Corp. Tax Determinations A-Z
Nantex Riviera Corp.

STATE OF NEW YORK

DEPARTMENT OF TAXATION AND FINANCE

BOARD OF CONFEREES - CORPORATION TAX BUREAU

In the Matter of the Applications

of

NANTEX RIVIERA CORPORATION

for revision or refund of franchise taxes under Article 9A of the Tax Law for the fiscal years ended January 31, 1963 and 1964.

Hearing Case No. 5770

The taxpayer computed and paid the following taxes:

	1/31/63	1/31/64
Net Income including Federal Change	$365,128.37	$106,027.69
Tax at 5½%	20,082.06	5,831.52

Timely applications for revision or refund were filed on March 9, 1966.

The applications state, in part, as follows:

"Under Reg.Sec. 4.11, where as a regular course of business, raw materials or partially finished goods of a taxpayer, are delivered to an independent contractor, to be converted, processed, finished or improved, and the finished goods remain in the possession of the independent contractor until shipped to customers, the plant of such independent contractor is considered a regular place of business of such taxpayer. Where such taxpayer maintains a regular place of business outside the state, it may allocate its income. Taxpayer has such a situation with a contractor located in South Carolina. Taxpayers' New York State Corporation Franchise Tax Report for the fiscal year above mentioned was filed with no allocation. The tax has been recomputed in accordance with the amended Form CT-3 herewith attached."

Based on the foregoing, the taxpayer is entitled to a business allocation. However, the taxpayer has only a regular place of business outside New York and since all orders were received or accepted in New York, shipments of goods to points within New York were allocated 100% to New York and shipments of goods to points outside New York were allocated 50% to New York.

The Board recommends that the taxes be corrected as follows:

Approved
IRA J. PALESTIN
3/31/66

	1/31/63	1/31/64
Net Income	$365,128.37	$106,027.69
Business allocation	53.7921%	54.24702%
New York Base	196,410.22	57,516.86
Tax at 5½%	10,802.56	3,163.43
Remittances	20,082.06	5,831.52
Refund due Taxpayer	$ 9,279.50	$ 2,668.09

/s/ WILLIAM F. SULLIVAN
Chairman

/s/ DONALD GILHOOLY

/s/ J. J. GENEVICH

WFS:MB
3/28/68

To Commr. Murphy

There are over ten of these for signature

A. McC.

24 rpts over $3500 should have been pulled

L.L. 1-6-65

by 5 rpts pulled
1 over $1,000
4 under $1,000

From Commissioner Macduff

Corp. Tax Determinations
A–Z 1966
Niagara Mohawk Power Corporation

STATE OF NEW YORK

DEPARTMENT OF TAXATION AND FINANCE

BOARD OF CONFEREES - - CORPORATION TAX BUREAU

In the Matter of the Applications of NIAGARA MOHAWK POWER CORPORATION for revision or refund of taxes under Section 186-a of the Tax Law for the period ended November 30, 1954 through the period ended May 31, 1964.	Hearing Case Nos. [illegible] and [illegible]

The assessments were billed on February 16, 1962, November 9, 1962 and September 30, 1964. Timely applications were filed on February 1, 1963 and September 30, 1964.

The question involved is whether receipts received by the taxpayer for the function performed by it pursuant to contracts with other utility companies in this and other states, and with the Power Authority of the State of New York are gross income as defined by Section 186-a, Subdivision 2.

Under the contracts, the taxpayer was to be compensated for employing its transmission facilities for the intermediate transmission of power, not generated by it, either to the connecting lines of municipalities and of the State of Vermont, who were customers of the Power Authority, or to the New York State Electric and Gas Corporation for distribution by it to Power Authority customers, or to private utility companies for distribution and sale to their own customers.

In an opinion dated December 8, 1964 the Bureau of Law held that the employment of its transmission facilities by the taxpayer to relay the electrical current was a service rendered incidental to sales of electrical energy, and so was a "transaction," but one that was neither a "sale for resale" nor a "rental," and, accordingly, that the transaction was taxable on the profits only.

Patrick H. Sullivan, Esq. and Bernard L. [illegible], Esqs., of Whitman, Ransom & Coulson, the taxpayer's attorneys had a conference with Mr. [illegible] on May 19, 1965. The attorneys stated that although they believe that profits, if any, from the transmission, were not taxable, they indicated the taxpayer will accept the principle of taxing profits on transmission services. The attorneys presented for consideration, a net income statement (before Federal tax) for the years 1954 through 1963 as a basis for profit computation. The attorneys were asked to submit a statement as to the taxpayer's basis for computing the transmission service charge. This information was submitted in Mr. Sullivan's letter of October 11, 1965 to Mr. [illegible].

Approved
IRA J. PALESTIN
12/28/65

Approved
JAMES R. MACDUFF
1-4-66

C.K. J.H.M.
1-5-66

[illegible]

DEPARTMENT OF TAXATION AND FINANCE
CORPORATION TAX BUREAU

To Mr. Rook

For signatures on forms CT-122 attached to reports for the period ended November 30, 1954 through the period ended May 31, 1965 - 24 reports to be signed.

11/29/65

347 CT (4-59)

From Mr. Doran

For the years 1954 through 1963 the above referred to schedule shows the taxpayer earned a 12% profit on its total operating revenues.

After review of the contents of Mr. Sullivan's letter to Mr. Doran, this Board recommends that the Tax Commission approve a correction in the taxes on the basis that the taxpayer earned a 12% profit on the revenues from the transmitting of electrical energy manufactured by others.

The corrected taxes are as follows:

Period	Corrected Base	Rate	Corrected Tax	Previous Tax	Reduction
11/30/54	$ 106,564.61	2%	$ 2,131.29	$ 2,136.84	$ 5.55
2/28/55	88,083.15	2%	1,761.66	3,643.86	1,882.20
5/31/55	81,929.52	2%	1,638.59	1,681.83	43.24
8/31/55	58,582.12	2%	1,171.64	1,333.97	162.33
11/30/55	95,872.99	2%	1,917.46	2,147.19	229.73
2/29/56	91,359.32	2%	1,827.19	3,022.32	1,195.13
5/31/56	69,110.78	2%	1,382.22	2,689.88	1,307.66
8/31/56	97,296.91	2%	1,945.94	3,678.95	1,733.01
11/30/56	151,078.13	2%	3,021.56	4,854.21	1,832.65
2/28/57	101,857.49	2%	2,037.15	5,130.96	3,093.81
5/31/57	58,261.36	2%	1,165.23	3,326.52	2,161.29
8/31/57	89,910.85	2%	1,798.22	3,833.26	2,035.04
11/30/57	102,904.77	2%	2,058.10	4,054.15	1,996.05
2/28/58	111,475.92	2%	2,229.52	5,387.31	3,157.79
5/31/58	116,313.53	2%	2,326.27	4,214.83	1,888.56
8/31/58	87,052.50	2%	1,741.05	3,495.70	1,754.65
11/30/58	141,765.82	2%	2,835.32	5,317.78	2,482.46
2/28/59	178,048.03	2%	3,560.96	8,157.79	4,596.83
5/31/59	101,562.94	2%	2,031.26	5,030.43	2,999.17
8/31/59	112,997.77	2%	2,259.96	5,520.53	3,260.57
11/30/59	195,700.93	2%	3,914.02	7,265.17	3,351.15
2/29/60	83,305,799.69	2%	1,666,115.99	1,672,227.97	6,111.98
5/31/60	77,036,107.35	2%	1,540,722.15	1,544,594.72	3,872.57
8/31/60	59,551,450.06	2%	1,191,029.00	1,194,730.48	3,701.48
11/30/60	64,766,952.85	2%	1,295,339.06	1,299,146.10	3,807.04
2/28/61	86,997,995.09	2%	1,739,959.90	1,745,348.00	5,388.10
5/31/61	79,514,513.67	2%	1,590,290.27	1,594,297.65	4,007.38
8/31/61	63,036,984.21	2%	1,260,739.68	1,265,972.41	5,232.73
11/30/61	67,108,359.13	2%	1,342,167.18	1,347,256.69	5,089.51
2/28/62	94,846,428.86	2%	1,896,928.58	1,906,860.59	9,932.01
5/31/62	83,632,233.18	2%	1,672,644.66	1,679,391.20	6,746.54
8/31/62	65,613,363.34	2%	1,312,267.27	1,318,442.59	6,175.32
11/30/62	71,688,563.76	2%	1,433,771.28	1,440,341.90	6,570.62
2/28/63	95,668,235.91	2%	1,913,364.72	1,922,657.34	9,292.62
5/31/63	86,802,971.61	2%	1,736,059.43	1,742,520.68	6,461.25
8/31/63	67,769,437.33	2%	1,355,388.75	1,361,540.89	6,152.14
11/30/63	73,586,451.92	2%	1,471,729.04	1,478,055.13	6,326.09
2/29/64	97,894,135.41	2%	1,957,882.71	1,967,391.08	9,508.37
5/31/64	89,532,607.01	2%	1,790,652.14	1,797,207.47	6,555.33
8/31/64	71,834,508.23	2%	1,436,690.16	1,443,257.64	6,567.48
11/30/64	77,864,899.76	2%	1,547,298.00	1,553,543.77	6,245.77
2/28/65	102,701,519.70	2%	2,054,030.39	2,064,474.04	10,443.65
5/31/65	95,709,069.86	2%	1,914,181.40	1,921,541.32	7,359.92
8/31/65	75,797,765.09	2%	1,515,955.30	1,522,931.59	6,976.29

/s/ WILLIAM F. SULLIVAN

Chairman

Approved
E. A. DORAN

/s/ DONALD H. GILHOOLY

WFS:MB
11/29/65