness: It was two pages.

Mr. Ferrell: —one-page letter dated October 25, 1966, to which two pages are attached, and ask that they be marked Plaintiff's—

The Court: Plaintiff's Exhibit No. 3, admitted without objection.

Q. (By Mr. Ferrell) So between the 18th day of October and 25th day of October, according to this letter,
page 16 } you changed your mind. Is that correct? Is that a correct summary? You changed your mind about the propriety of the assessment?

A. I did not change my mind until after the 25th day of October. On the 25th day of October, my letter merely states what I had set forth. The letter is written to the Board of Supervisors of Prince William County, Manassas, Virginia, in which I explained that on April 4, 1966, I submitted a letter to the Board of Supervisors setting forth estimated tax assessments for 1966. "These figures were based on best information available at that time. I have been requested to explain to you the difference between the estimated public utilities assessment and the actual book values or book figures."

Q. So you went ahead and explained?

A. I did.

Q. And do I understand you to say, then, this letter of October 25 does not indicate that you had changed your mind as to the assessment—

A. I swore—

Q. —in September?

A. I took the oath that the book was correct—the first book. So in my opinion, my book was correct.

Q. Well, then, on November 14, 1966, you wrote
page 17 } a letter to Transcontinental Pipe Line Corporation telling them that you were going to make a supplemental assessment?

A. What is the date of the letter?

Q. November 14, '66. Is that correct?

A. May I have a copy of it, too? I left that in the book.

Q. Yes.

Mr. Ferrell: We would like to have this introduced in evidence and marked as Plaintiff's Exhibit No. 3.

Thelma Moore Hensley

The Court: Four.
Any objection?
Mr. Smith: No objection.
The Court: Admitted.

A. I did write to Transco, because this is it.

Q. Now, that letter indicated that you were going to make a "supplemental personal property bill" and a memorandum of corrected assessment, abating lands and improvements, which will reflect the above. Is that correct?

A. That's right.

Q. And in that connection, you prepared and later submitted to Mr. Kincheloe the—

page 18 } A. As stated in my letter, I immediately conducted a restudy of the public service corporations.

Q. But based on that, you filed, I believe—have you got it in the book there—Supplement 1, isn't it?

A. That's right. Yes, sir.

Q. And that was on Form 757 furnished by the Department of Taxation for public service corporations?

A. That is right.

Q. And as required by the statute, you also had a summary of the distribution by districts and towns of value and local levies on property of public service corporations for the tax year 1966?

A. That's correct.

Q. As per this supplement?

A. Yes.

Q. And that has been filed in this proceeding, and that portion of it—I think the whole thing is Exhibit F, consisting of twelve pages. That was certified on the 15th day of November, 1966, by you, Mrs. Hensley, is that right?

A. Uh huh.

Q. Now, in that connection, looking at the distribution by districts, didn't you—You have an aggregate of personal property of $28,917,503. Are you looking at that?

page 19 } A. Just one moment. This is my supplement—

Q. Yes.

A. —No. 1 of my personal property book on which the—Are you using the total?

Q. That's right.

Thelma Moore Hensley

A. The total for the districts and the towns in Prince William County, $29,984,315.

Q. No, ma'am. That is the total—You are correct. That is personal property. Now, you took that out of the previous return of $36,635,435 of real property, did you not?

A. Now, you are using, again, the grand total that is in my book?

Q. that's right.

A. This total is what you are quoting now, then. Wait a minute. $40 million is the total. Wait a minute.

Q. Just real estate, I'm talking about.

A. On real estate.

Q. I'm just talking about real estate.

A. Real estate was $36,635,435. That's right. Personal property was $3 million.

Q. Well, you took then $29,984,000—I'm going to leave off the hundred dollars—of that $36,635,000—

page 20 } A. Well, they are the original figures.

Q. —and reclassified it from real estate to personal property. Isn't that correct?

A. That's right. Of the total assessment.

Q. Yes.

A. Yes, sir.

Q. Now, looking specifically at Transco's assessment—and we will refer back to Plaintiff's Exhibit No. 1 now—what you did was to take Column 1—this is on Page 48 again—and looking at it on a county-whole basis, you left or did not disturb the assessed value of land and improvements thereon of $225,238. Isn't that right?

A. You are using the total?

Q. That's right. Column 1.

A. I assessed—You said—Now, make that statement again to me, Mr. Ferrell. You said I left on—

Q. You did not disturb—

A. I did not disturb.

Q. That's right.

A. I did not disturb Column 1, value of land and improvements thereon.

Q. That's right. Aggregating an evaluation of $225,238?

A. That is the figure that stayed on your per-

page 21 } sonal property book or real estate book. You have your figure on—Well, I see, you have your total, you are using your total figure now.

Thelma Moore Hensley

Q. Yes.

A. That is—First you used the whole, now you are just using your figure.

Q. That's right. Just Transco's.

A. I'm with you now.

Q. Then you reclassified Column 2, value of machinery in the Manassas District, of $1,625,833, previously classified as real estate, to personal property. Isn't that correct?

A. Plus—

Q. I'm going on, but I'm going to ask you what that item represents. Do you know?

A. What item?

Q. The item of $1,625,833 in Manassas. That is machinery at the compressor station, isn't it?

A. According to the classification here, it's value of machinery.

Q. And that is all you knew about it?

A. I knew that it was machinery.

Q. Well, did you know where it was located?

A. Sure.

page 22 } Q. At the compressor station?

A. In Manassas District.

Q. Well, that is the compressor station, isn't it?

A. Yes, sir.

Q. Now, you also reclassified—over in Column 4—the value of the mains in Brentsville District of $295,855, which had previously been assessed by you as real property, as personal property?

A. That's right.

Q. Correct?

A. Yes, sir.

Q. and similarly, the mains valued in Manassas District of $841,974, previously classified by you as real estate, to personal property?

A. That is correct.

Q. Now, did you make any investigation of what those mains were?

A. (Witness nodding head)

Q. What were they?

A. I am familiar with the mains. You mean as to what they are?

A. Yes, ma'am.

Q. How they are—Where they are located, for

page 23 } instance?

Thelma Moore Hensley

Q. Yes, ma'am. They are *burried* in the ground.

A. On leased property.

Q. On leased property?

A. (Witness nodding head) Or—

Q. Well, now, in order to accomplish this supplemental assessment, tell us what was the basis for doing so, what was your authority for doing it, how you went about it. One of your letters mentions that to the company, I believe, that you were proceeding under—Let me back up on that to be sure I have this right. Somewhere in the file I have seen under Section 58-811.1. That was in the letter to the Board of Supervisors.

A. 58-811.1 is my authority for assessing real estate—buildings when they are partially complete.

Q. Right. Well, what section is there for the supplemental assessment of personal property?

A. Does my attorney have a code book?

Q. You don't—

A. I don't memorize those figures.

Q. You don't recall there was—

A. Yes, sir. You mean to make a supplemental book on personal property?

Q. Yes, ma'am.

page 24 } A. Sure. I mean, I'm governed by the Code on that, by the law.

Q. Well, that relates back through to January 1 of the tax year, doesn't it? When you make a supplemental assessment of personal property, it's really an omitted personal property tax that you pick up during the year that hasn't been previously assessed, isn't that correct?

A. Personal property assessments—When the personal property book closes—There is no definite time of closing a personal property book. That is to my discretion. When I think a majority of the returns are in, I close the personal property book; but there are few people—in fact, there are sometimes more than I would like to say who are delinquent, just like I was discussing with your automobile.

Q. Right.

A. If you refuse to put that return in on time and then you file at a later date, I can make a supplemental assessment on you.

Q. But that is an omitted tax for one reason or another—omitted assessment, isn't it?

A. Well, it's a supplement to my book.

Q. Yes. But then that is to take care—

A. "Omitted"? I don't get your point.

page 25 ⟩ Q. Well, what I'm driving at, is there any authority for you to make a reassessment after the books have been delivered to the treasurer of the first assessment—

A. The law—

Q. Let me finish. Of the first assessment by means of what you call "a supplemental assessment"?

A. The law allows me to make a supplement at any time that I think that it needs to be done.

Q. Either to reclassify property or for omitted personal property?

A. The law allows me to make a supplement. A supplement is the only way it can be corrected.

Q. Right. Well, now, there is approximately between six and seven million dollars that were not reclassified in the first assessment, isn't that correct? Total now.

A. You are talking about those figures that were first classified as personal property?

Q. That's right.

A. That's right.

Q. But what I'm driving at, is that as far as the books are concerned—and I'm—

A. I'm—

Q. There is no explanation—

page 26 ⟩ A. Let me see if I can make you clear—make it clearer this way. That on the book that you are speaking about, the real estate book, was item No. 1, Judge, which is the value of land and improvements thereon, Column 2, which was the value of machinery, and Column No. 4, the value of mains. And on the personal property original book was Column 3-A the value of automobiles and trucks, and the 3-B the value of furniture & fixtures. They remained on the personal property book—the 3A and the 3B. What I did was, after I restudied this situation—in my estimation, the public service corporation assessment was not as high—the percentage was not as high as what I thought that it was in real estate or assessments period. I thought it was 40 percent of the fair market value, and I had reason to believe that it is not that high, but this is my personal opinion. I went back and gave abatements—

Thelma Moore Hensley

Q. I was going to lead up to that, because here's what—

A. I abated Items No. 2 and 4, and assessed those same figures that I abated. I abated in the real estate book No. 1, $2,763,662, and assessed on the supplemental personal property book $2,763,662.

Q. But the trouble is, the abatement you speak of, Mrs. Hensley, does not appear on the book of the assessment—

page 27 } A. The abatement does not.

Q. In other words, you look at the book and you take the first assessment, which is Exhibit E, and you see a total of real property, let's say, $36 million. Let's round the figures off. You look at Exhibit F, which is the second assessment—

A. Yes, sir.

Q. —and find that $29 million of that $36 million that is real estate is now personal property; but there is nothing on either of these two exhibits to show that fact unless you just note the coincidence in certain figures and refer back to the assessment by the State Corporation Commission.

In other words, as far as your Corporation Land book is concerned, it does not show that there has been any change from real to personal, or a credit given for the real estate tax that you did give eventually on the personal property tax, is it?

A. You made the statement a minute ago that I did not disturb Column 1, value of land and improvements thereon. I did not disturb Column No. 1. It stayed on my book.

Q. Right.

A. This is the means of a correction that I

page 28 } have. You take your personal—May I give an illustration? If you came into my office and you told me that you—I understood you to say you had a '66 Chrysler—and this happened to me just the other day, except I'm using Chrysler instead of what it actually was—but the clerk in my office where this was done—

Mr. Smith: Your Honor, I have to object to telling what the clerk in her office did. Let's just stick to this point.

A. Okay. They understood the person to say this was a '66, but it turned out that he was trying to say '60. So I had to give an abatement to bring the assessment down from a '66 to a '60 auotmobile.

Thelma Moore Hensley

Q. Well, in that connection—

A. And that does not show on the real estate or, I mean, personal property book, sir.

Q. But you use the Form 905—

A. Yes, sir.

Q. —of the Department of Taxation, which is entitled Memorandum of Corrected Assessment by Commissioner of Revenue of Unpaid Local Levies and Local Capitation Taxes?

A. That's correct.

page 29 } Q. And it says, "The Commissioner of Revenue must be governed strictly by law printed on reverse side."

A. That's right.

Q. And you say, in this case—I believe there are copies already filed in evidence as Exhibits D-1 and D-2 to the application for correction—that that is the way you corrected what you said on there is an error in division of the land and improvements and personal property—"see personal property Bill No. 20", in one case, and in the other case, personal property Bill No. 25. Correct?

A. That's right. Yes, sir.

Q. But this is the only place that an abatement or credit or change in classification affirmatively appears, and not on the corporation assessment book?

A. According to law, that is the method by which I am governed.

Q. Now, between the 25th of October and the 15th, I believe, or 14th of November—because that is the date of your letter to Transco—did you make an investigation of Transco's properties in Prince William County that you were going to change the classification of?

A. October the 25th. That is the date on which the book was signed?

Q. No, that is the date of your letter to the

page 30 } Board of Supervisors.

A. Your question again, please. Did I make any—

Q. Well, in preparation for the November 15 supplemental assessment, did you actually investigate the Transco properties in Prince William County as to the propriety of these reclassifications? Did you do anything?

Thelma Moore Hensley

A. Sir, I was familiar with the setup that we have just reviewed.

Q. It was because you were already familiar?

A. I was familiar with it. Yes, sir.

Q. So I take it you did not call anybody with Transco and ask them for any further information about—

A. No, sir.

Q. —these properties?

A. (Witness shaking head)

Q. And you didn't obtain the tax return that Transco had made to the State Corporation Commission, which is also filed here?

A. That is the information—I mean, that is the State Corporation Commission's.

Q. You did look at that?

A. No, sir.

page 31 } Q. Did you ask the Commonwealth's Attorney for his legal opinion about the classification of these mains?

A. No, sir.

Q. Or any other person?

A. I considered it my responsibility.

Q. So you made these reclassifications yourself?

A. Yes, sir.

Q. And by yourself?

A. (No response)

Q. Did you know that Transco had a compressor station in Orange County, Virginia, which is substantially like the one here in Manassas?

A. I did not go into Transco as to exactly where their stations were located.

Q. You mention in one of your letters that you consulted in August, I believe, of '66 with some of your fellow commissioners of revenue of other counties of Virginia as to the assessment or classification of property of public service corporations, and you mentioned specifically Chesterfield, I believe, and Chesapeake, which is now the City of Chesapeake?

A. That's right.

Q. Did you consult with the Commissioner of Revenue in Orange County, by any chance?

A. No, sir, I did not.

page 32 } Q. Or Fluvanna?

A. I did not.

Q. Or Appomattox?

A. Well, I talked to the various commissioners of revenue. To be honest with you, I didn't get the name of every commissioner, nor did I know my commissioners that well. This was at the local government officials conference, so if there were these men in attendance there, they might have been. And I did not exactly—I could not remember those, because I was talking especially to two commissioners, and those are the ones who had equipment comparable to Prince William (sic) and another utility company.

Q. So I take it then, you didn't talk to these two commissioners of revenue or of Pittsylvania County where Transco has another compressor station?

A. As far as I know, he was not present when I was discussing this.

Mr. Ferrell: Just a moment, if Your Honor please.

Your witness.

page 33 } CROSS EXAMINATION

By Mr. Smith:

Q. Mrs. Hensley, I think what Mr. Ferrell is trying to get at, in your initial extension of local levies, which has now been stipulated as Exhibit B-2, which is Page 48 to this book that's been introduced as Plaintiff's No. 1—

A. Yes, sir.

Q.—initially you extended local levies to Columns 1, total value of land and improvements thereon; Column 2, total value of machinery; and Column 4, total value of mains, as real estate, and the other columns—that is, 3-A, which is value of automobiles and trucks; 3-B, value of furniture and fixtures and value of materials and supplies, as personal property, did you not?

A. Yes, sir.

Q. And then sometime between October the 18th, I believe, according to Plaintiff's No. 2, and October the 25th—Plaintiff's No. 3—you realized that some portion of this assessment or extension of local levies to these columns of figures was in error—

A. Yes, sir.

Q. —did you not?

Thelma Moore Hensley

page 34 } A. (Witness nodding head)

Q. Now, subsequent to that, did you not by Tax Form No. 905, which has been agreed and stipulated to as Exhibits D-1 and D-2, with the supplement that I do not have attached—

Mr. Smith: But the back sides were given to Your Honor this morning.

Q. I will show you those. Did you not by this method then correct the erroneous extension or assessment of your levies against the property of Transcontinental Gas Pipe Line?

A. I did.

Q. Is this the method that is prescribed by law for the Commissioner of Revenue in making a correction of a mistake that the commissioner or anyone in his or her office might make?

Mr. Ferrell: I object to that because that is a matter of law.

The Court: Would you tell me why you think that is a proper question?

Mr. Smith: I will strike it and put it this page 35 } way.

Q. Do you know of any other method that is provided by law to correct an error that you or anyone might make in your office?

A. The only method—

Mr. Ferrell: I will object to that, too, because there is a provision in the Code.

Mr. Smith: Well, I asked her if she was aware of it, and I think it's permissible.

The Court: All right. Ask her if she is aware of it.

Mr. Smith: I thought that was my second question.

Q. Do you know of any other method to correct what you learn to be an erroneous assessment or extension of local levies in your office to evaluations of property other than using Tax Form 905?

A. I was advised by the Department of Taxation that this is the way to do it—905.

Thelma Moore Hensley

The Court: He asked you if you knew of any
page 36 } other way.

A. No, sir, I do not know of any other way.

Q. Now, Mrs. Hensley, I direct your attention further to the book which is Plaintiff's No. 1, Page 48 in particular, and ask you where do you get this instrument? Where does it come from?

A. It is mailed to me from the State Corporation Commission.

Q. Are any of the values put into any four of those columns fixed by any member of your staff?

A. No, sir.

Q. Do you have any idea what is included in Column No. 2, which is value of machinery in Manassas District of Prince William County, and the total, according to these figures, $1,625,833? Do you have any idea what items of machinery, other than the fact that the machinery is in Manassas District, is in there?

A. That is exactly what it says it is.

Q. Do you know specifically what it is? Do you know of any place you can ascertain—

A. No.

Q. —from the State Corporation Commission or any individual what makes up the figure that is re-
page 37 } ported by the commission to you as being $1,625,-833?

Mr. Ferrell: I will have to object to that, because she said she made no inquiry. Now, why go into something that is irrelevant and immaterial?

The Court: Well, maybe she didn't make one because she didn't know there would be any question about it. I overrule the objection.

Mr. Ferrell: Exception, please.

A. I have to abide by this. No, sir.

Q. Do you know any place you could find specifically what this figure the State Corporation Commission gave you consists of?

A. No, sir. That is information only to the Corporation Commission, as far as I know.

Q. Mrs. Hensley, I will ask you one other question. Do

you know of any land in Prince William County that may be assessed as low as $134 an acre—

A. No, sir.

Q. —as the whole value?

A. I mean, you are considering that as the appraisal, the—

page 38 } Q. No. Do you know of any land in Prince William County.

Mr. Smith: I will strike that. We have the instrument in question.

A. Land in Prince William County?

The Court: He withdraws the question.

Mr. Smith: I think that is all, Your Honor.

The Court: Any further questions, Mr. Ferrell?

Mr. Ferrell: I don't believe so at this time, if Your Honor please.

Excuse me. I do have one other question.

REDIRECT EXAMINATION

By Mr. Ferrell:

Q. I asked you about the summary of the real estate assessments that were in the back of your first book or your first assessment.

A. Yes, sir.

page 39 } Q. And that is the one you sent to the State Tax Department. Did you ever make another summary showing the aggregate assessment of real estate and personal property?

A. They got—

Mr. Smith: Your Honor, I object to the question. I do not believe I went into it on cross examination. I think he closed his examination.

The Court: The objection is overruled.

Q. Do you understand my question? I will rephrase it.

A. Do I still—I don't know. You confused me.

Q. You wrote Mr. Dobyns and corrected this assessment or at least the figures that you had previously reported to him, and you gave the final figure?

Thelma Moore Hensley

A. That was on my first book.

Q. Right. Did you write the department another letter covering the same subject matter and give them the new totals?

A. I submitted my books to the Department of Taxation.

Q. Yes. But—

page 40 } A. What do you mean, "new totals"?

Q. Well, you see, you do have a new total for real estate and a new total for personal property.

A. Are you asking me if a copy of the abatement was filed with the Department of Taxation?

Q. Well, I'm asking—

A. The law does not require it to be filed with the Department of Taxation. Is that the—

Q. So you sent them a supplemental assessment to the first assessment, but no reconciliation?

A. I sent the first assessment and the supplement on personal property.

Q. But no reconciliation on the two?

A. No, sir, there was no reconciliation. It was taken care of by the abatement.

Q. But you didn't—

A. The law does not require me to send them a copy of the abatement.

RECROSS EXAMINATION

By Mr. Smith:

Q. Did the abatement change the figures on the

page 41 } supplemental book that you sent to the department? Would your abatement change the figures on the supplemental book at all?

A. The abatement took merely the figure of—May I quote my figure? All the abatement did, I abated in real estate $2,763,662, which were Columns 2 and 4. I abated those figures, and I made a supplemental personal property assessment on those figures.

Q. But your supplemental assessment on those figures went to Richmond—

A. Yes.

Q. —as a supplemental book?

A. Yes, sir.

Q. And the figures that they had in Richmond included

everything that the taxpayer was billed for by the Treasurer of Prince William County, did they not?

A. Yes, sir.

RE-REDIRECT EXAMINATION

By Mr. Ferrell:

Q. Well, if you will look at your Plaintiff's Exhibit No. 2, you gave a total levy there to Mr. Dobyns of
page 42 } real estate in Prince William County of $1,335,-375.94.

A. Of personal property, or fire levy?

Q. No, that is real estate tax. That is the total levy.

A. I'm sorry. What was that figure again?

Q. $1,335,375.94.

A. I don't see—Over here (indicating)? You are talking about total levies now.

Q. That's right. I'm talking about the total taxes.

Mr. Smith: Your Honor, I'm going to object to this. I don't think it's relevant. The exhibit itself shows it pertains to only Occoquan and Dumfries District, and the fire levy therein doesn't pertain to the taxpayer at all, as I understand it.

Mr. Ferrell: If you will look at the exhibit again, I will vouch for the fact that is the total levy of these three items by the county, and it was brought about because of a little error in the Dumfries and Occoquan tax rate, but the total levy, the final extension out of—

The Court: I think the evidence is clear, Mr. Ferrell, that she didn't do anything further like this.

page 43 } A. No, it was changed. The totals have to be changed.

Mr. Ferrell: That is what I wanted to bring out, Your Honor.

The Court: She said she didn't have to, and I assume you argue that she did have to.

All right.

The Witness stood aside.

page 44 } CONNIE N. KINCHELOE, being duly sworn, testified as follows:

Connie N. Kincheloe

DIRECT EXAMINATION

By Mr. White:

Q. Please state your name and occupation.

A. I'm Connie N. Kincheloe, Treasurer of Prince William County.

The Court: Have a seat.

The Witness: Thank you, sir.

Q. You were sworn this morning, weren't you, sir?

A. Yes, sir.

Q. Mr. Kincheloe, did you receive from Mrs. Hensley the first assessments on or about September 30, 1966, that have been referred to previously as Exhibit E?

A. Yes, sir.

Q. As a matter of fact, you showed me the book in your office which contains the distribution by districts before, the sheets themselves, isn't that correct?

page 45 } A. Yes, sir.

Q. And we had photostats made and you supplied them?

A. Yes, sir.

Q. And this was what was furnished you along with the tax bills as per these assessments, and you sent them out to all the public service corporations as per these assessments and particularly to Transcontinental Gas Pipe Line Corporation?

A. That's correct.

Q. And you sent Transco's to them on or about the 21st day of October, wasn't it? Do you recall?

A. That is the approximate date. I wouldn't like to say definitely.

Q. Now, after you had received the September 30, '66, assessment, you received what is called a supplemental assessment from Mrs. Hensley, did you not?

A. Yes, sir.

Q. And that was dated and you received it on or about the 15th day of November, 1966, isn't that correct?

A. Yes, sir.

Q. And this has been referred to in previous testimony as Exhibit F, right?

A. Yes, sir.

Connie N. Kincheloe

page 46 } Q. And you made available to me photostatic copies of this supplement, and the distribution by districts appears at the beginning of the sheet, does it not?

A. That's correct.

Q. Now, in your office as Treasurer, you do not have a separate land book and a separate personal property tax book for public service corporations, do you?

A. Well, I have had heretofore, but last year I didn't have this book bound because the sheets were a different size, and I was trying to save the county a little money and I didn't have them bound. So I just keep them in here, because the only people that look at them are the auditors when they come to audit my books.

Q. Now, Mrs. Hensley keeps in her office that book that she had on the stand a minute ago with the title of Public Service Corporation Tax BOOK?

A. Yes. I have had one every year prior to this year—prior to 1966.

Q. Now, when you got the second supplement, along with it were these abatement memoranda that we have been talking about here for so long just a few minutes ago?

A. Yes, sir.

Q. And I show you a copy of those. Do you recognize them, that were sent to Transco?

page 47 } A. Yes, sir.

Q. And they have been marked in evidence D-1 or stipulated D-1 and D-2?

A. Uh huh.

Q. Now, along with those you received new personal property tax bills, did you not?

A. That's right, sir.

Q. And you wrote a letter to Transco explaining this or telling them what they were?

A. Yes, sir.

Q. And I will ask you to—This is the original, and you sent it to Transco by letter dated November 18, '66. Will you read that?

A. Uh huh. "Gentlemen: Enclosed is the public service supplemental tax bills. Any questions in regard to this assessment should be directed to Mrs. Thelma M. Hensley, Commissioner of Revenue, Prince William County. Thank you for your co-operation, C. N. Kincheloe."

Q. "Treasurer"?

A. "Treasurer". Right.
Q. Thank you.

Mr. White: This hasn't been cut off. I will have to cut it off later.
page 48 } If you will, mark this in evidence.
The Court: Any objection?
Mr. Smith: No.
The Court: It will be No. 5.

Q. Now, Mr. Kincheloe, the first bills that you sent out to Transco were paid, were they not—or the amount of the first bills that you sent out?
A. They were. Yes, sir. They were paid, but not until after this second one had gone out.
Q. That's right. But the total amount of the first assessment was paid to you as Treasurer by Transcontinental?
A. Yes, sir.
Q. The—let's call it the differential—the difference between the first assessment and the second assessment has not been paid, is that correct?
A. That's correct, sir.

Mr. White: I have no further questions.
Mr. Smith: I have no questions for him.

The Witness stood aside.

page 49 } REO F. FORD, being duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. White:
Q. Mr. Ford, state your full name and address.
A. Reo F. Ford, Charlottesville, Virginia.
Q. By whom are you employed?
A. Transcontinental Gas Pipe Line Corporation.
Q. What do you do for Transco?
A. I am Pipe Line Division Superintendent, and my office is in Charlottesville, Virginia.
Q. What area do your duties cover—geographical area?
A. Geographically my division runs from the North Caro-

lina-South Carolina state line to the Susquehanna River in Pennsylvania.

Q. That includes Prince William County?

A. Including all of Virginia and Prince William County.

Q. What are your responsibilities with regard to the pipe line within your division?

page 50 } A. My responsibilities are to supervise the maintenance and operation of our pipe lines and appurtenances, to insure the integrity of the pipe line, and to provide uninterrupted service.

Q. Is one of your duties generally to find out if there are are any defects in the pipe line and what the condition of the pipe line is at any given time?

A. Yes. Any time the pipe line is exposed for any reason, it is examined by me and others.

Q. All right. And you have held that job for eight years, have you?

A. Yes, sir.

Q. And how long have you been with Transco altogether?

A. Fifteen years.

Q. When did you first start "pipe lining"? Maybe I had better rephrase that. When did you first start doing work for pipe lines?

A. 1935.

Q. And in what capacity was that?

A. Well, I started out as a ditch-digger, water boy, and from thence to welder helper, and then a welder, inspector, district superintendent, project manager, and now division superintendent.

page 51 } Q. All right, sir. Have you been engaged, with perhaps one or two minor interruptions, in the business of working on pipe lines for the entire time since 1935?

A. Except for approximately four years in the United States Navy Seabees.

Q. Did you do any pipe line work when you were in the Seabees?

A. Yes, sir.

Q. Now, you have testified that you are responsible for the condition of the pipe lines in Virginia and more specifically within Prince William County. Are you familiar with the cathodic protection units?

A. Yes, sir.

Reo F. Ford

Q. Can you tell the court generally what they do?

Mr. White: Let me say before going into that that there was a stipulation filed this morning, Your Honor, a copy of which of course everybody has, and it tells one or two general things about cathodic protection units.

Q. But would you tell the Court just briefly what the purpose of a cathodic protection unit is?

page 52 } A. Basically, in layman's language, it is a unit designed, engineered, and constructed and operated to control the electrical current down the pipe line.

Q. All right, sir. What is the purpose for controlling that electrical current?

A. Well, by the nature of electricity, if it leaves the pipe for any reason, it will set up a corrosive action against the pipe. And one of the reasons that it leaves is moisture in the ground will form an electrolyte for the current to jump off onto. This cathodic protection unit prevents that and keeps the electrical current under control and thus preventing this corrosive action.

Q. The cathodic protection unit, then, to paraphrase your testimony, does protect the pipe line from corrosion—is one thing?

A. Yes, sir.

Q. Are there cathodic protection units installed in the area of Prince William County that would protect the line in Prince William County?

A. Yes.

Q. Do you know generally the location of these?

A. Generally there are three. There are three, I believe—

page 53 } or at least three that protect the portion of pipes in Prince William County. One is at approximately Highway 674, one at Station 185, and one near Highway 606.

Q. All right, sir.

Mr. White: I might say for the record that this is perhaps more fully set forth in the stipulation and exhibits filed this morning.

Q. Now, is there any other means of protection from corrosion given a pipe line in addition to cathodic protection?

Reo F. Ford

A. Yes, sir. When it is constructed, it is cleaned, brushed—mechanically—primed, and coated with a coal tar enamel, with a fiber glass wrap and kraft paper around the outside.

Q. Kraft paper around the outside?

A. Yes, sir.

Q. Is this just before it's put in the trench and covered up?

A. Yes, sir.

Q. Have you seen this done yourself?

A. Yes, sir.

Q. Have you had an opportunity to observe this coating type protection when the pipe line is removed

page 54 } or uncovered in any event?

A. Many times.

Q. What is the nature of this protective coating when you have seen it after the pipe line has been in the ground for substantial period of time? Is it hard, soft, or what?

A. It is a hard condition, and naturally the top of the pipe or around the pipe is dirty from the soil, but after that is cleaned off, the coating is in the same state as when it was applied during construction.

Q. Well, when you go inspect this pipe line, you have to get to the metal. How do you get through the coating to get to the metal?

A. We use tools to chip the coating off, and these tools are such that they will not be detrimental to the pipe; but it takes a sharp implement to remove the coating from the pipe because it adheres to the pipe so strongly.

Q. Now, do I understand you to say that the plan for construction of a pipe line contemplates coating all of the pipe line with this coat?

A. All underground pipe lines. Yes, sir.

Q. All underground pipe lines. All right, sir. Have you actually inspected this pipe line—maybe you have

page 55 } answered this—in Prince William County that has been uncovered for any reason at all?

A. Yes, sir.

Q. What is the longest that any pipe line has been installed in Prince William County underground and after which time you have gone to check it?

A. Approximately seventeen years.

Q. The pipe line then would have been laid in 1950, roughly?

A. Yes, sir.

Q. Do you remember where that was?

A. Specifically I believe that was at Highway 619 when the casing was extended on the line. But nearer the station which was visited while ago, there was a section—there is a valve that we removed just north of Highway 29 for the reason that construction had stopped there in the previous year and then had gone on further in the succeeding year, and when the third line was laid, this valve was no longer needed and the section of line had to be—this section of line had to be taken down to provide connections to the third line, so we took the opportunity to remove the valve, and it has now already been installed somewhere else over the system and put in a piece of pipe.

At this time we had an opportunity to examine
page 56 } both lines, both the original construction line and
the second line that was laid in 195, and found the
coating to be in excellent condition. The pipe—

Q. What was the condition of the pipe line itself, the metal underneath the cover in the first line put there in 1950?

A. The coating—They were both—They were the same. At this opportunity we had a chance to internally inspect the pipe, which we do at all times up and down our system whenever the pipe is cut. We inspect it inside and out.

Q. What was the condition of the pipe internally?

A. Good.

Q. Well, can you compare it with the condition of new pipe? Is it 50 percent deteriorated, 25 percent deteriorated from new pipe line, or what is the—

A. As far as visual observation, it was basically the same as when it was constructed.

Q. All right, sir. You testified that the coating on the outside was in good condition. Did you chip through the coating and look visually at the outside of the pipe line itself?

A. Yes, sir.

Q. And what was the condition of that?

A. Good.

Q. All right, sir. Have you checked other of
page 57 } Transco's pipe lines within Prince William
County at any time within the last eight years
you have had that job?

A. At Station 185 we removed a valve last year to install a larger valve.

Reo F. Ford

Q. All right, sir.

A. And we had an opportunity to examine all three lines at that time.

Q. What did you find?

A. I found them in excellent condition, both externally and internally.

Q. You, of course, run this same type of test on pipe lines outside Prince William County—in Fairfax and other areas, do you not?

A. Yes, sir. We have—Shall I continue?

Q. No, that is perfectly all right. Well, can you give an estimate, Mr. Ford, based on these examinations and your experience with this pipe line, as to how long this pipe line will last when it's protected cathodically and by the coating and so forth?

A. I can give you an opinion; it may not be an estimation. But based on my experience and the manner in which Transco coats its pipe lines, supplemented by the cathodic protection that it gives, I would say they would last indefinitely—from now on.

page 58 } Q. By indefinitely, do you mean three to five years, or in excess of fifty years, or what do you mean?

A. I mean in excess of fifty years. Many, many years.

Q. Many, many years in excess of fifty years?

A. Yes, sir. Yes, sir.

Q. As much as a hundred years?

A. Yes, sir.

Q. Well, that is the purpose of the coating and the cathodic protection, isn't it—to make it last indefinitely?

A. Yes, sir. That is right.

Mr. White: Answer Mr. Smith's questions.

CROSS EXAMINATION

By Mr. Smith:

Q. Do you know of any experiments that have been run over a period of a hundred years on any pipe anywhere?

A. I beg your pardon?

Q. Do you know of any experiment anywhere that they may have run on the life of any pipe that extended

page 59 } over a hundred years?

Reo F. Ford

A. Not specifically.

Q. So what you are saying is an estimation based on what you think to be the case as to the extended life of this pipe by virtue of this cathodic system and the wrapping?

A. Based on what I have seen in my past experience.

Q. Why did you take a pipe out of the ground out here at 185 where you removed a valve?

A. To install a larger valve.

Q. What did you do with the valve you took out?

A. It's still there in our stock to be installed—

Q. Somewhere else?

A. —next year.

Q. What did you do with the section of line that you took out there?

Mr. White: Objection. I don't think he said he took out a section of line.

page 60 } By the Court:

Q. Did you take out a section of line?

A. No, sir.

By Mr. Smith:

Q. Did you not testify you took out a valve and connected onto a line—the old line on a new line to go on farther?

A. I testified that we took out a valve where construction stopped by FPC Application. At a previous time, the line was laid on another program. And the valve was removed and a piece of pipe installed because the valve served no further purpose.

Q. Well, what was it that you said that you took out there and installed somewhere else in the system?

A. That is the question you asked previously regarding the valve at 185.

Q. I see. It actually has not been installed, but it's intended to be installed somewhere else?

A. I'm sorry. The valve taken out north of 29 was installed somewhere else on the system.

Q. So it can be taken out one place and be used

page 61 } some place else?

A. That valve was.

Q. When was the cathodic system installed on your pipe line that runs through Prince William County?

Reo F. Ford

A. I cannot answer that.

Q. All right. Do you know when the one was installed on Road 674 approximately?

A. No, I do not know.

Q. Well, has it been within the last five years, Mr. Ford?

A. I think not.

Q. You think not, but you don't know when?

A. That's right.

Q. It wasn't installed initially when the pipe line was put down, was it?

A. I can't answer that. I was not here when the pipe line was put in.

Q. How long have you been here?

A. Eight years in the Prince William area.

Q. Has it been installed since you have been here?

A. Not to my knowledge.

Q. Do you know from whom the land was—whose property it's actually installed upon at 674?

page 62 } A. 674? I believe that to be on the Larkin property.

Q. Right. And you don't know when it was put there?

A. No.

Q. Now, can the cathodic system on the Larkin property be withdrawn therefrom and put somewhere else and used?

A. I do not know that. I don't know.

Q. Well, generally can they be?

A. I don't know. I can't answer that.

Q. Now, you understand the system, don't you?

A. Yes.

Q. Well, now, is it some type of mechanical device that can be pulled out of there like the valve is pulled out and put somewhere else?

A. Based on what I know, which I said is a layman's knowledge, only certain parts of it I think could be, and I'm not sure about which parts.

Q. All right. Now, there are three of the cathodic installations in Prince William County, and I would take from your testimony that you don't know when any one of the three were installed specifically?

A. Not specifically. No.

page 63 } Q. Nor do you know whether or not they were installed at the time the initial pipe line—the first line was laid there?

Reo F. Ford

A. No.

Q. Do you know whether or not they are on right-of-way property, or does the company own the land—that is, own the fee simple of the land on which these cathodic systems are standing?

A. Would you restate the question?

Q. Do you know whether the company owns the land upon which the cathodic system is established, or is it on right-of-way property?

A. I don't know.

Q. How big an area does it require to put one of these systems in?

Mr. White: Your Honor, let me interject a statement that might be of some assistance.

Mr. Ford—

The Court: I don't think—If you want to make an objection, you make an objection. Otherwise, I will let Mr. Smith conduct his own examination.

Mr. White: Well, I have a witness who is an expert in the field he is talking about—

page 64 } Mr. Smith: I thought you had qualified him as such.

Mr. White: —cathodic protection.

Q. Do you know how big an area it takes to establish a cathodic system?

A. No. Just generally, but not specifically.

Q. You are superintendent of the division and your main responsibility is the integrity, I believe you said, of the pipe line. Do you know of your own knowledge whether or not the company owns the land on which the pipe line is that you maintain integrity upon?

A. In what—In the area of where?

Q. The land upon which the pipe line is laid over which you maintain.

Mr. White: Objection, Your Honor. I think he is calling for a conclusion.

Mr. Smith: I asked him—

The Court: Objection overruled.

Leroy A. Vidrine

By the Court:

Q. Do you know, or don't you know? If you
page 65 } don't know, say you don't know, Mr. Ford.

A. I don't quite understand the question yet.

By Mr. Smith:

Q. Does the company own the land on which the pipe line is laid?

A. I don't know.

Mr. Smith: No further questions.

The Court: Do you all have any further questions?

Mr. White: I don't have any further questions of him.

The Witness stood aside.

page 66 } LEROY A VIDRINE, being duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. White:

Q. State your full name, please.

A. My name is Leroy A. Vidrine.

Q. Where do you live?

A. I live in Charlottesville, Virginia.

Q. By whom are you employed?

A. Transcontinental Gas Pipe Line Corporation.

Q. What is your job with Transco?

A. I'm Corrosion Engineer for Division 4.

Q. Corrosion Engineer. Does that have to do with cathodic protection units?

A. Yes, it does. It has to do with mainly that.

Q. Where did you receive your college education?

A. Louisiana State University.

Q. You have a Bachelor of Science in what?

A. Electrical Engineering.

Q. You have been with Transco seventeen years?

A. Right.

page 67 } Q. And you have held your present job for eight years, is that right?

A. That's right.

Leroy A. Vidrine

Q. How large is the division in which you are Corrosion Engineer?

A. It's from the South Carolina-North Carolina line to the Susquehanna River in Pennsylvania.

Q. All right, sir. Are you familiar generally with the location of the corrosion units or the cathodic protection units here in the Prince William County area?

A. Yes, I am.

Q. Do you know if they are located on land owned outright by Transco, or on easements?

A. There is one unit which is at 185, Station 185. The others are—

Q. Do you know if the others are owned by Transco, or not?

A. Pardon?

Q. Is that on land owned by Transco, or not?

A. Yes.

Q. Well, how are these cathodic protection units installed?

page 68 } A. They are installed by the installation of what we call a ground bed, which consists of carbon rods which serve as the anodes, and then the pipe line serves as the cathode. And the anodes, in effect, protect the pipe line with the impression of DC current on it.

Q. All right, sir. How effective is the cathodic protection unit in your experience?

A. I would say it's very good—very well protected when you have cathodic protection on the line.

Q. You have had an opportunity to observe pipe line that has been in the land in Prince William County, have you?

A. Yes, I have.

Q. What is the oldest pipe line you have seen uncovered?

A. About seventeen years.

Q. What condition was that in?

A. It was in very good condition.

Q. Will you tell the Court to what extent, if at all, this cathodic protection unit, once installed, is movable?

A. There is only a certain part of it that can be removed. The ground bed cannot be removed. It's in the ground, and it would stay in the ground if it was—if it were to be abandoned.

page 69 } Q. Well, what part of it is?

A. The rectifier, which is more or less the driving force and a small part of the unit.

Leroy A. Vidrine

Q. Do you know when those cathodic protection units were installed? Let's take the one at Station 185.

A. It was installed, I believe, in 1958, or '59. That was before I was in this area.

Mr. White: All right, sir. Answer Mr. Smith's questions.

CROSS EXAMINATION

By Mr. Smith:

Q. Describe the ground bed that you speak of.

A. The ground beds will vary in size, depending on the design that we have for it. In the station yard at 185, it is a distributed-type ground bed where we install ground rods consisting of carbon rods throughout the station yard and connect them by cable, and that is the positive side of the rectifier or is driven by the rectifier as the anode.

page 70 } Q. Just a series of carbon rods laid beneath the surface of the ground generally parallel to one another, are they not?

A. Not in the station. They are distributed throughout the area.

Q. But in the area on the Larkin property in particular.

A. That's right.

Q. How big an area are they placed in the ground?

A. They are on twenty-foot centers, twenty rods in this case.

Q. And they are carbon rods?

A. Carbon rods.

Q. Why do you say they can't be removed?

A. The removal of it would probably destroy them.

Q. But if it didn't destroy them, they could be removed and used elsewhere?

A. Only a part of them. Only the rods. There is also what we call a coke breeze back field surrounding the rods.

Q. What does that consist of?

A. Just crushed coke breeze. Coke breeze.

page 71 } Q. Just crushed coke breeze? Nothing in the world but charcoal?

A. Yes, sir. That's right.

Q. The same stuff we use in our family cookouts, isn't it?

A. I think there is a difference.

Leroy A. Vidrine

Q. Very little difference, though, isn't it, Mr. Vidrine?

A. Just crushed coke.

Q. Just like crushed stone, except it's crushed coke. You put that in there and bed these cathode rods?

A. Not "cathode".

Q. I mean the carbon rods.

A. There is a difference. The pipe is the cathode.

Q. Yes. The pipe is the cathode and the carbon is the anode?

A. Right.

Q. And then this series of parallel carbon rods are connected by a cable that runs to your rectifier, and that you said can be removed?

A. That's right.

page 72 } Q. Would the area on the Larkin property be much larger—if it was larger—than this courtroom where the cathodes are?

A. I would say it's about this large—yes, sir—just guessing, because—

Q. Basically, Mr. Vidrine—

A. Vidrine.

Q. Basically, sir, isn't the reason that the ground bed can't be removed is because economically it doesn't justify to remove it?

A. I imagine that would have to be part of it.

Q. But the rectifier is a very small part of it that can be removed and has in the past been removed and used at other locations?

A. Right.

Q. Do you know if any of the ground beds or any of these systems were installed when the pipe line was initially installed, or did they all come here subsequent to the pipe line?

A. I think it was about a year—probably a year after the original installation is when some of them were installed.

page 73 } Mr. Smith: All right. No further questions.
Mr. White: No further questions, Your Honor.

The Witness stood aside.

Note: There followed a luncheon recess.

Robert M. Detamore

page 74 } AFTERNOON SESSION

(2:00 p.m.)

ROBERT M. DETAMORE, being duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. White:

Q. Would you state your full name, please?

A. Robert M. Detamore.

Q. By whom are you employed, Mr. Detamore?

A. Transcontinental Gas Pipe Line Corporation.

Q. What is your job?

A. Superintendent of Compressor Stations Department.

Q. What geographical area does your job cover?

A. From the Rio Grande Valley of Texas to New York City.

Q. All right. That embraces four different divi-
page 75 } sions, is that correct?

A. Correct.

Q. What sort of educational background do you have by means of college education specifically, or do you—

A. I received a B.S. in Mechanical Engineering from the University of Virginia in 1950.

Q. All right, sir. You live now in Houston, correct?

A. Houston, Texas. That's correct.

Q. How long have you been with Transco?

A. Seventeen years.

Q. How long have you held your present job?

A. Two years.

Q. Are you a registered engineer in any state?

A. Yes, sir. State of Texas.

Q. Mr. Detamore, what generally are your responsibilities in connection with the compressor stations such as the one at Station 185?

A. Supervise the operation and maintenance of the stations, to assure—

Q. I assume you are familiar with all the operations and basically the construction and how these things are put together, is that correct?

Robert M. Detamore

A. Correct. Yes. I have served time in station
page 76 } construction also.

Q. I beg your pardon?

A. I have served time in station construction also.

Q. You are the gentleman who took the Court and counsel and other parties out to the site of Station 185 and guided us around this morning, is that correct?

A. I'm sorry, I couldn't hear you.

Q. You are the gentleman who guided us around on the tour at Station 185 this morning?

A. Yes. That's correct.

Q. And in the course of that, you explained various things about the operation of the station?

A. Attempted to.

Q. All right, sir. Are you fa*milair* with the acquisition of the land at Station 185 where we were this morning? Do you know when it was acquired?

A. The original parcel of land we purchased, I think, in 1956.

Q. All right, sir. Do you know for what purpose that was acquired by Transcontinental?

A. To construct a compressor station.

Q. Such as is there now?

A. Right.

page 77 } Q. Do you know whether or not a Certificate of Public Convenience and Necessity was ever granted by the Federal Power Commission for this compressor station?

A. It was. Yes.

Q. Did that cover all the work that we saw out there this morning?

A. No, sir. The original application covered construction of five of the engines. We have since had three others covering the additional four engines.

Q. Now, Mr. Detamore, I don't want you to repeat all—I don't want you to recover all the ground that was covered with the Court out there this morning, but I do want to ask you some questions for the purpose of the record as to the nature of construction of this station, its appearance, and so forth.

Are you familiar with the stipulation that was filed with the Court on October 4, 1967, I believe is the date, to which are attached a number of exhibits consisting of photographs numbered I-1 through I-25?

Robert M. Detamore

A. Yes, I am familiar with it.

Q. Can you say whether or not the items shown in those photographs constitute the major portion of the machinery installed at that compressor station?

A. In my opinion, yes.

page 78 } Q. And without covering all of the items shown in those exhibits, let me direct your attention to the compressor units themselves, and by that I mean the engines, compressor units, exhausts and so forth. You looked at the photograph of the compressor units, which is—Let me see. Well, actually there are several views. One is on Exhibit I-9, one is a view from down in the basement, I-10?

A. Yes.

Q. I-11 is from the catwalk above the compressor units. You have reviewed those and you are familiar with them, is that right?

A. Yes. Yes.

Q. How much does one of those compressor units weigh?

A. Approximately eighty-five tons.

Q. And how many of them do you have?

A. At this station?

Q. Yes.

A. Nine.

Q. State to the Court the means by which those compressing units are installed in the location where we saw them this morning. By that, I mean from the foundation or base on up.

A. A hole is excavated down to solid undis-

page 79 } turbed soil, then a mat is poured. The entire basement is one monolithic mat approximately thirty inches thick, and from that the blocks are built up, tied into the mat by re-enforcing rod. The block is built up, formed, and it is also a monolithic pour. The engine—Of course, the block has hold-down bolts in it. Then the engine is placed on the bolts, leveled, tightened down, and then grout, which is a cement-sand mixture, is forced in under it to assure a level, firm base for the engine. This is very critical in the successful operation of the unit.

Q. A compressing unit itself then is fastened to the block both by bolts and by grout?

A. That's correct.

Q. Is the compression unit movable on top of this block at all?

A. I hope not.

Q. What is your experience with moving these compressing units? How many compressing stations do you have under your supervision?

A. Thirty compressing stations and two process plants.

Q. What has been your experience, since you have been involved with the construction of compressing units, with moving compressors?

page 80 } A. We have never moved a main-line compressor. Small field units of 100 horsepower or less we move.

Q. What can you tell us about the life expectancy of a compressor as it is installed in Compressor Station 185?

A. Let me mention our maintenance program in answering this. Periodically we shut each unit down and completely overhaul it and replace any worn or damaged parts. After this is completed, the unit is like new.

Q. Well, how long would you—based on your experience with these units—expect a compressing unit to last?

A. Indefinitely.

Q. Would you ever expect to remove one of these compressing units from the block on which it sits?

A. No, sir.

Q. And referring to I-13—I don't believe that you have these photographs in front of you, but I will give you the description—talking about the basement near the end of the compressor building where the waterheads are, can you say whether or not the equipment shown in Exhibit I-13 is essential to the operation of this station?

A. Absolutely. Absolutely essential. Yes, sir.

Q. How about, for example, I-16? Can you turn

page 81 } over to that gas scrubber? Can you say whether or not they are essential to the operation of this station?

A. They are.

Q. As a matter of fact, Mr. Detamore, were these descriptions put in this description which you are looking at now prepared by you, under your supervision?

A. Under my supervision. Yes.

Q. As a matter of fact, with the exception of one or two of the exhibits attached to this stipulation—particularly I-4, which I think refers to the inside of the office, with the filing cabinets and so forth, and I-25, which is the installation on

top of Bull Run Mountain—will you tell the Court whether or not the other items shown in these exhibits are essential to the operation of this station?

A. They are all essential to the operation of the station.

Q. Can the station operate without any of them?

A. Oh, the storage bins, perhaps. We could have spare parts laying all over the floor, but it isn't very practical.

Q. Can you tell the Court whether or not each of the items shown in these exhibits, with the exception
page 82 } of I-4, is attached to the ground? Do you know whether it is or not?

A. All major items are attached. Yes, it's all tied with the ground. Yes. Through concrete.

Q. Does that include the pipe lines as well? There were some pipe lines out there. Are they fixed to the ground and to the compressing station itself?

A. Yes. They are tied down to concrete blocks.

Q. Referring to the land on which this compressor station is built, do you know of any other purpose to which this land can be used other than used as a compressing station?

A. No.

Q. What is the purpose of the compressor station as it appears there?

A. Of the whole complex?

Q. Yes.

A. To transport gas from our purchasing areas to our sales areas—market areas.

Q. To build up pressure on the line as it drops off from another compressor station, is that right?

A. That is right.

Q. What would happen if this particular compressing station should go off for maintenance, for example?
page 83 } A. We would curtail our delivery to our market.

Q. What would happen to pressure on the line?

A. Decrease.

Q. Could you still transport gas?

A. If we lose this one station?

Q. Yes.

A. Yes, we could still transport gas, but in lesser quantities.

Q. Do you know if the underground piping at this compressing station is protected by cathodic protection units?

A. It is.

Q. Did you point that out to the Court and counsel this morning?

A. I did not. The cathodic protection rectifier is behind the switchboard in the shop building. We did have a conversation about some dead grass which resulted from the ground beds. That's correct. Yes.

Q. When this station was actually constructed, do you know whether the compressors were put in their location first and the building was built around it, or whether the building was built and then the compressors installed, or do you know?

page 84 } A. The blocks were poured and the walls were poured, then the engines were set on the blocks, and then the building was erected around them. Now, as we expand, we bring the new units in. We tear out the end of the building and bring the new units in, and replace that end.

Mr. White: All right, sir.

Your witness.

CROSS EXAMINATION

By Mr. Smith:

Q. Mr. Detamore, conceivably, then, you could add eighteen more units of the same type out there if you really wanted to, is that right?

A. Yes.

Q. And I believe you said you periodically shut these big motors and units down to completely overhaul them?

A. One at a time. That is correct.

Q. Now, does the block ever have to be changed?

A. No, sir.

Q. What, is it rebored? You have cylinders to it, do you not?

page 85 } A. We replace the cylinders. In other words, each cylinder is replaceable. It's not like an automobile.

Q. You can, in fact, rebuild the engine—unit with new parts right there on the block, could you not?

A. No. We don't have spare crankcases or crankshafts.

Q. Well, have you ever heard of one breaking?

Robert M. Detamore

A. A crankshaft?

Q. Crankshaft.

A. I'm afraid I have.

Q. And so, when it's broken, you pull it out just like you do out of an automobile?

A. (Witness nodding head)

Q. In effect, is this just a tremendously large motor?

A. No, it's not a motor. It's an engine.

Q. Engine. Excuse me.

A. Internal combustion. They happen to be four-cycle. That's correct.

Q. It's not anticipated at this time, I'm sure, but is it probable that they could become obsolete and some other mode of power be supplied?

A. I know where there are engines in operation now that have been in operation for a hundred years.

page 86 } Q. All right. How about the turbine engine? Could it not be worked into this same situation?

A. Yes, sir.

Q. Is it not more economic?

A. It is not.

Q. It isn't?

A. No, sir. The fuel consumption for a gas turbine engine is about thirteen, fourteen cubic feet per horsepower hour. These are approximately seven.

Q. Suppose all of a sudden that somebody did want to replace these engines. Could they not replace them with something else in this particular location?

A. In the respect that the Blue Ridge Mountains can be moved, yes.

Q. You can move them in and you can move them out?

A. That's right. Sure.

Q. In the first building we were in out there, when we went into the door, to our immediate right, which would be the east, there were some small pumps that I believe you said were pumping water, and on the left were some larger pumps pumping oil, or vice versa.

A. No, they were both pumping water. The ones on the left are pumping engine jacket water to cool the

page 87 } engine. The ones on the right were pumping water to cool the oil.

Q. What was the method of power for those?

A. Purchased electricity.

Robert M. Detamore

Q. Then both sides were being operated by electrical motors, then?

A. That's correct.

Q. Some of those motors were larger than the others?

A. That's correct.

Q. How were the motors fixed to the realty, to the base?

A. They are bolted down.

Q. Supported on the concrete block and bolted to the concrete block that has what you call—

A. Grout.

Q. Grout. And then grouted?

A. That's correct.

Q. Are those electric motors ever replaced?

A. I don't know whether one has here or not.

Q. But they do burn out, do they?

A. Yes, and we rewire them.

Q. You rewire them. You take them off the base, rewire them, and put them in storage until such time as

page 88 } it is needed in the line, so to speak?

A. I guess that could be considered correct.

Q. Do you know how they are assessed?

A. No, sir.

Q. Do you at any time make the list of inventory that may be turned over by any official of your company to the State Corporation Commission?

A. Do I personally?

Q. Yes.

A. No.

Q. Does anyone in your company's officer personnel ever confer with you as to your opinion as to whether something is real estate or personal property?

A. No, sir.

Q. The pumps operated by these smaller motors and larger motors that are pumping this water wear out likewise, do they not?

A. Do—

Q. Wear out.

A. The pumps?

Q. Yes.

A. Oh, yes.

Q. More frequently than the motors possibley, is that right?

page 89 } A. No, I wouldn't say that.

Robert M. Detamore

Q. But they could be pulled out of the line and repaired and used at that location or some other location?

A. Yes.

Q. Do you know whether or not they are returned as personal property, or real property?

A. I have no idea.

Q. Do you know whether they are returned as machinery? Would they be returned as machinery?

A. I don't know.

Q. Would you consider them machinery?

A. Would I consider—

Q. Would you consider the smallest electric motor we saw out there that was pumping water on the east side of the building as we went in as machinery?

Mr. White: I object to that, Your Honor. I think it's irrelevant.

Mr. Smith: Your Honor—

The Court: I overrule the objection. Go ahead.

Q. Is that, in your opinion, machinery?

A. I really don't know how to answer it. I page 90 } really don't.

Q. Well—

A. It's like what is a motor and what is an engine.

Q. Well, if you don't know, how am I going to find out or how is the Court going to find out?

Mr. White: Objection, Your Honor. I don't think it's a question of whether it's machinery. It's whether it's realty or personalty.

Mr. Smith: Your Honor, they have said, if I may be heard on it, that machinery is real estate. They say that in their petition.

The Court: All right.

Mr. White: Well, I would like to respond to that. We say it's real estate because it's real estate, not because it's machinery.

The Court: All right.

Q. Well, I ask the question: Is the motor itself machinery?

A. I would like to answer it like this, if it's allowable: It sure is not personal property.

Robert M. Detamore

Q. Why do you say it's not personal property?

page 91 } The Court: You don't answer it that way.

By the Court:
Q. Is it machinery?
A. I would say it's machinery.

The Court: I would, too.

By Mr. Smith:
Q. But it's affixed to the thing by lag screws or bolts?
A. Bolts. Anchor bolts.
Q. Now, Mr. Detamore, do you by chance own a little work shop in your own home?
A. I wish I did, but I don't.
Q. You are familiar with them, anyway, are you not?
A. Yes.
Q. Isn't it common practice to bolt an electric motor down to any type of stationary foundation if it's going to be used for driving any type of lathe or machinery of any type?
page 92 } A. No. The normal practice, I believe, is for the motor to be mounted over the drill press or grinder or whatever it is.
Q. And you have never seen one mounted on a bench?
A. Not the type you have—Mounted on a bench?
Q. A bench. Yes.
A. The motor on the bench? Sure. Sure. Sure.
Q. Bench. B-E-N-C-H.
A. Sure.
Q. Other than the size of this motor out there and the size of the motor in a family workshop, is there any particular difference?
A. There is a lot of difference.

Mr. White: I object to that.

A. The motor—

The Court: Wait a minute.
Mr. White: I object to that. Mr. Smith is trying to get Mr. Detamore to do the job here the Commissioner

page 93 } of Revenue is charged with doing in this county.

He has set up a hypothetical situation. He is asking him about an engine, a mythical motor that is attached to a mythical bench somewhere which may or may not be attached to the floor of the basement of the house, and that gives him sufficient facts on which to say it's the same thing or not. There is no way in the world the witness can answer that question.

The Court: Objection overruled.

Mr. White: I will note an exception.

Mr. Smith: Will you read—

The Court: He asked was there any difference between the machines out here and the machine he has described that one has in a basement.

A. Sure. The moments of inertia.

Q. Does that make it different?

A. Sure, it makes it different.

Q. Describe the way.

A. It controls how you have to tie it down.

Q. I see. An electric motor spins around a 360-degree arc, does it not?

A. So far as I know.

Q. Well, do you know of any other ways?

A. No, sir.

page 94 } Q. How about the generator at the back of that same building that we went into first out there on the northeast corner of that building? I believe you said it was an auxiliary generator in the event the power source—

A. That's correct.

Q. —failed. Now, is that something that could be moved out and an entirely new generator put in—a new system put in? Let's put it that way.

A. That particular unit?

Q. Yes.

A. Yes. This unit could be moved out.

Q. Do you know whether it's returned as machinery, or whether it's returned—Well, as machinery, or any other designation?

A. Sir, I don't get involved in that tax at all. I really don't know.

Q. But it can be, by unscrewing the bolts and disconnecting the electrical lines, removed from the place?

A. Yes. But we would have to have something to replace it, if the sizing were wrong or something like that.

Q. If it became necessary to put in a larger one, then that smaller one would be used at—you could pull it out and put it at some other location and put a larger one

page 95 } right back in there, could you not?

A. That's right.

Mr. Smith: All right. I think that is all.

Mr. White: No further questions.

The Court: Let me ask him one question. I don't know whether it's material or not.

By the Court:

Q. Mr. Detamore, you said you had different types of machinery at some of the other stations?

A. That's correct.

Q. Is it improved? Is it an improvement over the motors you have out here?

A. No. We have three vendors we basically purchase from. We don't want to put all our eggs in one basket.

Q. Substantially the same machine, but more modern or more efficient than the old machines?

A. Yes.

Q. Do you have any sort of replacement program?

A. No. sir. Absolutely not.

page 96 } The Court: All right.

By Mr. Smith:

Q. Do you depreciate it?

A. I don't.

Q. Well, do you know whether or not the company does?

A. No, sir.

Q. Do you know whether or not the company buys them as a unit, or do they buy them as a—I mean a particular unit from one source and maybe something else from another source and combine them together?

A. No. We buy the entire unit from one company. They happen to be Ingersoll-Rand Company.

Q. Do you know whether or not, when they are purchased, are they ever purchased on a conditional sales contract or chattel mortgage or is lien recorded against them?

Hal C. Stevenson

A. I don't understand all the terms that you use there, but we purchase them and we pay for them, if that answers your question.

Q. You pay for them in cash, or is some—

A. We pay for them upon delivery and satisfactory tests.

page 97 } Q. Now, do you know whether payment is made by a chattel mortgage or a trust or lien being recorded against them upon being installed?

A. I don't know what you are talking about.

Mr. White: I object.

The Court: He does not know what you are talking about. He answered your question.

Mr. Smith: That answers my question.

REDIRECT EXAMINATION

By Mr. White:

Q. One more question. What is the trade name of the compressing units out here? Do you know?

A. These are Ingersoll-Rand 412-KCS. The original five are DT Series. The last four are FT Series. Basically they are exactly the same unit, but there have been a few refinements.

Q. You say you have other makes at other installations, such as that in Orange?

A. That's right. Clark Brothers over in New York, Cooper-Bessemer at Grove City, Pennsylvania.

page 98 } Q. How many compressor stations do you have in *Virglnia*?

A. Five.

Q. How many overall in your complete area?

A. Thirty.

Mr. White: All right, sir. Thank you.

The Witness stood aside.

page 99 } HAL C. STEVENSON, being duly sworn, testified as follows:

Hal C. Stevenson

DIRECT EXAMINATION

By Mr. Ferrell:

Q. Were you sworn this morning?

A. Yes.

Q. Your name is Hal C. Stevenson?

A. Yes.

Q. And what is your occupation, Mr. Stevenson?

A. I'm assistant manager of the Tax Department for Transcontinental.

Q. How old are you, sir?

A. Fifty-three years old.

Q. How long have you been with Transco?

A. Fifteen years.

Q. How long have you been in the Tax Department?

A. Fifteen years.

Q. How long have you been assistant manager of the Tax Department?

A. Approximately seven years.

page 100 } Q. Your superior now is Mr. Phil Robira?

A. That's correct.

Q. Is he the gentleman that signed these annual reports, the gas company report of Transco to the State Corporation Commission for the year 1966?

A. I believe he did. Sometimes they were signed by our treasurer, however, I think that one you have reference to was signed by Mr. Robira.

Q. And who prepared this?

A. I either prepared it or it was prepared under my supervision.

Mr. Ferrell: I believe, if Your Honor please, some excerpts from this annual report were filed in evidence or filed with the application as exhibits in the A series.

Q. And turning to that report to the Commission, would you just run briefly through there with the view that we had today in mind and tell His Honor exactly what was returned as machinery in Compressor Station 185, and what was returned as personal property of any category in this report, and how it was reported or assessed by the State Corporation Commission?

page 101 } A. I can't give you a complete breakdown of

every item that we returned as machinery, because I don't have it before me. Those figures are given to us in accordance with the FPC standard accounting procedure. I select from there what is machinery and what is buildings.

Now, in a compressor station such as we saw this morning, small items—not necessarily small items, but items that we saw in the shop—for instance, the lathe—are personal property. The items in the bins: Personal property. Items in the—

Q. Office?

A. —office: All the office equipment was personal property. The desks, typewriters, all furtniture and fixtures and all of the store's equipment is personal property, and those are all classified under general plant equipment, which is—

Q. They—Excuse me for interrupting.

A. I'm sorry.

Q. Go ahead. Finish your answer. I interrupted you.

A. Which it included store's equipment, as I mentioned, the tools in the shop, and the garage equipment, which I mentioned.

page 102 } By the Court:

Q. Are you reading off something?

A. Yes. I was reading off this Schedule 3.

By Mr. Ferrell:

Q. That is what?

A. Page 7. General plant equipment, Schedule 3.

The Court: All right.

A. We don't carry them in these exact ways, but they are classified under this. Laboratory equipment—which we have none in this station here—communication equipment and various other miscellaneous equipment, which would be some of those things in the bins and various things, they are personal property.

Q. What about the sleeve for the cylinder of that engine that we stopped and looked at—

A. They are—

Q. Let me finish my question.

A. I'm sorry.

Hal C. Stevenson

page 103 } Q. —in the basement in the compressor building?

A. Personal property.

Q. What about the cylinder heads?

A. They are classified as personal property.

Q. What about the pipe that was stored in the yard that we saw behind the—

A. Personal property.

Q. —house there with the automobiles and the other—

A. Personal property.

Q. What about the spare parts that were in that building?

A. All of those spare parts are personal property.

Q. Now, directing your attention to Column 4, I believe, of Plaintiff's Exhibit 1, which is the assessment of value by the State Corporation Commission and says "mains" or words to that effect, in making up your report there—look at the schedule—would you state whether or not the cost of the easements wherein these pipes are laid that are returned as mains are included in that figure?

A. If you have reference to the right-of-way, yes, they are included in this cost.

page 104 } Q. Well, is it correct then to say that the right-of-way cost plus the fair market value of the pipes and lines themselves and appurtenances installed are included in that item of pipe lines or mains?

A. Under mains. Yes. That is correct.

Q. Is it within your duties to visit up and down the pipe line and consult with local tax assessors with regard to the classification of Transco's properties within their taxing jurisdiction?

A. Yes, sir, that is one of my duties.

Q. In October of 1966, did you come to Prince William County to discuss a classification—

A. Yes, I did.

Q. —of Transco's property?

A. (Witness nodding head)

Q. Why did you come up here?

A. I was in Richmond on a routine trip, and I asked Lee Younger for a rate book. And I had just hurriedly glanced through it and noticed that Prince William County had two rates. So I thought it would be only proper that I go up to the courthouse and talk to someone relative to the classification of our property and see how they had it done.

Hal C. Stevenson

Q. Well, did you come up here and go to the
page 105 } Commissioner of Revenue's office?
A. I did.

Q. Did you see her?

A. She was not in the office that day.

Q. Did you see anyone in the office?

A. I saw one of her deputies. Yes.

Q. What was your understanding as to the classification, if you had any such understanding?

A. I don't have one of those books in front of me. That was the way in which it was described to me.

Q. Well, I have a book here that has been introduced in evidence as Plaintiff's No. 1, but I believe on the back of this one it has "received in August". I think this is your original book, isn't it?

A. Uh huh. As a matter of fact, this is the one I wrote it in.

Q. All right.

A. They informed me, I should say, that Column No. 1 was classified as real; Column No. 2—

Q. Read the rest of the caption.

A. Column 1, value of land and improvements thereon, classified as real.

Column No. 2, value of machinery, classified as real.

Column No. 2, value of machinery, classified
page 106 } as real.

Column 3-A, value of automobiles and trucks, personal.

Column No. 3-B, value of furniture and fixtures and miscellaneous equipment excluding automobiles and trucks, personal.

Column No. 4, value of mains, real.

Column No. 5, value of services, we have none.

Column 6, value of meters and house regulators, we have none.

Column No. 7, value of material and supplies, personal.

And the 8th column, of course, is the total of all the property.

Q. And you returned to Texas after this visit to the commissioner's office?

A. Yes. I told the deputy that that would be in accordance with my feelings also, and I left and went on from here to Baltimore, finished my business in Baltimore and drove back to Texas.

Hal C. Stevenson

Q. And when you got back there, you found that the tax assessment had been made according to that information, did you not?

A. The bills had already been received, and
page 107 } I, of course, immediately checked them to be sure that they were in accordance with what they told me that would be, and they were.

Q. And then the next thing you heard was what? About the assessments up here.

A. Oh, we got another bill. I can't remember the exact date. Not "bill", but "bills", in which were some abatements and some changes from real to personal, and various items such as that were on the statement.

Q. Well, are you ready, willing and able on request to give any of these taxing authorities full details as to what goes in these reports required of the taxing authorities in Virginia, and more specifically to answer any other questions that are not answered by the reports themselves to the local assessors?

A. Well, that is one of my duties—to try to give them my best information as to what I would consider it, and give an explanation of why I consider such property as being real or personal.

Q. Are there any other counties in Virginia that in 1966 had a split rate?

A. That we have property in?

Q. Yes. Where Transco has property.

A. Yes.
page 108 } Q. What are those counties?

A. Orange is one where we have a compressor station. Fairfax is one where we have pipe lines.

Q. Well, in Fairfax, how are the pipe lines classified?

A. They are classified as realty.

Q. Was there any question about that at one time?

A. There was.

Q. And how did you resolve it?

A. We went by—Mr. Robira and I went by on the trip up here and talked to Mr. Ferguson, I believe the man's name is, and his assistant—I don't recall his name right now—and after about a twenty-or thirty-minute discussion, he called in one of his clerks and he said, "Change Transco's property from personal to real. There is no question but what it is real."

Hal C. Stevenson

Q. What about the situation in Orange County? Is the machinery as you report it there in the same report for Compressor Station—Is it 180 in Orange? You give them the same treatment, don't you—

A. Yes, sir.

Q. —as far as machinery and tools and so forth—

A. Yes.

page 109 } Q. —as you do in Prince William?

A. Machinery and equipment in Orange County is classified as real property.

Q. And what about gas mains?

A. Mains are classified as real property, in exactly the manner in which they told me they were going to classify it in this county.

Q. Well, now, is the rate more or less, or is it in your favor—is what I'm trying to bring out—to accept it that way, or is it contrary—make the tax higher?

A. Do you have reference to the counties in Virginia, or throughout the system generally?

Q. Let's take Virginia first, and then the system.

A. It has been. Yes, it has been in our favor to have our property classified as real in the State of Virginia. Yes, sir.

Q. Well, now how about elsewhere?

A. No, sir. It is not true in all states, particularly in the State of New Jersey.

Q. Well, now, are you or are you not consistent in your position as to whether or not these two items are real or personal?

page 110 } A. We are consistent in our thoughts in every case as to whether our property is realty or personalty, regardless of the tax that results.

Q. And that is what, as far as the machinery at the compressor station?

A. That is that the machinery at the compressor station and the mains would be real.

Mr. Ferrell: I have no further questions. Answer Mr. Smith's, please.

CROSS EXAMINATION

By Mr. Smith:

Q. Mr. Stevenson, who was the gentleman you talked to

in October 1966 in the Prince William County commissioner's office?

A. I'm not certain. I think it was Mr. Clarke, but I just can't recall. I looked for his name in the office and I could not find it.

Q. And he told you that Columns 1, 2 and 4 would be real estate, and that met with your approval, is that right?

A. Let me refer to that again.

page 111 } Yes.

Q. Now, do you know what the rate is in Orange County on realty and what it is on personalty?

A. I don't have it before me. No, sir.

Q. Do you know what it is in Fairfax County?

A. I don't have it before me. No, sir.

Q. Now, you say you have been assistant chief of your department for seven years. For the years 1963, '4 and '5, did you not receive tax bills from Prince William County?

A. Yes, sir.

Q. How was all the property of Transcontinental Gas Pipe Line assessed at that time? Those three years.

A. Without referring to the statements, I am sorry, that I could not tell you, because I look at thousands or hundreds of them every year.

Q. All right. Anyway, those statements were paid in the past, were they not?

A. Oh, yes.

Q. And no complaint was ever made?

A. Not as to the classification. There was no need to.

Q. Why wasn't there any need?

page 112 } Mr. Ferrell: I object.

Mr. Smith: Let him—

Mr. Ferrell: I will state my objection.

The previous years taxes, we say, have no application to this case, because the 1966 act specifically states in the last paragraph in one sentence to the effect that how the property was classified in 1965 does not apply to the tax year 1966.

This witness on direct examination has not gone into the matter of taxes in this county in previous years, and so it's improper from two standpoints: No. 1, it's not proper cross examination. And 2nd, it is irrelevant and immaterial to this action.

The Court: Well, I don't know how material it is, Mr.

Hal C. Stevenson

Ferrell, but this witness has made such a point of the fact that he wanted to be consistent throughout the whole system and that he was mighty concerned about whether it was assessed as realty or personalty that I am going to let Mr. Smith go ahead and ask him. I don't know how material it is.

Your objection is overruled.

Mr. Ferrell: All right. I except to the ruling page 113 } of the Court.

Q. Why didn't it make any difference, Mr. Stevenson, in 1963, '64, and '65 as to whether it was assessed as realty or personalty in Prince William County, Virginia?

A. The rate was the same. If you get the same thing, it doesn't make any difference.

Q. And if the rate had been the same in 1966, it still wouldn't have made any difference, would it?

A. I doubt if we would have complained about it. No, sir.

Q. I presume from what you say that you make out this sheet that goes in the State Corporation Commission, which is Exhibit A-1, A-2, A-3, A-4, A-5 and A-6—the A series of the exhibits that have been stipulated to—and you caused the figures to be applied thereto to go in to the State Corporation Commission, did you not?

A. Yes.

Q. You did that in the year 1966, and it had to be in there by the 15th of April or 15th of May or somewhere along that line?

A. That's correct.

page 114 } Q. Now, what was included in the column that you call machinery in Manassas District of Prince William County, and specifically, were the electric motors and the pumps that were used for cooling the motors that were in the first building we went into out there this morning on our view, are they considered by you to be machinery?

A. I consider them an integral part of the compressor station, and I do consider them machinery and equipment. Yes, sir.

Q. Are those things—motors interchangeably used elsewhere within the system?

A. I don't know about that. I'm in the Tax Department.

Q. Do you have any technical training at all in machinery and things of that nature?

Hal C. Stevenson

A. I have had, however, yes, sir.

Q. How do you say and why do you say that the cylinder head which we saw on the floor this morning—or compressor or whatever it was that we saw on the floor—was assessed personal property?

A. That is a Store's item, and it can be moved from that particular location to another location without interrupting anything to do with the compressor station that is out here at 185.

page 115 } Q. But did you not also hear them say that that broke down last night?

A. It did.

Q. So when this report went in, was it not a part of one of those machines, as far as you know?

A. I doubt seriously if it was. I couldn't answer the question.

Q. It hasn't broken down since May of 1966, has it? According to the previous witness, it would last indefinitely.

A. Yes.

Q. So you really don't know whether that was part of one of those big units or whether it was in a bin as a piece of machinery or a part to be used in case it was needed, do you?

A. Oh, no, I don't know about that particular item.

Q. And in the event the Court should decide that those electric motors and those pumps that were used for cooling water are actually in fact personal property, what valuation would we find, and where would we find the valuation in here to pull out to make the assessment upon?

A. Mr. Smith, I would have to come in to Prince William County and work with the assessor and apportion any part this court says must be personal property there.

page 116 }

Q. Well, Mr. Stevenson, you know you don't make this report to Prince William County.

A. No, sir, but I'm an honest man, and I will come in and pull that part at 100 percent cost and apportion that part to—

Q. Are you in charge of furnishing the State Corporation figures for the assessments on the real and personal property of Transcontinental?

A. I am, sir.

Q. So if this court should decide what you have returned in here as machinery, if substantially half of the items—not

value, but half of the items—are personal property and not machinery (sic), how would we ascertain what value for the Commissioner of Revenue to use to make her tax ticket and get it out?

A. I would work it out.

Q. But by what time and what dead line?

A. That I could not answer you, because I have not been required to do that in any place in the entire system.

Q. All right. Let me ask you this: Do you know what the cost of any of those motors, for instance, is that were in there that we were speaking of—one smaller

page 117 } one and one larger?

A. I could find out.

Q. Well, when you make up your return here that goes in to the State Corporation Commission, what figures do you use?

A. I use figures that are given to us by our Property Accounting Department.

Q. So you don't know what they involve or include?

A. I have to go by the classification of the property that is in this classification by the accounting department.

Q. Do you make the classification, or does the accounting department?

A. No. It is done in accordance with the FPC system of accounting.

Q. You don't really know what is included in "machinery and fixtures", do you?

A. I have a very, very good idea. Yes.

Q. Do you have a book or anything that shows you this particular piece of machinery is assessed in the machinery column and is returned to the State Corporation Commission as such?

A. Not on each individual item. No, sir. I

page 118 } do not have that. Our Property Accounting Department—

Q. For instance, you report a figure here for compression station equipment and machinery on Schedule 2 for 1966 in Manassas District. Now, do you know whether or not there were eight or nine units in operation there at that particular time?

A. I'm not sure it shows on here, but the Property Record Book shows it. If I put all the details in here that the Property Record Book contains, Mr. Younger and his staff would

never get through going through it. It doesn't show here. I'm sorry.

Q. How would anybody ever audit it to ascertain you have recorded everything?

A. Our books are open. They are open to the public.

Q. In Texas?

A. Yes, sir.

Q. But nowhere do you furnish Mr. Younger with figures saying that this assessment includes eighteen electric motors —or whatever it may be—and nine of these compressor units out there and whatever else it might be?

A. Oh, no, sir.

Q. Now, what figures do you use when you re-
page 119 } port the real estate?

A. You have reference to the land values, sir?

Q. Land value on Page 41, Exhibit A-2.

A. The land value is given to us in accordance with the value of the land that is assessed in this area. We use the cost that is given to us in accordance with the value of the land that is assessed in this area. We use the cost that is given to us by the public service corporation (sic), and it changes in accordance with your values of the land in this area.

Q. You don't know where those figures come from really, do you?

A. Yes, sir.

Q. Do you know of any—For instance—

The Court: Which column are you referring to now?

Mr. Smith: Your Honor, I'm referring to the land, Column G on Exhibit A-2.

Q. You show, Mr. Stevenson, 26 acres of land for $3,500, and this is a whole value of land—whole dollars. Now, do you know where for $3,500 twenty-six acres of land can be had in Prince William County? You show—
page 120 } A. I don't know how they assess property in Prince William County, so—

Q. This is the figure that you turned in, isn't it?

A. Yes, sir.

Q. Now, you show 8.46 acres of land for $1,690, whole dollars, in Prince William County. Down in additional land, at Station 185 you show 9.25 acres of land, the whole dollar value, $1,480. Now, where did those figures come from?

Hal C. Stevenson

A. Those figures are figures that we received from the Corporation Commission relative to values that are set in this county.

Q. You mean the State Corporation Commission of Virginia gives you the figures that you give back to them?

A. On land. They change our figures if they are not in accordance with the values that are in this area.

Q. Now, Mr. Stevenson, I will show you what apparently —I put a lot of markings on here, bu apparently it's what the State Corporation Commission has worked over itself. Disregard the penciled figures here; but these figures right here appear to be those assessed by the State Corporation Commission, Column L there. They have taken a portion of what you say.

page 121 } A. This part here was rendered at 40 percent. I'm sorry, I did not understand what you had reference to.

Q. Who did?

A. I did.

Q. You rendered it at 40 percent, and the State Corporation Commission rendered it at 40?

A. No.

Q. What percentage do they render it?

A. They render it at 40.

Q. What I am getting at, what do you put it in at?

A. I put it in at cost.

Q. But it says—the thing says "value of the land".

A. That's correct. Oh, I'm sorry. You are confusing me, because there has been a change in this particular reporting on land since this return was made. And it wasn't made because of Prince William County, I may add. It's the manner in which it's returned.

If you will add up the figures thirty-five hundred, sixteen ninety and fourteen eighty, you will find $6,670, which is the assessed valuation of that property in Prince William County. It's exactly the same as what it is

page 122 } assessed by the State Corporation Commission, and those figures are supposed to be in accordance with values that are placed on similar parcels of land in the area.

Q. In other words, this doesn't mean a whole lot when you report it. You get the figures from the State Corporation Commission and then report it back to them, is that right?

Hal C. Stevenson

A. No, I don't. If I have the land too low, they certainly will tell me different.

Q. Well, is this low, Mr. Stevenson?

A. I have to advise them each year of new lands that we buy.

Q. I realize that. But is this land too low?

A. Not for what we paid for it. No, sir.

Q. I see. So, according to my mathematics, $184 an acre for land on industrial access road is a fair value for that land?

A. It is according to Transcontinental. Yes, sir.

Q. Well, now, who makes the assessment, Transcontinental or the State Corporation Commission?

A. Well, now, let me say this, sir: Transcontinental in this particular—in any land, our—Strike that.

page 123 } The Corporation Commission does not tell us how much to put in for the land, if that is what you have reference to.

Q. But you put the land in at that figure, and it looks like the State Corporation Commission doesn't do a whole lot with it. And you are supposed to put it in as the value of the land. You are supposed to report the "value", aren't you?

A. That's right.

Q. Not what it cost you, but the value.

A. Well, what it cost us is the value to our company.

Q. I see. To your company. But that isn't what the form says.

Let me ask you this, sir. Do you know whether or not any of this machinery you report as machinery is ever purchased on a chattel mortgage, trust or conditional sales contract or is it ever used as security for any type of a lien?

A. I'm not in the Legal Department, sir, and I do not—cannot answer that question.

Q. Well, have you ever been asked to give any report of appraised valuation of any of the machinery and fixtures for any financial institution?

page 124 } A. No, sir. I have not.

Q. Do you know whether or not your superior and head main in your department has ever had to do that?

A. No, sir, but I do not think he has.

Q. Are you aware that there is an indenture filed in this county, an open indenture in which any new or after-acquired property would become a part thereof?

Hal C. Stevenson

A. I understand there is an indenture on the property. I don't know about this particular area.

Q. Are you aware of the fact it was recently refinanced?

Mr. Ferrell: No, not that. I told you this morning we had a supplemental indenture for $50 million for more construction purposes.

Q. Are you aware of whether or not it will be refinanced?

Mr. Ferrell: Not "refinanced".

Mr. Smith: All right.

Q. Well, used in the future as security for a new loan or money, so to speak?

page 125 } A. No, sir, I am not aware of that.

Q. I notice that each one of the machines out there this morning had Ingersoll-Rand, I believe, on it and had a serial number attached. Do you know the purpose of having a serial number and the name of the machine on it?

A. Identification purposes, I presume.

Q. That's right. Is that identification number ever used in any other instrument that you have anything to do with at all?

A. No, sir.

Q. You don't know whether or not it's recorded in a chattel mortgage anywhere?

A. I do not.

Q. Do you know whether the title belongs to Transcontinental, or does it still belong to Ingersoll-Rand?

A. I do not knw that, sir.

Mr. Smith: All right. That is all.

Mr. Ferrell: I have three short questions.

page 126 } REDIRECT EXAMINATION

By Mr. Ferrell:

Q. I'm sorry, I didn't ask your educational background and experience. I have been trying to get to the meat of this case.

A. I have studied Industrial Engineering at both Colorado College and University of Kansas, and Mechanical Engineering at the—I mean at the University of Texas.

Q. Mr. Stevenson, as regards to what your recollection is

of what transpired in Prince William County when you made the trip in October of '66, do I understand you to say that on your office copy you made notes to record this understanding?

A. Yes. This copy here is our office copy, because I noted the date we received that.

Q. I want to show that to the Court so he can see that.

A. Your Honor, this is the copy I had in our office when I returned to Houston. I went in and just scribbled these designations across the top as they were given to me by Mrs. Hensley's deputy.

page 127 } Q. Now, aren't you subject to audit by the State Corporation Commission on your tax returns?

A. Yes, sir.

Q. And don't they actually do this periodically?

A. Yes, sir.

Q. And how often has that been done?

A. I can't answer that question. It's not—I do not think there is any set time for it.

Q. In other words, they just spot check you without any prior announcement. And how long do they stay there? Can you remember the last time?

A. No, I cannot.

Q. But you are audited in depth?

A. Yes. By all states.

Q. At the Houston office?

A. Oh, yes.

Q. And the cost thereof is charged to Transco, is it not?

A. Now, that I can't answer.

Q. I think the statute requires that.

Mr. Ferrell: I have nothing further.

page 128 } RECROSS EXAMINATION

By Mr. Smith:

Q. Do you know of any time anybody in the State Corporation pulled an audit at the location here and ascertained the amount of machinery and whatnot?

A. No, sir, I do not know of any particular time. I know they have been out there.

Q. To your knowledge, has any member of State Corporation Commission ever been in this—

Hal C. Stevenson

A. They certainly have, sir.

Q. And do you know whether or not at that time they were checking an audit as to whether or not you had there what you were reporting at that particular location?

A. Well, I presume that would be what their trip through there would be for—their visit to the station would be for determining those things.

Q. But Mr. Stevenson, mistakes are made, are they not?

A. Yes. I make some myself once in a while.

Q. As a matter of fact, the company just recently reported that it failed to report for three years some 15 acres of land out there, did it not?

page 129 } A. That is absolutely right.

Q. Do you know what value you put on that land when you asked the State Corporation Commission to make a supplemental assessment?

A. No. I don't have that before me. I just can't remember all those figures.

Q. Can you explain how it was that that was missed?

A. Yes, sir. I can. We are a very, very large corporation. We feel like we are efficient, but there are certainly human errors that enter into everything. And through some means, the Land Department failed to advise the Tax Department that that particular parcel of land had been bought.

In addition to that, they failed to notify us that we had sold a parcel of land in the same area. We paid taxes on that land that we did not own for several years, but we did not pay taxes on that that we had just recently bought. And when I found that we had bought a piece of land that had not been returned, I asked the Corporation Commission to assess that land for the back years taxes.

Q. Now, I show you a copy of what appears to be an order signed by Mr. William C. Young, dated April 12, 1967, in which he is certifying you did ask that. Is that

page 130 } right?

A. Yes, I asked that.

Q. That is where he picked up this 15 acres?

A. That's right. Yes.

Q. 15.0576 acres.

A. Yes, sir.

Q. Now, do I understand your testimony is that that was acquired, then, in 1963?

A. Yes, sir.

Hal C. Stevenson

Q. And what price did the corporation pay for it in 1963?

A. I don't have that with me.

Q. How did you arrive at the figure $1,940 as the value of the land, then?

A. I will have to go back and review my correspondence on it, and I don't have it with me, sir.

Mr. Ferrell: I haven't seen this and—

Mr. Smith: You sent it to me.

Mr. Ferrell: No, I didn't. The company did. I heard that they had found this property that hadn't been returned.

page 131 } Q. I figure it out $129 an acre, according to my arithmetic. Isn't that pretty much substantially right, Mr. Stevenson?

A. I didn't divide it out. I'm sure—

Q. $1,940 for 15.0576 acres would be roughly $129 an acre.

A. That is the assessed value, then, isn't it, sir?

Q. Do you know of any other land in Prince William County, Fairfax, or Fauquier, either one, that is assessed near that low a figure?

A. I haven't examined the books of Prince William County to know.

The Court: Just say yes or no. You know or don't know.

Q. Do you know of any other corporations assessed any different from what you are assessed—public utility corporations?

Mr. Ferrell: I will have to object to that. This is Transco's case.

page 132 } The Court: I don't know how this is material. He said two or three things. He said once this is the book value, another time assessed value, and another time the value *accessed* by the Corporation Commission. I really don't think the man knows.

The Witness: Well, as I say, I don't have my correspondence with me, and I just can't remember whether it is.

Mr. Smith: Part of the thing they have to do is show this is erroneous, and one way to do it is by comparing it with others.

Hal C. Stevenson

Q. Do you know of anybody else, any other public utility corporation, that has been assessed any differently from the way Transco was in classifying its property for taxation for local levies by Prince William County?

A. I have no knowledge of how they assess anyone.

Mr. Smith: All right. That is all.

A. Other than Transco.

page 133 } The Court: I don't know whether this witness knows this or not:

By the Court:

Q. Is a gas main a pipe?

A. Yes, sir.

Q. The pipes we saw sitting out there in the back today were mains?

A. No, sir. Those that were above ground were additional pipe which we have in storage, which is classified as personal property and is rendered as equipment—general plant equipment.

Q. But that is a gas main?

A. That is part of the—would be a gas main if it were in the ground, under the ground.

The Court: All right.

RE-REDIRECT EXAMINATION

By Mr. Ferrell:

Q. In other words, Column 4 includes the cost of the easement and the pipes buried in those easements—

page 134 } A. That's correct.

Q. —in those particular districts?

A. Yes, sir, only that that is under the ground that carries the gas through it.

The Court: Well, that isn't what it says, Mr. Ferrell. That is what you say it says.

Mr. Ferrell: Well, I mean he reported it in 4. I wanted to find out what he reported that was included in No. 4.

Hal C. Stevenson

Q. You can look in your report and verify whether or not that is true?
A. In Column 4, value of mains?
Q. Yes, sir.

Mr. Ferrell: Doesn't that appear on Exhibit A-5, if Your Honor please?
The Court: This doesn't show the easement is assessed anywhere.
The Witness: Well, they are included in that cost, sir.
The Court: They are not assessed, though.

page 135 } Q. The total value in place. Is that the Column?

Mr. Smith: That is not what it says, if the Court please.
Mr. Ferrell: Yes, sir. Total value in place reported by the company.
Mr. Smith: If Your Honor please, I didn't understand his testimony was that the total value in place included the value of the easement. There is no assessment for the easement.

A. Well, it is included in our cost, however.
Q. Value in place per linear mile, Column F on A-5, is it not, Mr. Stevenson? Or am I reading the wrong place?
A. Column F—

The Court: I see what you are talking about.

A. —of Schedule 4?
Q. That's right.
A. Yes.

page 136 } Mr. Smith: Do you have anything else now?
Mr. Ferrell: No. I just wanted to bring that out.

RE-RECROSS EXAMINATION

By Mr. Smith:
Q. Mr. Stevenson, do you have any depreciation for tax purposes or for replacement of anything on this pipe or these mains?

Hal C. Stevenson

A. For tax purposes.

Q. Well, do you depreciate this pipe any each year?

A. On our earnings—on our rate base, we are forced to depreciate our pipe.

Q. Well, when you report here in Column F each year—

A. I don't report a depreciated amount there, sir.

Q. Well, do you report a depreciated amount anywhere in machinery or anything?

A. No, sir. I report to the Corporation Commission original cost.

page 137 } Q. Each year it's original cost?

A. Absolutely, sir.

Q. Does the company own the land on which the mains or pipe line is laid?

A. The land in which the pipe line is laid?

Q. Yes.

A. No, sir.

Q. Do you know of any taxes—

A. I might say this: We do own some few parcels, but none in the State of Virginia.

Q. Do you pay any taxes on the land in which the pipe line is laid?

A. Well, we would be paying taxes on it in this state, because I included it in the cost of the pipe line.

Q. Does the cost of the pipe line include the damages that might be paid to the residue by virtue of the condemnation?

A. It does.

Q. And are you telling us that each year you pay, in addition to the actual cost of what it takes to put that pipe in the ground, the value that you have to pay for the easement plus the damages you have to pay, and you do that from now on as long as you report this to the Corporation

page 138 } Commission?

A. That's right. If you refer back to some of the previous returns, you will find for the same number of miles the value of the pipe line would be increased, and that is brought about by damages or some such thing as that.

Mr. Smith: I have nothing further.

I believe I asked you—.....

Q. (By Mr. Smith) Do you depreciate the machinery at all for tax purposes—for federal tax purposes?

Hal C. Stevenson

A. Now, I am not in the Corporate Tax Department, but certainly I am sure that the federal government allows a certain depreciation for income tax purposes. I have nothing to do with income taxes. I only have property taxes under my supervision, and we do not in this state enter any depreciated amount on our pipe line or our machinery.

Q. Is there anyone from the corporation's office here that could testify as to whether or not you reported a depreciation figure each year of depreciate your machinery each year for federal tax purposes?

A. From our company?

Q. Yes, sir.

A. No, sir, there is not.

page 139 } Mr. Smith: All right. That is all.
The Court: Let me ask you:

By the Court:

Q. Look at your Schedule 4, Sheet A-1. Where did the figure $87,895 come from?

A. Sir, did you say A-1?

Q. Yes, sir.

A. Now, what was that again?

Q. You have Brentsville, value in place per linear mile, $87,895.

A. That $87,895 is the value in place per lineal foot of the 30-inch pipe line throughout the State of Virginia. In other words, what we do is to take the cost of our pipe line for the entire state—30-inch—divide it by the number of miles, and that gives you the cost per lineal foot.

Mr. Ferrell: No.

Excuse me for interrupting, but the heading up there on mine says per linear mile.

A. I'm sorry. Per lineal mile. I just came
page 140 } from New Jersey, and they have been talking about feet up there.

Q. This doesn't have anything to do particularly with Brentsville. This is just a figure that you all use to send in to the State Corporation Commission?

A. Well, the mileage is correct for Brentsville, sir.

Q. All right.

Hal C. Stevenson

A. And there is only one way we can possibly get the value per mile, and that is to take the cost of the entire breadth and divide it by the number of miles to find out what the cost was, and then multiply it back by the exact number of miles.

By Mr. Ferrell:
Q. And the figure to the left, 9.90, is the number of miles of 30-inch pipe in Brentsville—
A. Yes, sir.

By the Court:
Q. Do you know what the pipe costs a foot or
page 141 } mile?
A. No, sir, I do not.
Q. Anybody here in your outfit know that today?
A. No, sir. I don't think there is anybody here that could give it to you, because it varies from time to time and we would have to check through Purchasing.
Q. Well, it doesn't vary here, does it?
A. No, because this cost was the average cost.

The Court: All right.

By Mr. Ferrell:
Q. But the 36-inch line costs more?

The Court: Costs more than 30-inch line.

A. Oh, yes.
Q. And considerably more, though, isn't it, even though it's just six inches?
A. Yes.

Mr. Smith: Is Your Honor through?
The Court: I'm through.

page 142 } By Mr. Smith:
Q. I wanted to point this out in argument. But, now, actually you have got the same cost, same value or price on the pipe in Prince William County as you have in Pittsylvania and Orange County?

The Court: He said the whole State of Virginia.

Q. Whole state of Virginia?
A. Yes.
Q. Let's go back to real estate. Is that the way you arrive at the price on real estate, too?
A. No, sir. We do it to the best of our knowledge in accordance with the values of other properties in this area on real estate.
Q. Did you go and find out what values are on other property in this area?
A. In the first place, we haven't acquired much new property, with the exception of the fifteen acres, and I haven't been in here to check on it.
Q. And according to what you say, for that fifteen acres you only paid nineteen hundred and some dollars
page 143 } for it?
A. I don't have my correspondence with me, so I can't—
Q. That is what you reported $1,940—and you report cost, don't you?
A. Yes, sir.

Mr. Smith: All right. That is all.
The Court: Thank you,Mr.Stevenson.

The Witness stood aside.

Mr. Ferrell: That is our case, Your Honor.

page 144 } CHARLTON E. GNADT, being duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Smith:
Q. Will you state your full name, please?
A. Charlton Eugene Gnadt.
Q. Where do you live, Mr. Gnadt?
A. 347 Stuart Avenue, Manassas, Virginia.
Q. What is your present occupation or employment?
A. I'm self-employed in the trash and garbage business.
Q. And prior thereto, Mr. Gnadt, what had been your profession or employment for the last fifteen years?

Charlton E. Gnadt

A. I beg your pardon?

Q. What was your employment for the last fifteen years previous to your present self-employment?

A. I was Commissioner of Revenue in Prince William County for seventeen years.

Q. All right. And then when did you leave

page 145 } that post?

A. December 30, 1965.

Q. Were you ever active in the Commissioners of Revenue Association throughout the state?

A. Yes.

Q. What office or position, if any, did you ever hold therein?

A. President.

Q. Mr. Gnadt, did there come a time in 1960 in which you were questioned about the possibility of a split tax rate and how you would assess property in the county?

A. Yes.

Q. And from whom did you receive that inquiry, sir?

A. I received a communication, I think, from the Central Mutual Telephone Company back in those days.

Q. I show you a copy of that letter, sir, and ask you if this was the communication you received from Mr. Lacy, Vice President of Central Mutual Telephone Company, relative to the possibility of the split tax rate—that is, two separate rates for personal and real property in Prince William County—and as to how you would break the assessment down.

A. That is true.

Q. Now, Mr. Gnadt—

page 146 } Mr. Ferrell: Wait a minute. I have to object to this, Your Honor. This is not relevant to this case.

The Court: He hasn't offered it yet.

Mr. Smith: We are offering it at this time, Your Honor.

Mr. Ferrell: He has already handed it to His Honor.

Mr. Smith: His Honor hasn't had a chance to read it.

We believe it is relevant and material and should be considered.

Mr. Ferrell: I object to it. I don't see how a 1960 inquiry from Central Mutual Telephone has anything to do with the tax assessment in 1966.

Mr. Smith: They are relying on an erroneous assessment, and in their petition they ask for the relief that has been determined in some jurisdictions. But the law is pretty clear that you use several different means and methods by which to ascertain this, and one is the practice of the past. And we believe that this was the practice of the past, and we believe we already have the evidence in for the three years before—that is, '63, '4 and '5—in which they page 147 } were assessed and received a bill as personal property and no one complained about it.

Mr. Ferrell: If Your Honor please—

Mr. Smith: By this letter, as of 1960 at least one utility requested information in the event it did, and we wanted to show what the procedure would have been at that particular time, and to show that it has been exactly the same as what it was when it was finally done by Mrs. Hensley.

Mr. Ferrell: May I make a statement?

The Court: Yes.

Mr. Ferrell: The stipulation does not make it automatically a matter of evidence. In fact, it expressly provides, "Subject to objection as to relevancy without prejudice to the right of either party, we hereby stipulate the following:" And that is set out.

Now, I'm objecting to it on the matter of relevancy. I objected to it previously when he asked on cross examination of a witness that hadn't testified concerning previous tax assessment for previous years on the same ground. It hasn't got anything to do with '66. And what they did for the telephone company or what she said to the page 148 } telephone company in 1960, I don't see how it could possibly have anything to do with this case or even the facts that we stipulated subject to objection as to relevancy. It's a collateral matter, and we will be here all day. I wasn't advised in advance we were going to go into that.

If that is going to be true, I will have to get Mr. Compton and go into the matter of what the answers were and what were the circumstances, and we are just "chasing rabbits", as the saying goes.

Mr. Smith: I will offer you a copy of the answer at this particular time.

Mr. Ferrell: I'm sure I have an objection to that, too.

Charlton E. Gnadt

Note: Paper handed to Mr. Ferrell.

The Court: How do you want me to number this?
Mr. Smith: Defendant's 1 and Defendant's 2, if Your Honor please.
The Court: Defendant's 1 is excluded. I don't see how it's relevant.
page 149 } Mr. Smith: Note an exception to that, Your Honor.
Defendant's 2 would necessarily be excluded if you are not going to have 1 in, and I would ask the Court to note the exception to that also, please.

Q. (By Mr. Smith) Mr. Gnadt.—

The Court: Are you withdrawing Defendant's No. 2?
Mr. Smith: No, Your Honor. I leave it there realizing that the ruling on No. 1 would preclude No. 2 from coming in. No. 2 is the answer to No. 1, which you said you will not accept. But I do want it to be a part of the record as Defendant's No. 1 and No. 2 as offered.

Q. Mr. Gnadt, how was the public service corporation Transcontinental Gas Pipe Line Company specifically assessed by you as Commissioner of Revenue from the year 1963 until you retired from office in 1965?

Mr. Ferrell: I have to object to that, Your Honor. That is not the subject of this case, and it's irrele-
page 150 } vant and immaterial, especially in view of the statute.
Mr. Smith: We think it's relevant and material because it's the practice, and the statute specifically recognizes it as being material. The 1966 act of the legislature recognized it as being material.
The Court: I'm going to permit him to testify to this. Objection overruled.
Mr. Ferrell: Exception noted.

Q. How did you assess the property of Transcontinental Pipe Line Corporation for the years 1963, '64, and '65?
A. As personal property.
Q. Did you at any time ever have a visitor from that com-

pany to complain to you concerning the manner in which you were assessing the property?

A. No.

Q. To whom—

Mr. Ferrell: Let me interrupt just one more time and say my objection and exception runs to the entire line of testimony, without having to renew it each time, and I hope that is understood.

page 151 } Mr. Smith: When is it going to stop?

Mr. Ferrell: What is that?

Mr. Smith: When is it going to stop?

Mr. Ferrell: When you get to 1966, if ever.

Mr. Smith: Well, I will proceed with this question:

Q. Mr. Gnadt, to whom is the assessment or upon whom is the assessment made for the right-of-way in which this pipe line is laid from the Fauquier County line to the Fairfax County line? Who pays the tax upon the right-of-way in which the pipe line is laid through Prince William County?

A. The owner of the real estate.

Q. To your knowledge, other than the property here at Pumping Station 185, does Transcontinental own any other real estate in Prince William County?

A. Gee, I can't remember now whether they do or not.

Q. But the owner of the real estate is assessed with and pays the tax on the land in which is included the easement wherein this pipe line is laid, is that correct?

A. That is, 100 percent, with several ex-

page 152 } ceptions—one or two exceptions.

Q. Do you know what those exceptions might be?

A. Well, the State Corporation Commission has the right to let a utility lease a piece of land to me to build a house on it, and it gives the Commissioner of Revenue the right to assess that house exclusive of the land that it is sitting on.

Q. And do you know of a couple of instances in which they might have that situation?

A. We have four or five instances in the county where we have that situation.

Q. Mr. Gnadt, is the statement that comes to your office from the State Corporation Commission containing assessed valuations as placed by the Corporation Commission upon

the property of the utilities, is there any way the Commissioner of Revenue can use other than those figures to apply the local levies that you know of?

A. No.

Mr. Smith: Your witness, Mr. Ferrell.

Mr. Ferrell: Without waiving my objection and exception, if Your Honor please, it's understood I can cross examine the witness.

page 153 } CROSS EXAMINATION

By Mr. Ferrell:

Q. There has been introduced in evidence as Exhibit O the public service corporation return for 1965. And I refer you to that return and ask you if the last statement—and it's coming to pieces—of Distribution by Districts of Public Service Corporations and the Value of Local Levies on Property of Public Service Corporations are not certified by you on the 18th day of October, 1965, of this Exhibit O?

A. Yes.

Q. Now, I will ask you to state whether or not the value there that you reported—total, now—$37,680,274, didn't include the assessed value of real estate?

A. Yes.

Q. I ask you the same question as to Exhibit N, which is for 1964, with the certificate attached. That return included a value for real estate?

A. Yes.

Q. And in 1963, which is Exhibit M, your certificate in the back of there included an amount—let me see—of $33,891,774, which included real estate?

page 154 } A. Yes.

Q. So all of these returns or extensions that you made included real estate, as a matter of fact?

A. Included real estate?

Q. Yes.

A. As a matter of fact, yes.

Q. Land and improvements?

A. Land and improvements.

Q. Now, as to the easement, after a public service corporation goes through a man's land, he has a right to come to your office and—if in fact his underlying fee, let's call it, to the property is less valuable—have his assessment changed?

A. He has that right. Yes, sir.

Q. And it's done quite often, is it not?

A. We never did it in Prince William County.

Q. But he has that legal right. So you can't say actually that you have assessed to him the entire value of all the rights on or in his land including the easement?

A. I would say yes, because we haven't took any off after the easement went in there.

Q. But if in fact the land is depreciated in value for tax purposes by an easement of any kind, the owner may have his tax assessment reduced?

page 155 } A. He may.

Q. Now, as far as the inclusion or exclusion of the cost of the easement to the public service corporation in its report to the State Corporation Commission, as has been testified to—I don't know whether you were in the room or not—by Mr. Hal Stevenson, you don't know one way or the other as to whether that was actually included, do you?

A. I have always been advised that it was not included, but I do not know.

Q. You don't know. That is hearsay?

A. That is hearsay.

Q. You know Mr. Hal Stevenson, don't you?

A. Yes, sir.

Q. You have known him for years, haven't you?

A. Yes, sir.

Q. And he has visited in your office from time to time ever since Transco has been in this area?

A. That's right.

Q. And he has been working for the company—

A. Yes, sir.

Q. —is that right?

A. Uh huh.

page 156 } Q. What, did he just come to pass the time of day, or discuss the pipe line, or what the company was doing, or did he talk about taxes?

A. No, we never discussed taxes.

Q. You never did?

A. No.

Q. But he would come by?

A. Yes, sir.

Q. Did you ever ask him any questions about taxes?

A. No. The only time I ever asked him anything about

taxes was in trying to get the pumping station here. The first time when they came through, they missed us. And on the second go around, we talked about trying to get it here and we got it.

Q. So you were glad to see the compressor station being constructed in Prince William County?

A. Oh, absolutely. Yes. Sure. There's a lot of revenue there.

Mr. Ferrell: Thank you very much.

page 157 } REDIRECT EXAMINATION

By Mr. Smith:

Q. All that time Mr. Stevenson was visiting your office, you were assessing his company's property as personal property?

Mr. Ferrell: He didn't say that. He is leading the witness on redirect.

The Court: I think that is a fact, but you are restating the evidence. Objection sustained.

Q. All right. Mr. Gnadt, I believe on cross examination you stated that the report you made to the State Corporation Commission in fact included real estate. But how did you report it to the State Corporation Commission?

Mr. Ferrell: No, he didn't say that.

The Court: I don't think that is a fact. I don't thin—

Mr. Smith: Let me see your exhibit here, O. Exhibit O.

page 158 } Mr. Ferrell: These are not reports to the State Corporation Commission. These are his public—

Q. That which you just testified to, which you certified here and you say as a matter of fact included real estate?

A. Yes, sir. But these reports go to the State Tax Commissioner. They don't go to the—

Q. It included personal property and real estate all in one item, didn't it?

A. That's right.

Q. Now, are all public service corporations in Prince William County treated identical and the same?

A. Yes.

Mr. Smith: No further questions.
Mr. Ferrell: I have no further questions.

The Witness stood aside.

page 159 } LEE B. YOUNGER, being duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Smith:

Q. Will you state your full name and your occupation, please, sir?

A. My name is Lee B. Younger, Director, Public Utility Taxation Division, State Corporation Commission.

Q. Mr. Younger, in your duties, do you have anything to do with the assessment of the public utilities?

A. Yes, sir, I do.

Q. Would you tell the Court how an assessment is made by the State Corporation Commission of the utilities?

A. Well, if Your Honor please, I will try to be as brief as possible—

Q. Please, do.

A. —without taking up a lot of the Court's time, if it's sufficient.

On public utility property, with the exception of land, we use original cost. And up to January 1, 1966, it's been original cost less depreciation with application up to a 40 percent statewide ratio to all companies other than local companies, such as water companies.

page 160 }

Since January 1, 1966—last year the legislature passed a statute whereby it changed the use of 40 percent, and commencing with the year 1967, five percent of the base January 1 full value would be assessed on the local ratio. All additions due in 1966 would be assessed on a local ratio, and the remaining 19/20ths of the base figure would be on the 40 percent ratio. That is true on all except land.

In arriving at our value of land, we have a staff that goes into the local Commissioner of Revenue's office where they have a permanent real estate assessor, and from their

records we select or pick the appraised value on land adjoining and nearby that is comparable to the public utility land as possible. Once we get the value on that adjoining land, the men go out into the field and make a physical comparison of the land to see if it is comparable. Then, if it is comparable, we use the same appraised value that the local assessor uses on land that is assessed locally. Of course, if it doesn't compare, we have to make adjustments.

In other words, what I'm saying on land, we really do not appraise the land, but we use the knowledge of the local real estate assessor and compare the land.

page 161 } Q. Now, Mr. Younger, on the appraisal of the machinery, pipe line, you say you use the original cost less depreciation?

A. Yes, sir.

Q. How long a period of time do you depreciate it?

A. Well, we do not follow accounting depreciation, which is more or less amortization over a period of years. We try to go by the company's maintenance program and the physical inspection to determine the condition of the property. And through proper maintenance and all, that property may never go below a certain depreciated value.

Q. But you do not permit any depreciation at all upon the land itself?

A. No, sir.

Q. But anything other than land—and I mean mother nature's earth—you do permit it a depreciation?

A. Yes. That is with the exception of materials and supplies which, of course, are brand new. We do not allow any depreciation on those.

Q. But the machinery and mains—I just want to get this straight—on the value of machinery and value of mains, you do use a depreciation figure there?

A. Yes, sir.

page 162 } Q. Now, what instructions, if any, are given to the utilities as to how they shall report their cost of the machinery, for instance?

A. Well, they are supposed to— There, we have arrangements set up with various companies, Mr. Smith. Some companies can come into our office and we review for depreciation and additions to property, and they can assist us by doing the mathmatical calculations. And we will determine then what the depreciation is to be used, and to

save us all the pencil-pushing, they will file a report. That is, up until this new law went into effect. Now other companies, where it's not convenient for them to come in, they file the original cost.

Q. Now, "original cost". Do you instruct the corporation to include in original cost the cost of easements that the pipe line might be in and damages that they paid for this easement?

A. In those, as the tax report form is set up, it's to show the character of the property, to identify it—whether it's mains or this or the other. And then it is also set up to follow the uniform system of accounts as prescribed by the State Corporation Commission so we can go to the books of the company which are filed annually, the annual report, to see whether or not we are getting the full

page 163 } value that is set on their books, based on which they earn a rate of return. And if it's not, then we, of course, want to know why, and we change them.

Q. Do you recall an audit ever being made as to the installation here at 185 in Manassas?

A. Not to this immediate installation. Trips have been made to Houston to review their continuous property records to see that they have been broken down by taxing districts in Virginia, and the original cost of any additions, and also as far as refinements are concerned, are segregated to Virginia and each individual political subdivision.

Q. Do you all attempt to— When you come up to reassess real estate, you just reassess land using the local figure?

A. That's correct, sir.

Q. And when you say you reassess land, you mean only the ground itself?

A. Only the bare land.

Q. In the event this court should see fit to include in "value of land and improvements thereon" the value of machinery and value of mains—they say it's all real estate—and then Prince William County would have you reassess the real estate in Prince William County that this utilty

page 164 } owns pursuant to the statute and the constitution, would you not have to then include the machinery and the mains?

A. Sir, I do not care to answer a legal question. I'm not qualified.

Lee B. Younger

Q. Well, your duty is to reassess the real estate, isn't it, at the request of the county?

A. Not at the request of the county. You have structures. We do not reassess the structures, only the bare land. That is all that we reassess.

Q. Well, when do you ever assess a structure?

A. We use original cost, I said.

Q. And depreciate—

A. Original cost on all items of property with the exception of land.

Q. I see. Everything in this report, then, with the exception of raw land, you gave them a depreciated value?

A. A depreciated original cost.

Q. Depreciated original cost?

A. Yes, sir.

Q. And then you assess it at a percentage of that?

A. Yes, sir.

page 165 } Q. And under the present law, I believe you said the 1966 amendment, eventually it will all be—after twenty years it will all be treated as real estate?

A. No. Wait a minute. You have two different—you are confusing two different sections there. One section was converting to the local ratio, then you have another section which provided over a twenty-year period where there is a difference between the tax rate on personal property, with the exception of automobiles and trucks, over a period of years it will eventually be taxed at the real estate tax rate.

Q. Well, now, how do you know what to do? What do you use as—treat as personal property in that event?

A. Well, that section is administered by the local Commissioner of Revenue. That does not come under the Corporation Commission.

Q. But you give them a value on all the machinery and mains and everything?

A. Yes, sir.

Q. When was the last time that the State Corporation Commission actually assessed raw land, as you put it, in Prince William County, if you know?

. May I ask a person in the audience the question? I mean, to—

page 166 } Mr. Smith: I have no objection, if that will help to refresh his memory.

Mr. Ferrell: I have none.

A. You have your local real estate people who probably know the date better than I do, because they are continually doing it all the time.

Q. I will strike the question.

A. All right.

Mr. Smith: All right. Your witness, Mr. Ferrell.

CROSS EXAMINATION

By Mr. Ferrell:

Q. Mr. Younger, you don't make any attempt whatsoever in your office to classify property for purposes of local taxation, do you?

A. Mr. Ferrell, that is a legal question. I mean, as to what is real and personal property.

Q. But you have nothing to do with that?

page 167 } A. Commissioner Catterall has so stated— that the Commission has never adjudicated the property of utilities as to whether it's real or personal, and he said he felt we should never.

The Court: We don't want what he said. He said, "You don't make any such effort in your office, do you?"

A. No, sir. No, sir.

Excuse me. I thought he was asking me a legal question.

Q. No, I wasn't asking you for a conclusion. Nevertheless, you have had inquiries from time to time from local assessors to ask you to help them in that connection?

A. And we very politely refused.

Q. And they politely have been rejected?

A. Yes, sir.

Q. But not turned away completely; because isn't it true that you have referred them to the persons with the utilities that are concerned with the classification to discuss them with the local assessors?

A. Well, I have suggested, to eliminate litigation, that if they could come to a mutual understanding, like a lot of

page 168 } localities have, that it certainly would save a lot of trouble if they could come to a mutual understanding, although I could not—

Q. Umpire it?

A. No.

Q. You just get them together. And you have done that, haven't you?

A. Well, it's just a suggestion so as to have it as uniform as possible—to have a mutual agreement on it.

Q. Well, isn't it a fact that in August or at least the summer of 1966, Mrs. Hensley came down to your office and this was discussed, and you did exactly what you said a moment ago—just referred her to a representative of VEPCO to discuss classifications?

A. Well, she asked me, and as I said before, I politely told her I was sorry, that I could not, but while she was in town, I would be very glad to get in touch with the tax representative for the Virginia Electric and Power Company, and if she would like, she could talk to him and see if he could come over. And she did make available the opportunity and they had a conference in one of my offices. As to what resulted, I do not know.

Q. One other thing on the audit. Your office has audited Transcontinental?

page 169 } A. We have been down to Houston, and then each year shortly after the first of the year, a representative of the company comes up to our office and they bring us the figures showing what the balance was at the beginning of the year for the various classes of property and what it was the end of the year, and the additions and retirements. So we are kept up with a more or less continuous inventory through the submission of those figures.

Q. And when you do go to Texas, that expense is chargeable to the company?

A. No, sir. No, sir. The State Corporation Commission bears all those expenses.

Q. That comes out of that one percent?

A. Yes, sir. A tenth of one percent.

Q. Tenth of one percent tax?

A. Yes, sir. It so happens Transco doesn't have to pay that.

Q. Directly.

Lee B. Younger

Mr. Ferrell: Thank you, Mr. Younger.
The Court: Mr. Smith?
Mr. Smith: I have no further questions.
That concludes my case.
The Court: Just let me ask you one question.

page 170 } By the Court:

Q. On this sheet you call mains and transmissions, Schedule 4—you are *familair* with that?

A. Yes, sir.

Q. The cost here for Brentsville, 9.9 miles, you say that you use the cost per mile in order to give you the value and price per mile?

A. Your Honor, we tie it into the statute regarding railroads, where you have an interstate operation and also where you have what we call a mass item of property. It's impossible to say the exact number of dollars spent in the cost of, say, one magisterial district within a county from another magisterial district in the other county. It's just physically impossible. The same way on your power lines and your railroad tracks and other. So we treat that as a mass item of property.

In other words, we get from the company the total cost, including overhead, engineering, damages, interest during construction—all those items that appear on their books that they have capitalized, then we take the total cost of the 30-inch line when it comes into Virginia until it leaves Virginia, and we find the total cost and then divide that by the total number of miles from border to
page 171 } border, and come up with a value per mile. And then we apply that to the actual mileage located in each county or city or town.

Q. So your answer is "yes"?

A. In other words— Well, I just want to familiarize you with our process. In other words, if you have a river crossing down near Richmond with one of these lines, part of that river crossing is transferred into the value of the land in Prince William County as that mass item of property.

The Court: Thank you.
Mr. Ferrell: Thank you, Mr. Younger.

The Witness stood aside.

Mr. Smith: That is the defendant's case, Your Honor.
The Court: Do you have anything further?
Mr. Ferrell: No, Your Honor. We rest.

* * * * *

A Copy—Teste:

Howard G. Turner, Clerk.

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