

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition
of
Tenneco, Inc.

:

:

AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or Revision
of a Determination or Refund of Sales & Use Tax
under Article 28 & 29 of the Tax Law for the
Period 3/1/79-2/28/82.

:

:

State of New York :

ss.:

County of Albany :

David Parchuck, being duly sworn, deposes and says that he is an employee of the State Tax Commission, that he is over 18 years of age, and that on the 17th day of January, 1986, he served the within notice of Decision by certified mail upon Tenneco, Inc., the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Tenneco, Inc.
H. M. Williamson
Tenneco Bldg., P.O. Box 2511
Houston, TX 77001

and by depositing same enclosed in a postpaid properly addressed wrapper in a post office under the exclusive care and custody of the United States Postal Service within the State of New York.

That deponent further says that the said addressee is the petitioner herein and that the address set forth on said wrapper is the last known address of the petitioner.

Sworn to before me this
17th day of January, 1986.

David Parchuck

David A. Hagedorn

Authorized to administer oaths
pursuant to Tax Law section 174

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
Tenneco, Inc. : AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or Revision :
of a Determination or Refund of Sales & Use Tax :
under Article 28 & 29 of the Tax Law for the :
Period 3/1/79-2/28/82. :

State of New York :
ss.:
County of Albany :

David Parchuck, being duly sworn, deposes and says that he is an employee of the State Tax Commission, that he is over 18 years of age, and that on the 17th day of January, 1986, he served the within notice of Decision by certified mail upon Adrienne S. Browning, the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Adrienne S. Browning
Tenneco, Inc.
P.O. Box 2511
Houston, TX 77001

and by depositing same enclosed in a postpaid properly addressed wrapper in a post office under the exclusive care and custody of the United States Postal Service within the State of New York.

That deponent further says that the said addressee is the representative of the petitioner herein and that the address set forth on said wrapper is the last known address of the representative of the petitioner.

Sworn to before me this
17th day of January, 1986.

David Parchuck

James W. Haglund
Authorized to administer oaths
pursuant to Tax Law section 174

STATE OF NEW YORK
STATE TAX COMMISSION
ALBANY, NEW YORK 12227

January 17, 1986

Tenneco, Inc.
H. M. Williamson
Tenneco Bldg., P.O. Box 2511
Houston, TX 77001

Gentlemen:

Please take notice of the Decision of the State Tax Commission enclosed herewith.

You have now exhausted your right of review at the administrative level. Pursuant to section(s) 1138 of the Tax Law, a proceeding in court to review an adverse decision by the State Tax Commission may be instituted only under Article 78 of the Civil Practice Law and Rules, and must be commenced in the Supreme Court of the State of New York, Albany County, within 4 months from the date of this notice.

Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to:

NYS Dept. Taxation and Finance
Law Bureau - Litigation Unit
Building #9, State Campus
Albany, New York 12227
Phone # (518) 457-2070

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative
Adrienne S. Browning
Tenneco, Inc.
P.O. Box 2511
Houston, TX 77001
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
TENNECO INC.	:	DECISION
for Revision of a Determination or for Refund	:	
of Sales and Use Taxes under Articles 28 and 29	:	
of the Tax Law for the Period March 1, 1979	:	
through February 28, 1982.	:	

Petitioner, Tenneco Inc., Tenneco Building, P.O. Box 2511, Houston, Texas 77001, filed a petition for revision of a determination or for refund of sales and use taxes under Articles 28 and 29 of the Tax Law for the period March 1, 1979 through February 28, 1982 (File Nos. 39730 and 44831).

A hearing was held before Doris E. Steinhardt, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on March 13, 1985 at 10:00 A.M., with all briefs to be submitted by August 24, 1985. Petitioner appeared by Adrienne S. Browning, Esq. and Guggenheimer & Untermeyer, Esqs. (William B. Randolph, Esq., of counsel). The Audit Division appeared by John P. Dugan, Esq. (Anne W. Murphy, Esq., of counsel). In addition, on March 13, 1985, the parties executed a statement of agreed facts, consisting of 33 paragraphs.

ISSUES

I. Whether natural gas withdrawn by petitioner from its interstate pipeline for consumption as compressor fuel is subject to the compensating use tax imposed by Tax Law section 1110.

II. Whether natural gas received by petitioner as compensation for the transportation of gas for others and utilized as compressor fuel is subject to the sales or compensating use tax.

III. Whether natural gas utilized as compressor fuel is exempt from tax by virtue of Tax Law section 1115(c).

IV. Whether the Commerce Clause of the United States Constitution prohibits the imposition of use tax on natural gas diverted from petitioner's interstate pipeline and consumed as compressor fuel.

FINDINGS OF FACT

1. For all periods relevant to this proceeding, Tenneco Inc. ("Tenneco") timely filed its New York State sales and use tax returns.

2. On September 20, 1982, the Audit Division issued to Tenneco a Notice of Determination and Demand for Payment of Sales and Use Taxes Due for the period March 1, 1979 through August 31, 1979 in the amount of \$145,334.35 tax and \$47,072.67 interest, for a total due of \$192,407.02. Of the total tax assessed, the major portion related to the taxation of the cost of natural gas used as compressor fuel. A Statement of Proposed Audit Adjustment for the period March 1, 1979 through February 28, 1982 for the amount of \$49,890.61 was sent to Tenneco on or about September 24, 1982; this amount related to uncontested items for which tax was due.

On June 14, 1982, an officer of petitioner had executed on its behalf a consent serving to extend the statute of limitations on assessment for the taxable period March 1, 1979 through May 31, 1979 to September 20, 1982, inclusive.

A timely letter of protest dated November 3, 1982 was filed by Tenneco with the State Tax Commission, protesting the entire assessment of \$192,407.02 and requesting that the assessment be abated in full.

By letter dated January 24, 1983, Tenneco was notified by the Audit Division that the tax assessed in the Notice issued on September 20, 1982 was to be revised to \$86,684.01. A Notice of Assessment Review was received by Tenneco on or about April 20, 1983 for the period March 1, 1979 through August 31, 1979, indicating an adjusted tax due of \$86,684.01.

Payment of the uncontested tax due was made by Tenneco in the amounts of \$43,372.33 on March 8, 1983, and \$6,518.23 on March 14, 1983.

3. On April 20, 1983, the Audit Division issued to Tenneco a Notice of Determination and Demand for Payment of Sales and Use Taxes Due for the period September 1, 1979 through February 28, 1982 in the amount of \$772,304.81 tax and \$188,556.16 interest, for a total amount due of \$960,860.97. This assessment related solely to the use of compressor fuel.

On October 8, 1982, an officer of petitioner had signed on its behalf a consent to extend the statute of limitations on assessment for the taxable period September 1, 1979 through February 28, 1980 to and including June 20, 1983.

A timely petition was filed by Tenneco on June 20, 1983 and received by the Tax Appeals Bureau on June 24, 1983, protesting the assessment of tax and interest in the total amount of \$960,860.97 for the period September 1, 1979 through February 28, 1982 and requesting consolidation of the two petitions for purposes of all future proceedings.

On March 29, 1984, Tenneco timely filed a perfected petition contesting the following:

<u>PERIOD</u>	<u>AMOUNT OF TAX DETERMINED</u>
3/1/79-8/31/79	\$ 39,793.40*
9/1/79-2/28/82	772,304.81

* Tenneco concedes that the amount in contention for the period 3/1/79-8/31/79 should have read \$36,793.40.

4. Petitioner, a Delaware corporation with its principal place of business in Houston, Texas, was originally incorporated as Tennessee Gas Transmission Company, a Tennessee corporation. It was this original company that filed an application in July, 1943 with the Federal Power Commission under section 7 of the Natural Gas Act of 1938 (15 U.S.C.A. §§717-717W) for a certificate of public convenience and necessity, authorizing the construction and operation of a pipeline from a site near Opelousas, Louisiana, through the states of Louisiana, Mississippi, Alabama, Tennessee, Kentucky and West Virginia. The intended purpose of the pipeline was to deliver gas to natural gas companies serving the Appalachian region, thereby relieving a critical gas shortage at a time when the supply of natural gas to industries of that region was necessary to the immediate demands of the war economy.

5. In July, 1947, the Federal Power Commission authorized the consolidation of Tennessee Gas and Transmission Company with Tennessee Gas Transmission Company, a Delaware corporation. As a successor in interest to the former companies, the new corporation was, by order of the Federal Power Commission, a "natural gas company" within the meaning of the Natural Gas Act authorized to own and operate a natural gas transmission pipeline system consisting of the main transmission pipeline, compressor stations, gathering lines and other appurtenances of such a system, engaged in the transportation and sale of natural gas in interstate commerce for resale.

6. On August 22, 1949, petitioner obtained its certificate of authority to do business in New York State. Construction of the New York segment of the interstate pipeline system was completed during the years 1950 and 1951. An additional segment of pipeline was completed within New York in 1969. Loop lines providing additional transmission were constructed during 1965 through 1969 and 1981 through 1984.

7. The most northern section of the interstate pipeline system, the "Concord Line," was completed in New Hampshire in 1952.

8. Petitioner's name was changed to Tenneco Inc. in 1966, reflecting the diversification of the company into activities other than that of natural gas transmission. Tennessee Gas Transmission Company became one of the operating divisions of Tenneco.

9. Petitioner's pipeline system originates in south Texas, near the Rio Grande River, and extends northeasterly through Texas, Louisiana, Arkansas, Mississippi, Alabama, Tennessee, Kentucky, West Virginia, Ohio, Pennsylvania, New York, New Jersey, Connecticut, Rhode Island, Massachusetts and New Hampshire. All facilities comprising this system were constructed pursuant to authority granted by the Federal Power Commission (now the Federal Energy Regulatory Commission). Miles of pipeline owned and operated by Tenneco at the end of the years 1979, 1980 and 1981 were approximately 13,449.67, 13,561.87 and 13,754.45, respectively.

10. During each of the years 1979, 1980 and 1981, Tenneco carried throughout its entire interstate pipeline system approximately 1,761,500,449 mcf (thousand cubic feet of gas), 1,576,083,137 mcf, and 1,551,297,539 mcf, respectively. The bulk of the gas carried through its system originates in Texas, Louisiana and offshore Gulf of Mexico. A minor volume of the gas carried through the

system originates in the northern states through which the pipeline operates. Natural gas carried throughout the system is comprised of both gas owned (produced or purchased) by Tenneco, and gas carried for others. For the years 1979, 1980 and 1981, the following volumes of gas represent natural gas owned by Tenneco and natural gas owned by others:

	<u>1979</u>	<u>1980</u>	<u>1981</u>
Owned by Tenneco	1,138,605,142	1,113,322,163	1,109,448,124
Owned by others	662,895,307	462,760,974	441,849,415

Gas owned by Tenneco includes gas purchased for resale and a small amount of gas extracted from petitioner's natural gas field in Louisiana. The vast majority of gas purchased by petitioner for resale originates from suppliers' fields onshore and offshore Texas and Louisiana.

12. In addition to purchasing gas for resale to others, Tenneco enters into agreements with other interstate pipeline companies whereby it agrees to receive from a pipeline company and deliver to a designated recipient (usually that same company) a specific volume of natural gas. The terms of the contracts vary per agreement; one type of contract requires compensation based solely on a fee per volume carried, while others include a percentage of the gas carried in addition to a fee per volume. The "fuel and use" factor, that gas received as partial consideration for transporting gas for others, differs depending on the distance the gas is transported, and ranges from 2.42 percent of total input volume to 4.49 percent of total input volume. The fuel and use factor is calculated by petitioner's engineers to equate to the actual fuel needed (compressor fuel) to transport a certain volume of gas a certain distance. For the period in question, the fuel and use volumes received by Tenneco pursuant to transportation agreements for the transmission of gas for others through New

York constituted the following percentages of total gas consumed at the seven compressor stations within New York:

<u>PERIOD</u>	<u>PERCENTAGE OF "FUEL AND USE" GAS OF TOTAL COMPRESSOR FUEL PER AUDIT</u>
3/1/79-12/31/79	1.35
1/1/80-12/31/80	4.16
1/1/81-12/31/81	5.21
1/1/82-2/28/82	15.20

13. Located at approximately equal distances along petitioner's interstate pipeline system are 63 compressor stations. The compressor stations are designed and installed at specific places along the pipeline system for the purpose of facilitating the movement of gas, and are the sole source of energy for the movement of gas through the system. The compressors are absolutely necessary to the movement of gas through the entire system; without compression the natural gas in the pipeline could not move through the system in sufficient quantity to satisfy the needs of Tenneco's customers, and the pipeline system would, in effect, cease to operate.

14. Seven of the compressors are located on petitioner's pipeline within New York State. These stations are identified and located as follows: Station Number 224 - Claymer, Station Number 229 - Hamburg, Station Number 237 - Clifton Springs, Station Number 241 - Syracuse, Station Number 245 - West Winfield, Station Number 249 - Carlisle, and Station Number 254 - Nassau. The continued movement of natural gas through petitioner's pipeline system from the point of origin to its final destination is dependent upon the operation of its compressor stations not only in New York, but along the entire system of pipeline.

15. The 63 compressor stations along petitioner's pipeline system employ both reciprocating compressors and gas turbine compressors. Both mechanisms

utilize natural gas diverted from the main line as energy fuel for their operation. Each of the seven compressor stations located in New York employs reciprocating compressors and engines. Aside from the difference in number of engines and horsepower employed at each station, each compressor station performs the same function of increasing the pressure of the natural gas for purposes of transmission through the interstate pipeline system. Each compressor station utilizes natural gas to fuel the compressor engines.

16. At each station the natural gas consumed as compressor fuel is taken from the main stream of gas flowing toward the compressors and is measured by a meter to determine the total amount of gas being used in the compressor engines at each station. These measurements define the volumes used by the compressor units. The measured gas volumes are priced by multiplying the volume by the unit cost. The gas directed from the main line for use as compressor fuel continues in motion past the measurement meter and until it is entirely consumed by the compressor engines. The gas utilized as compressor fuel is at no time stopped or stored prior to compression.

A small percentage of the gas diverted from the mainline gas stream and metered at the compression station is used for "domestic" purposes, such as heating the compressor facilities. Domestic use during 1980, expressed in thousand cubic feet of gas and as a percentage of total station consumption for each of the stations situated in New York, is depicted in tabular form below.

<u>STATION</u>	<u>MASTER FUEL MCF</u>	<u>DOMESTIC FUEL MCF</u>	<u>PERCENTAGE OF DOMESTIC TO MASTER FUEL</u>
224	502,380	1,991	.4
229	444,736	5,275	1
237	315,301	3,927	1
241	220,402	1,721	.8
245	494,298	5,049	1
249	190,907	5,752	2.9
254	332,552	6,181	1.8
	<u>2,500,576</u>	<u>29,896</u>	<u>1.2 (average)</u>

Petitioner concedes that it bears liability for compensating use tax upon the domestic fuel.

17. At the hearing, the Audit Division conceded that gas produced by Tenneco from its natural gas field in Louisiana and utilized as compressor fuel is not subject to use tax and that the assessments should be reduced accordingly.

18. The interstate pipeline system of Tenneco is connected to that of a subsidiary company, Midwestern Gas Transmission Company, which also operates an interstate natural gas pipeline system. The compressor stations located on the Midwestern system perform the same function as do the compressors on the Tenneco pipeline system, and are fueled in the same manner by natural gas.

19. Natural gas at the point of extraction at the wellhead contains most, if not all, of the following elements: distillate, clear water, salt water, sand, dirt, hydrogen sulfide and sulfur. The gaseous elements comprising what is known as "natural gas" are methane, ethane, propane, butane, pentane, heavier hydrocarbons such as natural gasoline, carbon dioxide and nitrogen.

20. The natural gas in its form at the point of extraction is not suitable for use by Tenneco's customers. It is petitioner's obligation under both industry practice and contractual obligation to deliver a specific quality of gas to its customer. Petitioner is required to remove the distillate, water, salt water, sand, dirt, hydrogen sulfide and sulfur from the gas in its pipeline system prior to entry of the gas into its customers' lines. A vast complex of filters, scrubbers, separators, and pipeline drips are located frequently throughout the entire system in the proximity of each of the 63 compressor stations, including those in New York, for the sole purpose of removing these impurities.

While each mechanism accomplishes virtually the same purpose (the removal of impurities), the operation of each is slightly different. The scrubber is a vessel of large volume. As the gas passes into the vessel, its velocity is reduced, allowing the baffles inside to precipitate out the liquids and dirt. The gas filter functions similarly to an automobile oil filter: as the gas passes through the filter, the fiberglass material causes liquids contained in the gas to form large droplets which fall out of the gas stream. The separator is used primarily to remove liquids from an extremely "wet" gas stream. It is a large volume tank which causes the gas entering it to slow down, thereby releasing the carried liquids. The pipeline drip is a vessel installed underneath the pipeline into which fall liquids or materials moving through the pipeline. The liquids and materials accumulated in the drips are then removed. Each compressor station in New York is equipped with a filter or scrubber upstream from compression (southwest) and a drip downstream from compression (northeast) to trap unwanted elements moving through the interstate lines.

21. In addition to the system of filters, scrubbers, separators and drips located throughout the entire system, Tenneco operates a gas processing plant located on its interstate system at Greensburg, Kentucky. At this plant, most of the heavier hydrocarbons (propane, butane, pentane, and natural gasoline), approximately 30 percent of the ethane, and most of the water are removed from the gas stream. The plant has the capacity to process only approximately one-half of the gas carried through Tenneco's pipeline system at that point; the remainder of the mainline gas bypasses the plant and commingles with the "dry" processed gas re-entering the mainline at the tailgate of the plant.

22. While the bulk of the gas carried through Tenneco's system enters the system prior to reaching (upstream from) the gas processing plant, natural gas is also received into the system downstream from the plant, primarily from small producers. Because these small producers are less reliable than the large producers from which Tenneco purchases gas further south on its system, impurities present in the gas upon extraction are more likely to enter into Tenneco's system. In addition, lubricants used in the compressor cylinders are discharged with the gas and must be removed from the system. Further impurities are introduced in the system when the physical pipe is opened for repair and maintenance and expansion, a fairly common occurrence; at such time, dirt, dust, welding slag, sand and water may enter the system. The undesirable elements remaining in the gas which were not removed at the gas processing plant, and which were introduced into the pipeline system with the purchase of gas from other producers or incident to the opening of the physical pipe, must subsequently be removed from the gas stream at the filters, scrubbers and drips located at each of Tenneco's compressor stations.

23. Both Federal law and regulations (49 U.S.C. §1672 and 49 C.F.R. Part 192) and New York regulations (16 NYCRR section 255.90) require Tenneco to inject a chemical mixture known as odorant into its transmission lines. The chemical mixture is a manufactured product comprised of approximately 80 percent tertiary butyl mercaptan and 20 percent dimethyl sulfide, which mixture causes the gas to retain a distinctive odor at a level required by law. The odorant is introduced by Tenneco into its interstate pipeline system at four injection stations located on the pipeline, at valve numbers 401 and 321 within Pennsylvania and at valve numbers 107 and 229 within New York. Injection occurs after compression at these stations. All gas travelling through Tenneco's interstate

pipeline located within New York, past the point of odorant injection, is required by New York law to be odorized prior to sale to its customers.

24. The odorant is purchased in bulk in liquid form and is carefully loaded from the suppliers' tanker trucks into storage tanks at the odorant injection stations. From these storage tanks, the liquid flows through a narrow line until it reaches a chemical injection pump, which pulls the liquid from the line and injects it into the main pipeline. The liquid, upon entry into the pipeline, instantly converts to a gaseous state. The rate of injection depends on the volume of gas flowing through the pipeline. The volume is measured and the measurement is electrically converted into a signal to the odorant pump causing the odorant injection. The pump is programmed to inject odorant at a consistent rate so that each cubic foot of transmission gas receives the same quantity of odorant.

25. The injection of odorant changes the chemical composition of the gas stream, and thus the form and nature of the gas. It is virtually impossible to remove the chemical after injection.

CONCLUSIONS OF LAW

A. That section 1105 of Tax Law Article 28 imposes the sales tax and provides, in pertinent part:

"[T]here is hereby imposed and there shall be paid a tax of four percent upon:

"(a) The receipts from every retail sale of tangible personal property, except as otherwise provided in this article.

"(b) The receipts from every sale other than sales for resale, of gas, electricity, refrigeration and steam, and gas, electric, refrigeration and steam service of whatever nature, and from every sale, other than sales for resale, of telephony and telegraphy and telephone and telegraph service of whatever nature except interstate and international telephony and telegraphy and telephone and telegraph service."

The compensating use tax is imposed by section 1110, which provides in part as follows:

"Except to the extent that property or services have already been or will be subject to the sales tax under this article, there is hereby imposed on every person a use tax for the use within this state on and after June first, nineteen hundred seventy-one, except as otherwise exempted under this article, (A) of any tangible personal property purchased at retail..."

Finally, for purposes of the taxes imposed by section 1105, subdivision (a) through (d) and section 1110, section 1101(b)(6) furnishes the definition of the term "tangible personal property."

"Tangible personal property. Corporeal personal property of any nature. However, except for purposes of the tax imposed by subdivision (b) of section 1105, such term shall not include gas, electricity, refrigeration and steam."

The intention of the section 1105(b) tax, generally referred to as the "consumer's utility tax," is to tax the enumerated sales and services, whether or not rendered by a company subject to regulation as a utility company. "The inclusion of the word 'service' indicates an intent to tax, under this provision, items that are furnished as a continuous supply while the vendor-vendee relationship exists." (20 NYCRR 527.2[a][2].) Thus, under certain circumstances, natural gas may be subject to the section 1105(b) tax; under other circumstances, it may be subject to the section 1105(a) tax.

"Gas, electricity, refrigeration and steam are not considered tangible personal property for the purpose of the tax imposed on utility services. Gas sold in containers or in bulk for purposes other than heating, cooking or lighting is considered tangible personal property." 20 NYCRR 526.8(b).

B. That three categories of natural gas are consumed in petitioner's compressors: gas extracted from petitioner's own fields in Louisiana; gas purchased by petitioner for resale; and gas received by petitioner as compensation for the transportation of gas for others. The Audit Division concedes that the

first category should not be subject to the compensating use tax (Finding of Fact "17"). Thus, the Commission need consider the taxability of only the second and third categories.

C. That an examination of section 1110 reveals no provision to apply the use tax to gas which would otherwise be subject to sales tax under section 1105(b). The exception stated in section 1101(b)(6) and the absence from section 1110 of language directly parallel to that contained in section 1105(b) lead to the conclusion that the gas petitioner purchases for resale and employs to fuel its compressors within this state cannot properly be subject to use tax. (See Matter of Highland Telephone Company, State Tax Comm., September 13, 1978.)

D. That finally, with respect to the natural gas petitioner receives as consideration for the transportation of gas for others, these transactions constituted exchanges taxable under section 1105(b). (See the definition of "sale, selling or purchase" in section 1101[b][5].) It is immaterial that in such exchanges petitioner provides the nontaxable service of transporting gas. The portion of gas petitioner receives in return which is destined for consumption in its compressors situated in this state is taxable, as above-stated, under section 1105(b) (20 NYCRR 525.2[a][3]).

E. That section 1115(c) provides an exemption from the sales and use taxes for receipts from "gas...for use or consumption directly and exclusively in the production of...gas...by manufacturing, [or] processing...". The compressor fuel is not used directly and exclusively in the production of gas and therefore does not fall within the scope of the exemption. (20 NYCRR 531.5[a][3] and 528.13[b].) Certain services, e.g., purification and odorization,

are performed on the natural gas as it moves through the pipeline, but these are ancillary to the primary service petitioner provides, that of transmission.

F. That the constitutionality of New York laws and the application thereof in particular instances is presumed at the administrative level of the Tax Commission.


G. That the petition of Tenneco Inc. is granted to the extent indicated in Finding of Fact "17" and Conclusion of Law "C"; the assessments issued against it on September 20, 1982 (as modified on April 20, 1983) and on April 20, 1983 are to be modified accordingly; and except as so granted, the assessments are in all other respects sustained.

DATED: Albany, New York

STATE TAX COMMISSION

JAN 17 1986


PRESIDENT


COMMISSIONER


COMMISSIONER