View metadata, citation and similar papers at core.ac.uk
brought to you by CORE
provided by University of North Carolina School of Law

North Carolina Law Review

Volume 12 | Number 3 Article 4

4-1-1934

Regulating Wholesale Utility Rates

Irvin E. Erb

Follow this and additional works at: http://scholarship.law.unc.edu/nclr

Part of the Law Commons

Recommended Citation
Irvin E. Erb, *Regulating Wholesale Utility Rates*, 12 N.C. L. Rev. 231 (1934).
Available at: http://scholarship.law.unc.edu/nclr/vol12/iss3/4

This Article is brought to you for free and open access by Carolina Law Scholarship Repository. It has been accepted for inclusion in North Carolina Law Review by an authorized administrator of Carolina Law Scholarship Repository. For more information, please contact law_repository@unc.edu.

REGULATING WHOLESALE UTILITY RATES

IRVIN E. ERB*

A schedule of rates fixed by public authority to be charged by a local gas or electric distributing company, in order not to be confiscatory to the company, must produce revenue sufficient not only to earn a fair return on the property used for the benefit of the public and to provide for the depreciation accruing because of such use, but also to cover all proper operating expenses.[1] Therefore, in every case in which a public utilities commission attempts to set such rates, it must determine what part of the price paid by the retailing distributor to the wholesaling transmitting company for the gas or electric current distributed, should be allowed as a *proper* operating expense. The price allowed for this purpose may be wholly unrelated to the price actually paid, and this distinction must be kept clearly in mind.

The complexity of this problem is greatly aggravated by the facts that very often the transmitting company carries the gas (Hereinafter the term "gas" shall be taken to include and/or "electric current") across state lines and is thereby engaged in interstate commerce;[2] that the transmitting company may sell its gas not only to distributing companies but directly to consumers or to both;[3] and that the transmitting company is often the parent of many subsidiary distributing companies, or affiliated with the distributing companies in that the same holding company owns the stock of both.[4] This last situation is further complicated where the holding company owns but a part of the stock of the respective "subsidiaries," with the balance of the stock of each of these companies in the hands of persons who have no interest at all in any other of the companies. Thus,

* Student Editor-in-Chief, NORTH CAROLINA LAW REVIEW.

[1] Smyth v. Ames, 169 U. S. 466, 18 Sup. Ct. 418, 42 L. ed. 819 (1898).

[2] West v. Kansas Natural Gas Co., 221 U. S. 229, 31 Sup. Ct. 564, 55 L. ed. 716 (1910); Commonwealth of Penna. v. State of W. Va., 262 U. S. 553, 43 Sup. Ct. 658, 67 L. ed. 117 (1923).

[3] See Penna. Gas Co. v. Pub. Ser. Comm'n of N. Y., 252 U. S. 23, 40 Sup. Ct. 279, 64 L. ed. 434 (1919); Salisbury & S. Ry. Co. v. Southern Power Co., 179 N. C. 18, 101 S. E. 593 (1919).

[4] See State Corporation Comm'n of Kansas v. Wichita Gas Co., 54 Sup. Ct. 321 (1934); Ohio Mining Co. v. Pub. Util. Comm'n., 106 Ohio St. 138, 140 N. E. 143 (1922).

there are many possible physical and corporate set-ups that may confront the commission and each requires special consideration.

The most simple set-up is, of course, that in which there is but one company which mines the gas at its source (generates the electric current at the waterfall), transmits the gas at high pressure (the current at high voltage) to stepping-down stations in the communities served, and then itself distributes the gas at low "burner" pressure (the current at low "house" voltage) to the ultimate consumer. Obviously, in this situation the problem of what price the transmitting company may charge the distributing company, actually or for the purpose of allowance as a part of the latter's rates to the public, cannot arise. Rather, the principal question becomes, can the commission regulate at all?

Where the entire system lies within one state the power of the commission to regulate the rates to the consumer is not questioned. The commission may regulate the rate separately for each community served. Where this method is followed the commission may evaluate the entire system and set a rate for the individual community which will provide for a fair return on the property used to serve that community exclusively and for a fair return on the general property of the company to the extent (*pro rata*) that the general property is used to serve that community.[5] This method is usually followed only where such community has had its own complete system which has since been absorbed into the larger system and the company is seeking to raise the rates above those at which a purely local company could operate. The preferred procedure in this situation is, however, to treat the entire system as a unit and set a uniform rate for all the communities served.[6]

The problem as to the power of the commission to regulate the rates to the consumers becomes acute where the gas is transmitted from its source state across state lines and sold by the same company to consumers in another state. While it has been vigorously contended that the commission in such case cannot regulate since regu-

[5] Wabash Valley Electric Co. v. Young, 287 U. S. 488, 53 Sup. Ct. 234, 77 L. ed. 447 (1933) commented upon (1933) 2 GEO. WASH. L. REV. 119; City of Eau Claire v. Railroad Comm'n, 178 Wis. 207, 189 N. W. 476 (1922).

[6] See Wabash Valley Electric Co. v. Young, *supra* note 5; Armstrong, *The Municipality as a Unit in Rate-Making and Confiscation Cases* (1934) 32 MICH. L. REV. 289 (an exhaustive treatment of the problem which arrives at the conclusion that separate schedules for each municipality served by a company which serves a large number of communities are inadvisable; that the entire system as a whole is the only proper base for determination of any rate.)

lation would unduly burden interstate commerce, the courts in every case have held that the commission has sufficient power.[7] There is, however, a split of opinion as to the grounds for such a holding. One group bases its decision on the ground that although this is interstate commerce (presumably up to the burner's tip in the consumer's home) it is local in character and, in absence of legislation thereon by Congress, can be regulated by the state.[8] The other group hold that at the point at which the pressure is stepped down from that used in sending the gas across the state line, under the broken package doctrine, the interstate commerce ceases, and the right to regulate the transportation at the ensuing low pressure is exclusive with the state.[9] This latter view seems not only to be the better, but also to have been adopted finally by the United States Supreme Court as the correct one.[10] Of course, there being but one company, the commission in setting the rates to be charged the public, in order to determine the value of the proportion of the property ascribable to the local service, has the right to evaluate the total property including that used in the interstate transportation.

A set-up more difficult to deal with is that in which the transmitting company and the distributing companies are separate corporate entities. This must be further divided into set-ups in which the transmitting company and distributing companies are entirely unrelated in any manner whatsoever beyond the mere physical connections of their properties, and set-ups in which they are affiliated as parent and subsidiary or as mutual subsidiaries of a holding company.

In determining what part of the price paid by the distributing company for its supply of gas may be included in the latter's rates to the public, it is generally held that the distributing company may

[7] Penna. Gas Co. v. Pub. Ser. Comm'n of N. Y., *supra* note 3; Mill Creek Coal & Coke Co. v. Pub. Ser. Comm'n, 84 W. Va. 662, 100 S. E. 557 (1919).

[8] Penna. Gas Co. v. Pub. Ser. Comm'n of N. Y., *supra* note 3; Manufacturer's Light & Heat Co. v. Ott, 215 Fed. 940 (N. D. W. Va., 1914).

[9] Pub. Util. Comm'n of Kansas v. Landon, 249 U. S. 236, 39 Sup. Ct. 268, 63 L. ed. 577 (1918); State of Missouri v. Kansas Natural Gas Co., 265 U. S. 298, 44 Sup. Ct. 544, 68 L. ed. 1027 (1923); West Virginia & Maryland Gas Co. v. Towers, 134 Md. 137, 106 Atl. 265 (1919); Corporation Comm'n v. Cannon Mfg. Co., 185 N. C. 17, 116 S. E. 178 (1923).

[10] East Ohio Gas Co. v. Tax Comm'n of Ohio, 283 U. S. 465, 51 Sup. Ct. 499, 75 L. ed. 1171 (1931) (Ohio statute taxed all sales of gas to consumers. Plaintiff, which carries its gas from West Virginia, contends this tax is invalid as burdening interstate commerce. *Held,* tax valid. Distribution at low pressure to consumers is purely intrastate. In speaking of the former theory it was said "That theory . . . is not wholly consistent with the views expressed in Public Utilities v. Landon and State of Missouri v. Kansas Natural Gas Co.")

include only such price as is *reasonable.*[11] Where the transmitting company and the distributing company are unrelated, this reasonable price is said to be a price never greater than equal to the cost at which the distributor could manufacture its own supply or purchase a sufficient supply from a competing transmitter.[12] The same measuring stick used to be applied in the case of a subsidiary distributor purchasing from a parent or affiliated transmitting company, but in *Western Distributing Co. v. Pub. Ser. Comm'n of Kansas,*[13] the Supreme Court decided, on the theory that the public should be required to pay only a fair return on the property used for its benefit, that any savings possible by reason of the affiliation should be passed on to the consumer. It ruled that the commission might look into the value of the transmitting company's property and thereby determine to be *reasonable* that price which will allow to the transmitter a fair return on its property to the *pro rata* extent it is used to supply this particular distributor. In determining what wholesale price for gas may be included in the distributor's rates to the public, it is obviously immaterial whether the transmitting company carries the gas interstate or does a purely intrastate business, as, at least in theory, the rate finally established has a direct bearing only on the local distributing company, as to which the power to regulate is unquestioned.

In considering to what extent the price actually paid to the transmitting company (in contrast to the price allowed to be included in the distributing companies' rates) may be regulated, the first problem is to decide whether the transmitting company is a public utility. Where it restricts its sales to distributors who are in turn public

[11] City of Houston v. Southwestern Bell Telephone Co., 259 U. S. 318, 42 Sup. Ct. 486, 66 L. ed. 961 (1921); Ohio Mining Co. v. Pub. Util. Comm'n, 106 Ohio St. 138, 140 N. E. 143 (1922); *cf.* West Ohio Gas Co. v. Pub. Util. Comm'n of Ohio, 42 F. (2d) 899 (N. D. Ohio, 1928).

[12] City of Houston v. Southwestern Bell Telephone Co.; Ohio Mining Co. v. Pub. Util. Comm'n, both *supra* note 11.

[13] 285 U. S. 119, 52 Sup. Ct. 283, 76 L. ed. 655 (1931) commented upon (1932) 80 U. of Pa. L. Rev. 1024 and (1932) 41 Yale L. J. 929. While this case was the first to lay down this rule as against an interstate transmitter of gas, the rule that, where the parent or affiliated company furnishes a subsidiary public utility with some product or equipment, the price that will yield a fair return to the parent company, necessitating an evaluation of the property of the parent company, may be looked into for the purpose of deciding what price paid for such product may be set up by the subsidiary company as a part of the rate to be charged the public, was first established in Smith v. Illinois Bell Telephone Co., 282 U. S. 133, 155 U. S. 65, 75 L. ed. 255 (1930) commented upon (1931) 9 N. C. L. Rev. 463 and (1931) 40 Yale L. J. 809; see Chesapeake & Potomac Tel. Co. of Va. v. Commonwealth, 147 W. Va. 43, 136 S. E. 575 (1927).

utilities there seems to be an even split of opinion. Courts which hold such transmitting company to be a mere private enterprise do so on the ground that it has not held itself out to serve the public.[14] On the other hand, support for holding the transmitting company to be a public utility is derived from the fact that it is privileged to exercise eminent domain.[15] In one case, in which the company exercised no eminent domain but sold all its current at the generating plant switchboard, it was held that so long as it furnishes current in contemplation of the ultimate delivery of the current to the public it is a public utility.[16] This latter rule will suffice to make all companies engaged in any stage of the business of furnishing the public with gas or electric current subject to regulation. In addition it seems to provide a solid ground for reaching such a desirable result. Certainly, all such companies supply a necessity and in addition have, under this rule at least to some extent, a monopoly, so that clearly, so long as their pipes or wires do not cross a state line, they can be made public utilities by state legislation.

So far as the price *actually* paid for the gas sold to the distributing company by the transmitting company is concerned, whether the respective companies are affiliated or entirely unrelated would not appear to affect the right of the commission to regulate.[17]

Where the transmitter carries the gas across the state line and sells to distributing companies, whether affiliated or unrelated, neither the state of production,[18] nor the state of sale[19] may regulate the price at which it sells the gas. This has been held repeatedly by the United

[14] Nowata County Gas Co. v. Henry Oil Co., 269 Fed. 742 (C. C. A. 8th, 1920); Southern Ohio Power Co. v. Pub. Util. Comm'n of Ohio, 110 Ohio St. 246, 143 N. E. 700 (1924).

[15] North Carolina Pub. Ser. Co. v. Southern Power Co., 282 Fed. 837 (C. C. A. 4th, 1922); Salisbury & S. Ry. Co. v. Southern Power Co., *supra* note 3.

[16] South Oklahoma Power Co. v. Corporation Comm'n, 96 Okla. 53, 220 Pac. 370 (1923); *cf.* Ohio Mining Co. v. Pub. Util. Comm'n, *supra* note 4 (*Held,* the transmitting company as such is not a public utility, but since it sells all its current to wholly-owned subsidiary distributors it is regulatable. The transmitting company then transferred the stock of the subsidiary distributing companies to its stockholders and in Southern Ohio Power Co. v. Pub. Util. Comm'n of Ohio, *supra* note 14, it was held that the transmitting company thereby destroyed the commission's power to regulate it.)

[17] *Contra*: Ohio Mining Co. v. Pub. Util. Comm'n together with Southern Ohio Power Co. v. Pub. Util. Comm'n of Ohio, both *supra* note 16.

[18] Pub. Util. Comm'n of R. I. v. Attleboro Steam & Electric Co., 273 U. S. 83, 47 Sup. Ct. 294, 71 L. ed. 549 (1926) commented upon (1927) 27 Col. L. Rev. 615, (1927) 40 Har. L. Rev. 906 and (1927) 36 Yale L. J. 88; Galloway v. Bell, 11 F. (2d) 558 (App. D. C. 1926).

[19] Pub. Util. Comm'n of Kansas v. Landon; State of Missouri v. Kansas Natural Gas Co., both *supra* note 9.

States Supreme Court on the ground that in such case the entire transportation by the transmitting company is interstate, the intrastate carriage commencing only after the gas is the property of the distributing company, and such interstate transportation being national in scope, the lack of legislation by Congress shows that Congress intends such carriage to be free from restraints. This view is supported by the fact that in the *Interstate Commerce Act,* regulation of the transportation of natural or artificial gas is excepted.[20]

A complication as to the power of the commission to regulate the price actually charged the distributing company arises where the transmitting company sells part of its gas to distributing companies and part directly to consumers. Where all of the transmitting equipment of all of the companies concerned lies within one state adherence to prevailing rules would point toward divergent results. In those states which follow the preferred view and hold that the distributing system as such is a public utility, the power of the commission to regulate the prices charged by the transmitting company to distributors follows without question. In states which hold transmitting companies as such not to be public utilities, it might be held either that the fact that the transmitting company sells part of its gas directly to consumers permits regulation of such sales only and leaves unimpaired the right of the transmitting company to sell to distributing companies free from (direct) regulation; or that such sale to ultimate consumers makes the transmitting company a public utility as to all parties supplied by it including distributing companies.[21]

It is the prevalent theory that where the gas is carried across a state line the transportation is interstate commerce exclusively[22] up to that point at which the pressure is reduced from that used to carry it interstate, and that the ensuing transportation at low pressure is equally exclusively intrastate, and the interstate and intrastate businesses are entirely separate and distinct.[23] Thus, it can hardly be said that an interstate transmitting company by selling part of its gas directly to consumers and thereby "accepting" state regulation of its

[20] 41 STAT. 474 (1920), 49 U. S. C. A. §1 (1926).

[21] There seems to be no decided case on this problem but for cases involving an analogous situation which might have a bearing on it see North Carolina Pub. Ser. Co. v. Southern Power Co., *supra* note 15; West Ohio Gas Co. v. Pub. Util. Comm'n of Ohio, *supra* note 11; Salisbury & S. Ry. Co. v. Southern Power Co., *supra* note 3.

[22] State Tax Comm'n of Miss. v. Interstate Natural Gas Co., 284 U. S. 41, 52 Sup. Ct. 62, 76 L. ed. 156 (1931).

[23] East Ohio Gas Co. v. Tax Comm'n of Ohio, *supra* note 10.

intrastate business becomes subject to state regulation of its separate and distinct interstate business. This leads to the logical, if somewhat anomalous, result that where an interstate transmitting company sells both to consumers directly and to distributing companies, the rates charged the consumers are, but those charged the distributing companies are not, subject to state regulation.

A similar problem arises where a transmitting company sells part of its gas to affiliated distributors and part to unrelated distributors, charging the latter a higher price than that charged the affiliates. The United States Supreme Court has said that interstate transmitting companies as such are not subject to regulation, except by Congress, and it would not appear that mere discrimination of this nature should affect the rule.[24] Where both the transmitting company and the affiliated and unrelated distributing companies do a strictly intrastate business, there appears to be no legal objection to requiring the transmitting company to lower the price charged the unrelated distributor to that charged the affiliate except that the "price" charged the affiliate is often but a bookkeeping figure and it may be somewhat lower than the real value of the gas supplied; therefore, requiring the transmitting company to sell to the unrelated distributing companies at this "price" may be confiscatory. Since any such unfavorable comparison can be avoided by the simple act of raising the "bookkeeping price" charged affiliated distributors, and since this "bookkeeping price" is not necessarily a true figure, it would seem that in no case should the price charged by a transmitting company to an unrelated distributor be established by such comparison.[25]

Since state commissions can prevent distributing companies from including in their rates to the public exorbitant prices paid to transmitting companies for the gas distributed and will allow rates which cover only reasonable prices, the question arises, why is there any need to regulate the amount actually paid the transmitting companies?

In the first place regulation of the price actually paid is necessary to assure consumers that they will not be required to pay rates higher than those which will provide a fair return on the property used to serve them. Where the transmitting company and the distributing companies are affiliated this is assured by the rule laid down in *Western Distributing Co. v. Public Service Commission of Kansas*;[26]

[24] See West Ohio Gas Co. v. Pub. Util. Comm'n of Ohio, *supra* note 11.
[25] But see North Carolina Public Service Co. v. Southern Power Co., *supra* note 15; Salisbury & S. Ry. Co. v. Southern Power Co., *supra* note 3.
[26] *Supra* note 13.

that, in establishing the price paid to the transmitting company for the gas which the distributor will be allowed to include as a part of its rates to the public, the property of the transmitting company may be evaluated and that price allowed which will provide a fair return on the proportionate share of the transmitting company's property used to serve this distributor.

Where the transmitting company and the distributing company are unrelated, the price paid to the transmitter for the supply of gas which the distributor will be allowed to include as a part of its rates to the public, is held to be a price never greater than that at which the distributor could manufacture its own supply or obtain a sufficient supply from a competing transmitting company.[27] Under this rule it would be obviously quite proper to allow an unrelated distributing company to set-up as a *reasonable* part of its rates to the public, a price greatly in excess of the price at which the transmitting company could earn a fair return on the proportionate share of its property used to serve this distributor.

An illustration of how a transmitting company could charge a price which might be allowed under this interpretation of "reasonable" and still make enormous profits appears where a transmitting company has bought up all the available water power in a given community, thereby eliminating competition. Due to the cheapness of the water power, the transmitting company can earn a fair return by charging one cent per kilowatt hour, whereas the distributing company, the price of coal being high, cannot manufacture its own current for less than two cents per kilowatt hour. Obviously, were the transmitting company allowed to charge two cents per kilowatt hour, as would follow under the above rule, the consumers would indeed be required to pay a rate much greater than that necessary to provide for a fair return on the property used to supply them with service.

It might be contended that this whole problem could be solved by the simple expedient of enacting state legislation giving to the state commission the power to regulate the price that a local distributing company, completely subject to state regulation, may pay for the gas it distributes. That is, although the state cannot require an interstate transmitting company to charge no more than thirty cents per thousand cubic feet, has it not the power to order the local distributor to pay no more than thirty cents per thousand cubic feet?

[27] *Supra* note 11.

Where the distributing company and the interstate transmitting company are entirely unrelated, it would seem that this could be done but that it would be of no advantage, as even though the distributor is paying the transmitting company a price which will provide the transmitting company a great deal more than a fair return, the state cannot interfere with that rate directly; and, should the commission attempt to order the local distributor to pay less than that price at which it could manufacture its own supply or purchase a sufficient supply from a competing transmitter, and then use such price as a part of the distributor's rates to the public, the order would necessarily have to be set aside as confiscatory.[28] No statute appears to have gone this far, but there are statutes which provide for direct regulation of the price that a local distributing company pays to an affiliated transmitting company.[29] The statute provides that the price set must not be unjust, so that its net effect is to adopt the rule of the *Western Distributing Co. case.*[30] Where the transmission company is intrastate there is no need for such provision as it is within the power of the state to regulate such companies directly.[31]

Another solution of this problem would be to make the test of "reasonableness" where the transmitting company and distributing company are unrelated the same as where they are affiliated. Unfortunately, however, such result awaits a further relaxation of the rule that such interstate commerce can not be regulated, as, where the companies are unrelated, if the distributor were allowed only such rates to the public as would cover a price providing for a fair return to the unrelated transmitter, it might work great hardship on the distributor as the unregulatable interstate transmitter might continue to charge it a higher price.[32]

A second reason why the price actually charged for the gas supplied to the distributing company by the transmitting company should be subject to regulation applies only where the transmitting company and the distributing company are affiliated. In the absence of regulation of this price gross injustices are possible against the minority stockholders of the distributing company. To illustrate, suppose forty-nine per cent of the stock of a distributing company is in the hands

[28] See Nowata County Gas Co. v. Henry Oil Co., *supra* note 14; West Ohio Gas Co. v. Pub. Util. Comm'n of Ohio, *supra* note 11 (Cases most closely bearing on the point).

[29] N. C. CODE ANN. (Michie, 1931) §1037 (e).

[30] *Supra* note 13.

[31] *Cf.* Nowata County Gas Co. v. Henry Oil Co., *supra* note 14.

[32] West Ohio Gas Co. v. Pub. Util. Comm'n of Ohio, *supra* note 11.

of the public with the transmitting company, or the holding company which controls the transmitting company, holding the remaining fifty-one per cent. After a diligent search into the value of the property of the transmitting company, under the rule laid down in *Western Distributing Co. v. Public Service Commission of Kansas,*[33] the commission decides that as a part of the rates charged the public the distributing company may include thirty cents per thousand cubic feet as the price paid to the transmitting company for the gas. The commission thereupon approves a schedule of rates to be charged the public which will provide for a fair return on the property of the distributing company after covering the *thirty* cent price to be paid for the gas. The transmitting company, being in a position to dictate the terms of the contract between the distributing company and itself, continues to charge the distributing company thirty-five cents per thousand cubic feet for the gas furnished.[34] This in spite of the fact that it has been determined that a price of thirty cents per thousand cubic feet will yield a fair return to the transmitting company on the proportionate share of its property used to render such service as net results, the distributing company earns little or no return on its property and may even show a loss, the minority stockholders of the distributing company receive no dividends, and the transmitting company earns a return much greater than "fair".

Having pointed out the need for regulation of the actual price paid for the gas supplied to a distributing company by a transmitting company, it remains to determine how such a result might best be reached. Where there is no interstate transmission involved the solution is simple, requiring only that the state legislature declare all such transmitting companies to be public utilities and subject to regulation irrespective of the question to whom they sell their gas. This result is now reached in many states by judicial interpretation of existing statutes.[35]

[33] *Supra* note 13.

[34] Such result is clearly possible under the rule laid down in Western Distributing Co. v. Public Service Commission of Kansas (*supra* note 13), but would seem to have been forestalled by the North Carolina statute (*supra* note 29) under which the commission may regulate not only the price paid to the affiliated transmitting company for the purpose of including it as a part of distributor's price to the public, but the price which the distributor may actually pay to the affiliated transmitting company.

[35] North Carolina Pub. Ser. Co. v. Southern Power Co., *supra* note 15; Salisbury & S. Ry. Co. v. Southern Power Co., *supra* note 3 (The defendant in both these cases, as determined from a map appended in the latter case, seems to have been transmitting current interstate, but the Court in neither

Where, however, the transmission is interstate the power to regulate the prices charged by the transmitting company for the gas supplied to the local distributing company would seem to await action by Congress. Regulation by Congress might take either of two forms. First, the Federal Power Commission or some other commission might be given the power to regulate all interstate transportation of gas and elective current, similar to the power of the Interstate Commerce Commission to regulate all interstate transportation by rail; or, secondly, Congress might turn over to the states, by an express declaration that it has left the field uncovered, the right to regulate the prices charged for the gas supplied by an interstate transmitting company to local distributing companies. It might be urged, where the transmitting company supplies distributing companies in several states, that such method of regulation would be unfair to the transmitting company, in that its property might be ascribed a different valuation as a rate base in each of the regulating states. Suffice it to say that so long as the lowest of these valuations is not confiscatory, the transmitting company cannot complain if another state allows a higher rate-base value.

While either of the suggested methods of regulating the price charged by interstate transmitting companies for gas sold to local distributing companies would seem to provide the needed control, nevertheless, since local conditions enter so strongly into the business of supplying gas or electric current, and since both gas and electric current are fundamentally local in their nature and are rarely transported more than a few hundred miles from their sources, it is the opinion of the writer that the latter plan for control of these prices is the one better adapted to a country as large in area as the United States.

case considered the effect of such transportation but rather dealt with the case as though the transmitting company's property lay wholly within North Carolina); South Oklahoma Power Co. v. Corporation Comm'n, *supra* note 16.