

JAN 21 1939

THE NATIONAL ARCHIVES
LITTEA SCRIPTA MANET
FEDERAL REGISTER
OF THE UNITED STATES
1934

VOLUME 4NUMBER 12

Washington, Thursday, January 19, 1939

<i>The President</i>	<i>Rules, Regulations, Orders</i>	CONTENTS THE PRESIDENT
<p style="text-align: center;">EXECUTIVE ORDER</p> <p>AMENDMENT OF PARAGRAPH 5, SUBDIVISION IV, SCHEDULE B, CIVIL SERVICE RULES</p> <p>By virtue of and pursuant to the authority vested in me by paragraph Eighth, subdivision SECOND, section 2 of the Civil Service Act (22 Stat. 403, 404), it is ordered that paragraph 5, Subdivision IV, Schedule B of the Civil Service Rules¹ be, and it is hereby, amended to read as follows:</p> <p>"5. Classified positions in the Ordnance Department at Large, and in the Chemical Warfare Service at Large at Edgewood Arsenal, Maryland, War Department, when filled by the promotion of unclassified laborers, subject to the approval of the Civil Service Commission."</p> <p>This order, which is recommended by the Civil Service Commission in view of the agreement by the War Department that hereafter unclassified laborer positions under the Chemical Warfare Service at Large at Edgewood Arsenal will be filled through appointment from appropriate classified registers as provided in section 3 of Civil Service Rule II, will permit unskilled laborers appointed from the unclassified laborer register to advance upon noncompetitive examination to classified positions in the Chemical Warfare Service at Large, but will not accord to such promoted employees a classified status or render them eligible for transfer to classified positions in other branches of the Federal service.</p> <p style="text-align: right;">FRANKLIN D ROOSEVELT</p> <p style="text-align: center;">THE WHITE HOUSE, January 16, 1939. [No. 8035]</p> <p>[F. R. Doc. 39-207; Filed, January 17, 1939; 3:25 p. m.]</p> <p>¹3 F. R. 2359 DI.</p>	<p style="text-align: center;">TITLE 26—INTERNAL REVENUE</p> <p style="text-align: center;">BUREAU OF INTERNAL REVENUE</p> <p style="text-align: center;">[T. D. 4882]</p> <p style="text-align: center;">REGULATIONS RELATING TO ASSESSMENT AND COLLECTION OF TAXES OF INSOLVENT BANKS AND TRUST COMPANIES</p> <p style="text-align: center;"><i>To Collectors of Internal Revenue and Others Concerned:</i></p> <p>Section 818 of the Revenue Act of 1938, enacted May 28, 1938 (Public No. 554, Seventy-fifth Congress, Chapter 289, third session), provides:</p> <p style="text-align: center;">SEC. 818. TAXES OF INSOLVENT BANKS.</p> <p>Section 22 of the Act of March 1, 1879 (20 Stat. 351; 12 U. S. C. 570), is amended to read as follows:</p> <p>"Sec. 22. (a) Whenever and after any bank or trust company, a substantial portion of the business of which consists of receiving deposits and making loans and discounts, has ceased to do business by reason of insolvency or bankruptcy, no tax shall be assessed or collected, or paid into the Treasury of the United States on account of such bank, or trust company, which shall diminish the assets thereof necessary for the full payment of all its depositors; and such tax shall be abated from such national banks as are found by the Comptroller of the Currency to be insolvent; and the Commissioner of Internal Revenue, when the facts shall appear to him, is authorized to remit so much of the said tax against any such insolvent banks and trust companies organized under State law as shall be found to affect the claims of their depositors.</p> <p>"(b) Whenever any bank or trust company, a substantial portion of the business of which consists of receiving deposits and making loans and discounts, has been released or discharged from its liability to its depositors for any part of their claims against it, and such depositors have accepted, in lieu thereof, a lien upon subsequent earnings of such bank or trust company, or claims against assets segregated by such bank or trust company or against assets transferred from it to an individual or corporate trustee or agent, no tax shall be assessed or collected, or paid into the Treasury of the United States on account of such bank, or trust company, such individual or corporate trustee or such agent, which shall diminish the assets thereof which are available for the payment of such depositor claims and which are necessary for the full payment thereof.</p> <p>"(c) Any such tax so collected shall be deemed to be erroneously collected, and shall be refunded subject to all provisions and</p>	<p style="text-align: right;">Page</p> <p>Executive Order: 271</p> <p>Civil Service Rules amended relative to positions under Chemical Warfare Service at Large, Edgewood Arsenal. 271</p> <p style="text-align: center;">RULES, REGULATIONS, ORDERS</p> <p>TITLE 26—INTERNAL REVENUE:</p> <p>Bureau of Internal Revenue:</p> <p>Assessment and collection of taxes of insolvent banks and trust companies. 271</p> <p>Income tax regulations, taxation of nonresident alien individuals, etc., as affected by United States-Canada Reciprocal Tax Convention. 274</p> <p>TITLE 30—MINERAL RESOURCES:</p> <p>National Bituminous Coal Commission:</p> <p>Districts 1, 7, and 8, proposed minimum prices. 277</p> <p>Districts 1, 3, 7, 8, and 13, proposed rules and regulations. 372</p> <p>TITLE 50—WILDLIFE:</p> <p>Bureau of Biological Survey:</p> <p>Elk Refuge, Wyo., fishing permitted. 373</p> <p style="text-align: center;">NOTICES</p> <p>Civil Aeronautics Authority:</p> <p>Braniff Airways, Inc., amendment of exemption order. 373</p> <p>Federal Communications Commission:</p> <p>Great Lakes and inland waters survey, hearing. 374</p> <p>Securities and Exchange Commission:</p> <p>Cumberland County Power and Light Co., effectiveness of declaration. 374</p> <p>International Utilities Corp., withdrawal of applications. 375</p> <p>United States Maritime Commission:</p> <p>Grace Line, hearing postponed on application for operating-differential subsidy. 375</p>



Published by the Division of the Federal Register, The National Archives, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. L. 500), under regulations prescribed by the Administrative Committee, with the approval of the President.

The Administrative Committee consists of the Archivist or Acting Archivist, an officer of the Department of Justice designated by the Attorney General, and the Public Printer or Acting Public Printer.

The daily issue of the FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for \$1 per month or \$10 per year; single copies 10 cents each; payable in advance. Remit by money order payable to Superintendent of Documents, Government Printing Office, Washington, D. C.

Correspondence concerning the publication of the FEDERAL REGISTER should be addressed to the Director, Division of the Federal Register, The National Archives, Washington, D. C.

limitations of law, so far as applicable, relating to the refunding of taxes, but tax so abated or refunded after the date of the enactment of the Revenue Act of 1938 shall be reassessed whenever it shall appear that payment of the tax will not diminish the assets as aforesaid. The running of the statute of limitations on the making of assessment and collection shall be suspended during, and for ninety days beyond, the period for which, pursuant to this section, assessment or collection may not be made, and a tax which has been abated may be reassessed and collected during the time within which, had there been no abatement, collection might have been made.

"(d) This section shall not apply to any tax imposed by the Social Security Act."

ARTICLE 1. Effective date of amendment.—The amendment of section 22, made by section 818 of the Revenue Act of 1938, is effective on May 28, 1938, the date of enactment of the Revenue Act of 1938.

ART. 2. Banks and trust companies covered.—Section 22 (as amended) of the Act of March 1, 1879, applies to any national bank, or bank or trust company organized under State law, a substantial portion of the business of which consists of receiving deposits and making loans and discounts, and which has—

(a) ceased to do business by reason of insolvency or bankruptcy, or

(b) been released or discharged from its liability to its depositors for any part of their deposit claims, and the depositors have accepted in lieu thereof a lien upon its subsequent earnings or claims against its assets either (1) segregated and held by it for benefit of the depositors or (2) transferred by it to an individual or corporate trustee or agent who holds the assets for the benefit of the depositors.

ART. 3. Definitions.—As hereinafter used in these regulations:

(a) The term "section," unless otherwise indicated by the context, means section 22 of the Act of March 1, 1879, as amended by section 818 of the Revenue Act of 1938.

(b) The term "bank," unless otherwise indicated by the context, means any national bank, or bank or trust company organized under State law, within the scope of the section. See article 2.

(c) The term "effective date" means May 28, 1938.

(d) The term "Commissioner" means the Commissioner of Internal Revenue.

(e) The term "collector" means collector of internal revenue.

ART. 4. Scope of section generally.—The section prior to amendment was intended to assist depositors of a bank which had ceased to do business by reason of insolvency to recover their deposits, by prohibiting collection of taxes of the bank which would diminish the assets necessary for payment of its depositors. By the amendment like assistance is given to depositors of banks which are in financial difficulties but which, in certain conditions, continue in business.

In order that the section shall operate in a case where the bank continues business it is necessary that the depositors shall agree to accept, in lieu of all or a part of their deposit claims as such, claims against segregated assets, or a lien upon subsequent earnings of the bank, or both. When such an agreement exists no tax diminishing such assets or earnings, or both, otherwise available and necessary for payment of depositors, may be collected therefrom. If, under such an agreement, the depositors have the right also to look to the unsegregated assets of the bank for recovery, in whole or part, the unsegregated assets are likewise, to the extent of the depositors' claims, unavailable for tax collection.

To illustrate the working of the section, assume that depositors agree to forego 30 percent of their deposit claims, that as to 45 percent they will look to segregated assets and 60 percent of the earnings from bank operations, and that as to the remaining 25 percent of the deposit claims the bank remains liable. The segregated assets and 60 percent of the earnings from bank operations are immune from tax collection until the total realizations from such source are sufficient to meet the percentage of the depositors' claims payable from that source. When the realization from such source is sufficient to satisfy the percentage of the depositors' claims chargeable thereto, any balance of the segregated assets, and the stated percentage of bank earnings, will be available for tax collection. The unsegregated assets and the other 40 percent of bank earnings will be available for tax collection to the extent that collection therefrom will not diminish the

amount necessary for payment of outstanding depositors' claims other than those allocated to the segregated assets. See article 11.

For the purposes of the section, depositors' claims include bona fide interest, either on the deposits as such, or on the claims accepted in lieu of deposits as such.

The section is not intended for the relief of banks as such, and does not prevent collection of tax from assets not necessary, or not available, for payment of depositors. The section is not for the relief of creditors other than depositors, although it may incidentally operate for their benefit. See article 11.

ART. 5. Segregated or transferred assets.—In a case involving segregated or transferred assets, it is not necessary, for application of the section, that the assets shall technically constitute a trust fund. It is sufficient that segregated assets be definitely separated from other assets of the bank and that transferred assets be definitely separated both from other assets of the bank and from other assets held or owned by the trustee or agent to whom assets of the bank have been transferred; that the bank be wholly or partially released from liability for repayment of deposits made with it as such; and that the depositors have claims against the separated assets. Any excess of separated assets over the amount necessary for payment of such depositors will be available for tax collection.

Where the segregated assets are transferred to a separate corporate trustee or corporate agent the assets are within the protection of the section no matter by whom the stock of such corporation is held.

However, property of a separate corporation not conveyed by the bank pursuant to an insolvency agreement with depositors, is not within the immunity of the section, even though the corporation's stock is owned by the bank. Tax due from a separate corporation to which assets of an insolvent bank are conveyed is collectible, even though such tax be due to the property so conveyed, except in so far as tax collection will diminish assets conveyed by the bank for benefit of depositors or the earnings from such assets to which the depositors are entitled, and which are necessary for payment of the depositors' claims. Other assets and earnings of a separate corporation are available for collection of the taxes of such corporation even though the assets and earnings of such corporation if received by the bank would be available for satisfaction of claims of the bank's depositors and such claims cannot otherwise be paid.

ART. 6. Unsegregated assets.—(a) *Depositors' claims against assets.*—Claims of depositors, to the extent that they are to be satisfied out of segregated assets, will not be considered in determining the availability of unsegregated assets

for tax collection. If depositors have agreed to accept payment out of segregated assets only, collection of tax from unsegregated assets will not diminish the assets available and necessary for payment of the depositors' claims. Thus, it may be possible to collect taxes from the unsegregated assets of a bank although the segregated assets are immune under the section.

If the unsegregated assets of the bank remain subject to any portion of the depositors' claims, such unsegregated assets will be within the immunity of the section only to the extent necessary to satisfy the claims to which such assets are subject. Taxes will still be collectible from the unsegregated assets to the extent of the amount by which the total value of such assets exceeds the liability to depositors to be satisfied therefrom.

(b) *Depositors' claims against earnings.*—Even though under a bona fide agreement a bank has been released from depositors' claims as to unsegregated assets, if all or a portion of its earnings are subject to depositors' claims, all assets the earnings from which, in whole or part, are charged with the payment of depositors' claims, will be immune from tax collection. But see article 7.

ART. 7. *Income.*—(a) *Availability for tax collection.*—Income, whether from segregated or unsegregated assets, which is necessary for, applicable to, and actually used for, payment of depositors' claims, is within the immunity of the section. If only a portion or percentage of income from segregated or unsegregated assets is available and necessary for payment of depositors' claims, the remaining income is available for tax collection.

(b) *Tax liability.*—The fact that earnings may be wholly or partly unavailable under the section for collection of taxes does not exempt the income, or any part thereof, from tax liability. The section affects collectibility only, and is not concerned with taxability. Accordingly, the tax on income of a given year shall ordinarily be determined, even though, under the section, assessment and collection must be postponed. The tax shall be determined with respect to the entire taxable income and not merely with respect to the portion of the earnings out of which tax may be collected.

(c) *Example.*—An agreement between a bank subject to tax under section 14 (d) of the Revenue Act of 1938 and its depositors provides (a) that certain assets are to be segregated for the benefit of the depositors who have waived a percentage of their deposits; (b) that 60 percent of the bank's earnings shall be paid to the depositors until the portion of their claims not waived has been paid; and (c) that the unsegregated capital assets shall not be subject to depositors' claims. The special class net income of the bank for the calendar year 1938 is \$10,000, and that amount also consti-

tutes its earnings for that year. The bank has an outstanding tax liability for prior years of \$7,000. The income tax liability of the bank for 1938 is 16½ percent of \$10,000, or \$1,650, making a total outstanding tax liability of \$8,650. The portion of the earnings of the bank for 1938 available for tax collection after provision for depositors is \$4,000 (\$10,000 less 60 percent, or \$6,000). Of the total outstanding tax liability of \$8,650, \$4,000 may be assessed and collected immediately, leaving \$4,650 to be collected from the 40 percent of future annual earnings not covered by the agreement, from any excess of the segregated assets over the amount due depositors therefrom, and from unsegregated assets to the extent that collection of tax therefrom will not reduce the earnings to which depositors are entitled under the agreement. See article 6 (b).

ART. 8. *Abatement and refund.*—An assessment or collection, whether made before or after the amendment, contrary to the section when made, is subject to abatement or refund within the applicable statutory period of limitations.

An abatement or refund after the amendment is equally allowable whether assessment or collection was erroneous because collection would diminish assets necessary for payment of depositors, or because the same tax had been properly abated or refunded on or before the effective date of the amendment, and reassessed or collected after such date. See article 12. However, in the absence of prior abatement or refund on or before the date of the amendment, a claim for abatement or refund will not be allowed if, at the time of examination of the claim, collection would not diminish the assets necessary for payment of depositors. If there was a prior proper abatement or refund on or before the effective date of the amendment, a claim for abatement or refund of the same tax reassessed or recollected after the effective date of the amendment may be allowed even though the assets are sufficient to meet claims of depositors.

A tax assessed prior to the effective date of the amendment and in accordance with the section as it then existed is subject to abatement where assessment, had it been made after the effective date of the amendment, would have been contrary to the amended section. However, tax properly collected in accordance with the section prior to amendment, may not be refunded thereafter even though collection after the effective date of the amendment would have been contrary to the amended section.

Any abatement or refund is subject to existing statutory periods of limitation, which periods are not suspended or extended by the amended section.

ART. 9. *Establishment of immunity.*—The mere showing of insolvency, or that depositors have claims against segregated or other assets or earnings will

not of itself secure immunity from tax collection. It must be affirmatively established to the satisfaction of the Commissioner that collection of tax will diminish the assets necessary for payment of depositors' claims. See also article 10.

Any claim of immunity under the section shall be supported by a statement, under oath or affirmation, which shall show (a) the total of depositors' claims outstanding, and (b) separately and in detail, the amount of each of the following, and the amount of depositors' claims properly chargeable against each—(1) segregated or transferred assets; (2) unsegregated assets; (3) estimated future average annual earnings and profits; (4) amount collectible from shareholders; and (5) any other resources available for payment of depositors' claims. The detail shall show the full amount of depositors' claims chargeable against each of the items (1) to (5), inclusive, even though part or all of the amount chargeable against a particular item is also chargeable against some other item or items. There shall also be filed a copy of any agreement between the bank and its depositors, and any other agreement bearing on the claim of immunity under the section.

ART. 10. *Procedure during immunity.*—As long as, pursuant to the section, any tax remains unpaid, the bank shall file with each income tax return a statement as required by article 9, in duplicate, and shall also file such additional statements as the Commissioner may require. Whether or not such additional statements shall be required, and the frequency thereof, will depend on the circumstances, including the financial status and apparent prospects of the bank, and the time which is available for assessment and collection after the bank becomes financially able to pay taxes without diminishing the assets necessary for payment of depositors' claims.

ART. 11. *Termination of immunity.*—Immunity under the section is terminated whenever, within the statutory period of limitations as extended by the section, the tax can be collected without diminishing the assets necessary for payment of depositors' claims, including claims of new depositors secured during the period of immunity from tax collection. For the immunity to end, the assets must be sufficient to cover any remaining balance still due under the agreement and any outstanding additional deposits made by the same or other depositors subsequent to the agreement. In other words, the bar of the section, when once in force, is terminated only as, and to the extent that, collection may be made without diminishing assets available for satisfaction of all outstanding depositors' claims, regardless of when their deposits were made.

While the immunity from tax collection is for protection of depositors only,

in some cases the immunity will not end until the assets are sufficient to cover indebtedness of creditors generally. This situation will exist where under applicable law the claims of general creditors are on a parity with those of depositors, so that to pay depositors in full it is necessary to pay all creditors in full.

In determining the sufficiency of the assets to satisfy the depositors' claims, shareholders' liability to the extent collectible shall be treated as available assets. See article 9. Deposit insurance payable to depositors shall not be treated as an asset of the bank and shall be disregarded in determining the sufficiency of the assets to meet the claims of depositors.

ART. 12. *Collection of tax after termination of immunity.*—(a) *General.*—If assets in excess of those necessary for payment of outstanding deposits become available, such excess assets shall be applied toward satisfaction of accumulated outstanding taxes, collectible under the section, and not barred by the statute of limitations. But see article 5. Where sufficient assets are available, statutory interest shall be collected with the tax. Generally, unless the interests of the United States will be jeopardized thereby, it will be sufficient if the amount available for payment of collectible taxes without diminishing assets necessary for payment of depositors, is determined and paid by the taxpayer each time a Federal income tax return is filed. However, assessments and collections may be made at such other times as the collector or Commissioner shall find appropriate and necessary to protect the interests of the United States.

(b) *Tax due before the effective date of the amendment.*—The section does not permit assessment or reassessment or collection of tax properly abated or refunded pursuant to the section on or before May 28, 1938. Tax due on or before that date, and not so abated or refunded, and still outstanding on the said date, is within the provisions of the amended section and collectibility is determinable in accordance with the amended section the same as in the case of tax due after such date. Accordingly, a tax due prior to the effective date of the amendment and then collectible under the section may not be assessed or collected thereafter if such assessment or collection would be contrary to the section as amended. See article 8.

If the statutory period for assessment or collection had expired before the effective date of amendment, the section does not revive it. Accordingly, in such situation the tax is not collectible under the amended section, regardless of the bank's financial condition.

ART. 13. *Social Security taxes.*—These regulations do not relate to Social Security taxes, since the immunity granted by the amended section does not apply to taxes imposed by the Social Security Act.

ART. 14. *Authority for regulations.*—These regulations are issued under au-

thority of section 3447, Revised Statutes of the United States.

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved, January 16, 1939.

JOHN W. HANES,
Acting Secretary of the Treasury.

[F. R. Doc. 39-208; Filed, January 17, 1939;
3:47 p. m.]

[T. D. 4883]

INCOME TAX

REGULATIONS WITH RESPECT TO THE TAXATION OF NONRESIDENT ALIEN INDIVIDUALS AND FOREIGN CORPORATIONS NOT ENGAGED IN TRADE OR BUSINESS WITHIN THE UNITED STATES AND NOT HAVING AN OFFICE OR PLACE OF BUSINESS THEREIN AS AFFECTED BY THE RECIPROCAL TAX CONVENTION BETWEEN THE UNITED STATES AND CANADA, EFFECTIVE JANUARY 1, 1936

To Collectors of Internal Revenue and Others Concerned:

PARAGRAPH A. The reciprocal tax convention between the United States and Canada which was ratified August 13, 1937, provides as follows:

ARTICLE I

The High Contracting Parties mutually agree that the income taxation imposed in the two States shall be subject to the following reciprocal provisions:

(a) The rate of income tax imposed by one of the Contracting States, in respect of income derived from sources therein, upon individuals residing in the other State, who are not engaged in trade or business in the taxing State and have no office or place of business therein, shall not exceed five per centum for each taxable year, so long as an equivalent or lower rate of income taxation is imposed by the other State upon individuals residing in the former State who are not engaged in trade or business in such other State and do not have an office or place of business therein.

(b) The rate of income tax imposed by one of the Contracting States, in respect of dividends derived from sources therein, upon nonresident foreign corporations organized under the laws of the other State, which are not engaged in trade or business in the taxing State and have no office or place of business therein, shall not exceed five per centum for each taxable year, so long as an equivalent or lower rate of income taxation on dividends is imposed by the other State upon corporations organized under the laws of the former State which are not engaged in trade or business in such other State and do not have an office or place of business therein.

(c) Either State shall be at liberty to increase the rate of taxation prescribed by paragraphs (a) and (b) of this article, and in such case the other State shall be released from the requirements of the said paragraphs (a) and (b).

(d) Effect shall be given to the foregoing provisions by both States as and from the first day of January, nineteen hundred and thirty-six.

ARTICLE II

The provisions of this Convention shall not apply to citizens of the United States of America domiciled or resident in Canada.

ARTICLE III

This Convention shall be ratified and shall take effect immediately upon the exchange

of ratifications which shall take place at Washington as soon as possible.

Signed, in duplicate, at Washington by the duly authorized representatives of Canada and the United States of America, this thirtieth day of December, in the year of our Lord, one thousand nine hundred and thirty-six.

PARAGRAPH B. Section 211 of the Revenue Act of 1938 provides:

SEC. 211. TAX ON NONRESIDENT ALIEN INDIVIDUALS.

(a) No United States Business or Office.—

(1) *General rule.*—There shall be levied, collected, and paid for each taxable year, in lieu of the tax imposed by sections 11 and 12, upon the amount received, by every nonresident alien individual not engaged in trade or business within the United States and not having an office or place of business therein, from sources within the United States as interest (except interest on deposits with persons carrying on the banking business), dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income, a tax of 10 per centum of such amount, except that such rate shall be reduced, in the case of a resident of a contiguous country, to such rate (not less than 5 per centum) as may be provided by treaty with such country. For inclusion in computation of tax of amount specified in shareholder's consent, see section 28.

(2) *Aggregate more than \$21,600.*—The tax imposed by paragraph (1) shall not apply to any individual if the aggregate amount received during the taxable year from the sources therein specified is more than \$21,600.

(3) *Residents of contiguous countries.*—Despite the provisions of paragraph (2), the provisions of paragraph (1) shall apply to a resident of a contiguous country so long as there is in effect a treaty with such country (ratified prior to August 26, 1937) under which the rate of tax under section 211 (a) of the Revenue Act of 1936, prior to its amendment by section 501 (a) of the Revenue Act of 1937, was reduced.

(c) *No United States business or office and gross income of more than \$21,600.*—A nonresident alien individual not engaged in trade or business within the United States and not having an office or place of business therein who has a gross income for any taxable year of more than \$21,600 from the sources specified in subsection (a) (1), shall be taxable without regard to the provisions of subsection (a) (1), except that—

(1) The gross income shall include only income from the sources specified in subsection (a) (1);

(2) The deductions (other than the so-called "charitable deduction" provided in section 213 (c) shall be allowed only if and to the extent that they are properly allocable to the gross income from the sources specified in subsection (a) (1);

(3) The aggregate of the normal tax and surtax under sections 11 and 12 shall, in no case, be less than 10 per centum of the gross income from the sources specified in subsection (a) (1); and

(4) This subsection shall not apply to a resident of a contiguous country so long as there is in effect a treaty with such country (ratified prior to August 26, 1937) under which the rate of tax under section 211 (a) of the Revenue Act of 1936, prior to its amendment by section 501 (a) of the Revenue Act of 1937, was reduced.

PARAGRAPH C. Section 231 (a) of the Revenue Act of 1938 provides:

Nonresident corporations.—There shall be levied, collected, and paid for each taxable year, in lieu of the tax imposed by sections 13 and 14, upon the amount received by every foreign corporation not engaged in trade or business within the United States

and not having an office or place of business therein, from sources within the United States as interest (except interest on deposits with persons carrying on the banking business), dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income, a tax of 15 per centum of such amount, except that in the case of dividends the rate shall be 10 per centum, and except that in the case of corporations organized under the laws of a contiguous country such rate of 10 per centum with respect to dividends shall be reduced to such rate (not less than 5 per centum) as may be provided by treaty with such country. For inclusion in computation of tax of amount specified in shareholder's consent, see section 28.

PARAGRAPH D. Section 143 (a) of the Revenue Act of 1938 provides in part:

Tax-Free Covenant Bonds.—

(1) *Requirement of withholding.*—In any case where bonds, mortgages, or deeds of trust, or other similar obligations of a corporation, issued before January 1, 1934, contain a contract or provision by which the obligor agrees to pay any portion of the tax imposed by this title upon the obligee, or to reimburse the obligee for any portion of the tax, or to pay the interest without deduction for any tax which the obligor may be required or permitted to pay thereon, or to retain therefrom under any law of the United States, the obligor shall deduct and withhold a tax equal to 2 per centum of the interest upon such bonds, mortgages, deeds of trust, or other obligations, whether such interest is payable annually or at shorter or longer periods, if payable to an individual, a partnership, or a foreign corporation not engaged in trade or business within the United States and not having an office or place of business therein: *Provided*, That if the liability assumed by the obligor does not exceed 2 per centum of the interest, then the deduction and withholding shall be at the following rates: (A) 10 per centum in the case of a nonresident alien individual (except that such rate shall be reduced, in the case of a resident of a contiguous country, to such rate, not less than 5 per centum, as may be provided by treaty with such country), or of any partnership not engaged in trade or business within the United States and not having any office or place of business therein and composed in whole or in part of nonresident aliens, (B) in the case of such a foreign corporation, 15 per centum, and (C) 2 per centum in the case of other individuals and partnerships: *Provided further*, That if the owners of such obligations are not known to the withholding agent the Commissioner may authorize such deduction and withholding to be at the rate of 2 per centum, or, if the liability assumed by the obligor does not exceed 2 per centum of the interest, then at the rate of 10 per centum.

PARAGRAPH E. Section 143 (b) of the Revenue Act of 1938 provides:

Nonresident aliens.—All persons, in whatever capacity acting, including lessees or mortgagors of real or personal property, fiduciaries, employers, and all officers and employees of the United States, having the control, receipt, custody, disposal, or payment of interest (except interest on deposits with persons carrying on the banking business paid to persons not engaged in business in the United States and not having an office or place of business therein), dividends, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income (but only to the extent that any of the above items constitutes gross income from sources within the United States), of any nonresident alien individual, or of any partnership not engaged in trade or business within the United States and not having any office or place of business therein and composed in whole or in

part of nonresident aliens, shall (except in the cases provided for in subsection (a) of this section and except as otherwise provided in regulations prescribed by the Commissioner under section 215) deduct and withhold from such annual or periodical gains, profits, and income a tax equal to 10 per centum thereof, except that such rate shall be reduced, in the case of a nonresident alien individual a resident of a contiguous country, to such rate (not less than 5 per centum) as may be provided by treaty with such country: *Provided*, That no such deduction or withholding shall be required in the case of dividends paid by a foreign corporation unless (1) such corporation is engaged in trade or business within the United States or has an office or place of business therein, and (2) more than 85 per centum of the gross income of such corporation for the three-year period ending with the close of its taxable year preceding the declaration of such dividends (or for such part of such period as the corporation has been in existence) was derived from sources within the United States as determined under the provisions of section 119: *Provided further*, That the Commissioner may authorize such tax to be deducted and withheld from the interest upon any securities the owners of which are not known to the withholding agent. Under regulations prescribed by the Commissioner, with the approval of the Secretary, there may be exempted from such deduction and withholding the compensation for personal services of nonresident alien individuals who enter and leave the United States at frequent intervals.

PARAGRAPH F. Section 143 (c) of the Revenue Act of 1938 provides:

Return and payment.—Every person required to deduct and withhold any tax under this section shall make return thereof on or before March 15 of each year and shall on or before June 15, in lieu of the time prescribed in section 56, pay the tax to the official of the United States Government authorized to receive it. Every such person is hereby made liable for such tax and is hereby indemnified against the claims and demands of any person for the amount of any payments made in accordance with the provisions of this section.

PARAGRAPH G. Section 144 of the Revenue Act of 1938 provides:

In the case of foreign corporations subject to taxation under this title not engaged in trade or business within the United States and not having any office or place of business therein, there shall be deducted and withheld at the source in the same manner and upon the same items of income as is provided in section 143 a tax equal to 15 per centum thereof, except that in the case of dividends the rate shall be 10 per centum, and except that in the case of corporations organized under the laws of a contiguous country such rate of 10 per centum with respect to dividends shall be reduced to such rate (not less than 5 per centum) as may be provided by treaty with such country; and such tax shall be returned and paid in the same manner and subject to the same conditions as provided in that section: *Provided*, That in the case of interest described in subsection (a) of that section (relating to tax-free covenant bonds) the deduction and withholding shall be at the rate specified in such subsection.

PARAGRAPH H. Section 901 of the Revenue Act of 1938 provides in part:

(a) When used in this Act—

- (1) The term "person" means an individual, a trust or estate, a partnership, or a corporation.
- (2) The term "corporation" includes associations, joint-stock companies, and insurance companies.
- (3) The term "partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and

which is not, within the meaning of this Act, a trust or estate or a corporation; and the term "partner" includes a member in such a syndicate, group, pool, joint venture, or organization.

(4) The term "domestic" when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State or Territory.

(5) The term "foreign" when applied to a corporation or partnership means a corporation or partnership which is not domestic.

(6) The term "fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person.

(7) The term "withholding agent" means any person required to deduct and withhold any tax under the provisions of section 143 or 144.

(b) The terms "includes" and "including" when used in a definition contained in this Act shall not be deemed to exclude other things otherwise within the meaning of the term defined.

Pursuant to the provisions of section 62 of the Revenue Act of 1938 the following regulations are hereby prescribed to carry into effect the quoted provisions of the Convention between the United States of America and Canada under the Revenue Act of 1938 (the provisions of T. D. 4766,¹ 1937-2 Cum. Bull. 158, applicable under the Revenue Acts of 1936 and 1937, remaining in full force and effect as to taxable years beginning prior to January 1, 1938):

ART. 1. *Rate of tax.*—The convention was ratified and became effective August 13, 1937. Under the terms of the Convention, the provisions of which are retroactive to January 1, 1936, the tax at the rate of 10 percent imposed by section 211 (a) is reduced to 5 percent with respect to the amount received from sources within the United States as interest (except interest on deposits with persons carrying on the banking business), dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income, by every nonresident alien individual not engaged in trade or business within the United States and not having an office or place of business therein, provided he is a resident of Canada.

Under the terms of the Convention the tax at the rate of 10 percent imposed by section 231 (a) is reduced to 5 percent with respect to the amount received from sources within the United States as dividends, by every foreign corporation not engaged in trade or business within the United States and not having an office or place of business therein, provided it is organized under the laws of Canada.

ART. 2. *Withholding in general.*—The items of income from sources within the United States enumerated in sections 211 (a) and 231 (a) are subject to the withholding provisions of sections 143 and 144, at the rates specified therein, with the exception that all items of fixed or determinable annual or periodical

¹ 2 F. R. 2160 (2516 DI).

cal income paid to nonresident alien individuals who are residents of Canada (other than the compensation for personal services received by such residents who enter and leave the United States at frequent intervals) and dividends paid to nonresident foreign corporations which are organized under the laws of Canada are subject to withholding at the reduced rate of 5 percent.

ART. 3. *Resident of Canada or corporation organized under the laws of Canada.*—For the purpose of withholding, every individual whose address is in Canada (including a nonresident alien individual, fiduciary, or partnership) shall be considered by United States withholding agents as a resident of Canada, and every corporation whose address is in Canada shall be considered by such withholding agents as a corporation organized under the laws of Canada. These provisions relative to Canadian residents and Canadian corporations are based upon the assumption that the payee is the actual owner of the property from which the income is derived and consequently is the person liable to the tax upon such income.

A person receiving income which is distributable to an organization exempt from Federal income tax under section 101 of the Revenue Act of 1938, or corresponding sections of prior revenue acts, shall be considered merely a conduit through which the income flows and not a taxable entity. In preparing ownership certificate, Form 1001, the person receiving the income should make a notation thereon substantially as follows: "As this organization has been held to be exempt from the payment of income tax by the Commissioner of Internal Revenue under date of _____, the interest on this certificate is not subject to withholding," giving the date of the official letter in which the organization was held to be exempt. A similar statement made with respect to other items of fixed or determinable annual or periodical income which are subject to withholding will relieve the withholding agent from liability to withhold the tax.

ART. 4. *Recipient not actual owner.*—If the recipient in Canada is a nominee or agent through whom the income flows to a person who is not entitled to the reduced rate of 5 percent, i. e., a nonresident alien individual who is not a resident of Canada, or a nonresident foreign corporation not organized under the laws of Canada, the recipient in Canada from whom a tax of only 5 percent was withheld, becomes in turn a withholding agent, and is required to withhold an additional tax of 5 percent (10 percent on income other than dividends received for such foreign corporation) before transmitting the income.

(a) *Fiduciaries and partnerships.*—Fiduciaries and partnerships with an address in Canada are liable to have 5 percent income tax deducted at the source. If the fiduciary or partnership is acting as a nominee or agent receiving the in-

come for and on behalf of a person other than a resident of Canada or a corporation organized under the laws of Canada, an additional tax of 5 percent or 10 percent, as the case may be, must be deducted by such Canadian fiduciary or partnership and remitted to the United States Treasury. If the fiduciary or partnership receives the income in its own right and distributes its income under a trust deed or partnership agreement, then no further tax in Canada need be deducted.

(b) *Tax-free covenant bonds.*—No additional withholding is required with respect to interest on so-called tax-free covenant bonds issued prior to January 1, 1934, where the liability assumed by the obligor exceeds 2 percent but under section 143 (a) of the Revenue Act of 1938 only 2 percent income tax is required to be withheld at the source. An additional tax of 5 percent or 10 percent, as the case may be, is required to be withheld, however, by Canadian withholding agents as above provided, (1) where the bonds were issued prior to January 1, 1934, and the liability assumed by the obligor does not exceed 2 percent; (2) where the bonds were issued on or after January 1, 1934, irrespective of the liability assumed by the obligor; (3) where the bonds do not contain a tax-free covenant, regardless of the date of issue.

ART. 5. *Return of tax withheld from persons whose addresses are in Canada.*—Every United States withholding agent shall make and file with the collector, in duplicate, an information return on Form 1042B, for the calendar year 1938 and each subsequent calendar year, in addition to withholding return, Form 1042, with respect to the items

of income from which a tax of only 5 percent was withheld from persons whose addresses are in Canada. There shall be reported on Form 1042B not only such items of income listed on Form 1042, but also such items of interest listed on monthly returns, Form 1012, including items of interest where the liability for withholding is only 2 percent. In the case of corporations whose addresses are within Canada, only the fixed or determinable annual or periodical income from sources within the United States consisting of dividends should be reported.

ART. 6. *Returns filed by Canadian withholding agents.*—Form 1042 is the form to be prepared annually for the calendar year 1938 and each subsequent calendar year by persons in Canada who receive for the account of any person (other than a resident of Canada or a corporation organized under the laws of Canada) fixed or determinable annual or periodical income from sources within the United States which is subject to tax at the rate of 10 percent or 15 percent, as the case may be, but from which only 5 percent has been withheld as a result of the Convention. Annual withholding return, Form 1042, should be forwarded to the Collector of Internal Revenue, Baltimore, Maryland, accompanied by the tax shown to be due in United States dollars. An extension of time to June 15 is hereby granted to Canadian withholding agents in which to file such returns.

The following table of withholding rates under the Revenue Act of 1938 and the tax convention between the United States and Canada has been prepared for the purpose of making a summary of such rates readily available to withholding agents:

Withholding Rates Under the Revenue Act of 1938

Classes of taxpayers	Corporate bond interest			Dividends from domestic corporation	Dividends from foreign corporation	Salary or other compensation for personal services	Other fixed or determinable annual or periodical income from sources within the United States
	With tax-free covenant and issued before Jan. 1, 1934		Without tax-free covenant or issued on or after Jan. 1, 1934, with tax-free covenant				
	If corporation assumes over 2 percent of the tax	If corporation assumes not over 2 percent of the tax					
1. Citizen or resident individual, fiduciary, or partnership.....	Percent 2	Percent 2	Percent	Percent	Percent	Percent	Percent
2. Nonresident individual, fiduciary, or partnership (except as stated in item 5 below).....	2	10	10	10	10	10	10
3. Domestic corporation or resident foreign corporation.....							
4. Nonresident foreign corporation (except as stated in item 6 below).....	2	15	15	10	10	15	15
5. Individual, fiduciary, or partnership, resident of Canada.....	2	5	5	5	5	(1)	5
6. Nonresident corporation organized under laws of Canada.....	2	15	15	5	5	15	15
7. Unknown owner.....	2	10	10				

¹ Salary or compensation for personal services rendered in the United States is not subject to withholding in the case of nonresident aliens, residents of Canada or Mexico, who enter and leave the United States at frequent intervals.

[SEAL]
Approved, January 16, 1939.

JOHN W. HANES,
Acting Secretary of the Treasury.

GUY T. HELVERING,
Commissioner of Internal Revenue.

TITLE 30—MINERAL RESOURCES
NATIONAL BITUMINOUS COAL
COMMISSION

[General Docket No. 15]

ORDER IN THE MATTER OF THE ESTABLISHMENT OF MINIMUM PRICES AND MARKETING RULES AND REGULATIONS

IN RE PROPOSALS OF MINIMUM PRICES SUBMITTED BY THE DISTRICT BOARDS FOR DISTRICTS NOS. 1, 7 AND 8

At a session of the National Bituminous Coal Commission held at its offices in Washington, D. C., on the 16th day of January 1939.

The Commission, on the 25th day of May, 1938, having instituted the within proceedings entitled "In the Matter of the Establishment of Minimum Prices and Marketing Rules and Regulations, General Docket No. 15," for the purpose of carrying out the provisions of subsections (a) and (b) of Section 4, Part II, of the Bituminous Coal Act of 1937, and thereafter upon the 10th day of August, 1938, after notice of hearing, having determined the weighted average cost, as provided in Section 4, II (a) of the Act, for Minimum Price Area No. 1, did, on the 11th day of August, 1938, by Order No. 247,¹ direct the District Boards for Districts Nos. 1, 7 and 8 to propose minimum prices in conformity with the provisions of Section 4, II (a) of the Act, and in accordance with the rules and regulations prescribed by said Order No. 247, and

Each of said District Boards having, thereafter, proposed such minimum prices, the Commission, by its Order entered in this proceedings on September 19, 1938² directed that a hearing on such proposals be held in the Hearing Room of the Commission at 15th and Eye Streets NW., Washington, D. C., commencing on the 10th day of October, 1938 at 10 o'clock a. m. for the purpose of receiving evidence relating to said proposals to enable the Commission to approve such proposed minimum prices, or to enable the Commission to modify such proposed minimum prices, so as to conform them to the requirements of Section 4, II, (a) of the Act, in order that such proposed minimum prices, as approved, or modified, as the case may be, may serve as the basis for the coordination, as provided by Section 4, II, (b) of the Act, and

Reasonable public notice thereof having been given, said hearing was commenced at the time and place stated, and concluded on the 10th day of November, 1938, at which hearing all interested parties were afforded full opportunity to be heard, and

The evidence being adduced, and the Commission being fully advised in the premises, and upon consideration thereof, the Commission made Findings of Fact and Conclusions relating to the pro-

posals of minimum prices submitted by the District Boards for Districts Nos. 1, 7 and 8, which Findings of Fact and Conclusions are on file in the Office of the Secretary of the Commission at Washington, D. C., and by this reference are incorporated herein and made a part hereof, and

Included in the said Findings of Fact and Conclusions relating to each of the aforesaid Districts is an appendix entitled "Schedule of Minimum Prices as modified and approved to serve as a basis for Coordination," which schedule embraces all modifications which the Commission determined to be necessary to conform the proposals of the respective Districts to the requirements of Section 4; II, (a) of the Act, and which the Commission has determined to be the proper basis to be used by the respective Districts for the coordination provided for in Section 4, II, (b) of the Act,

Now, therefore, Pursuant to the provisions of the Bituminous Coal Act of 1937, the National Bituminous Coal Commission orders and directs:

1. That in the coordination of minimum prices, as provided by Section 4, II, (b) of the Act, to be hereafter directed by subsequent Order of the Commission, the District Boards for Districts Nos. 1, 7 and 8 will take, as a basis thereof, the schedules as approved herein and set out opposite their respective names as follows:

District No. 1.—Appendix to the Findings for District No. 1, as above referred to, entitled "Schedule of Minimum Prices as Modified and Approved to Serve as a Basis for Coordination."

District No. 7.—Appendix to the Findings for District No. 7, as above referred to, entitled "Schedule of Minimum Prices as Modified and Approved to Serve as a Basis for Coordination."

District No. 8.—Appendix to the Findings for District No. 8, as above referred to, entitled "Schedule of Minimum Prices as Modified and approved to Serve as a Basis for Coordination."

2. The Secretary of the Commission be and he is hereby directed to cause a copy of this Order, together with Findings of Fact and Conclusions, including the Appendices thereto, for Districts Nos. 1, 7 and 8, to be published forthwith in the FEDERAL REGISTER, and to cause a copy of this Order and Findings of Fact and Conclusions for each of the aforesaid Districts, to be mailed to the Consumers' Counsel, to the Secretary of each District Board, to all interested parties who have entered their appearances in the hearing relating to said proposals, and to make copies of this Order and Findings of Fact, including the appendices thereto, available for inspection by interested parties at the Office of the Secretary of the Commission, Washington, D. C., and at the

office of each Statistical Bureau of the Commission.

By order of the Commission.

Dated this 16th day of January 1939.

[SEAL] F. WITCHER McCULLOUGH,
 Secretary.

MINIMUM PRICE AREA No. 1—DISTRICT No. 1

PROPOSED MINIMUM PRICES

When the District Board for District No. 1 received Order No. 247 of the Commission, it immediately transmitted a copy thereof to its Technical Advisory Committee and instructed said Committee to prepare in compliance therewith, a schedule of proposed minimum prices f. o. b. transportation facilities at the mines for kinds, qualities and sizes of coal produced by the various code members within the District, and such classification of coals and price variations as to mines and consuming market areas, and values as to uses and seasonal demands as it deemed proper and within the authority conferred by the Act.

The Technical Advisory Committee prepared such a schedule of proposed minimum prices and submitted it to the District Board for District No. 1. The District Board approved and adopted said proposed schedule, which will be referred to herein as Schedule D. B. 1-P-1, and transmitted a copy thereof, together with rules and procedure for filing protests thereto, to each and every code member within District No. 1.

Fifty-three protests thereto were received by District Board No. 1 within the seven day period provided for filing protests, all of which were referred by the District Board to the Technical Advisory Committee for hearing. These protests were set for public hearing before said Committee at the Penn-Alta Hotel in Altoona, Pennsylvania. Notice of said hearing was given to all code members within the District. The hearing thereon lasted three days and was attended by many members of District Board No. 1 and by approximately one hundred other code members or their representatives. Both oral and documentary evidence was received, briefs were filed, and a stenographic record was made of the proceedings.

Two of the protestants withdrew their protests, five protestants requested continuances, and seven other protestants failed to appear at said hearing. The protests of the other thirty-nine protestants were heard by the Technical Advisory Committee. After hearing and considering all of the evidence presented with respect to these protests, said Committee filed a written report of its findings and decisions thereon with the District Board in which it recommended twenty changes in classifications. Said report was approved and adopted by the District Board after it had considered

¹ 3 F. R. 1980 DI.

² 3 F. R. 2281 DI.

and taken separate action on each protest.

During the interim in which it was considering these protests, the Technical Advisory Committee also reconsidered all the problems involved, re-evaluated the data in its files, and reviewed and rechecked Schedule D. B. 1-P-1 for possible errors therein. There were about 1,000 wagon mines within the District and because of the meagre data with respect thereto it was found that many of these mines had been improperly classified. As a result of its recheck the Committee recommended changes in 239 wagon mine classifications, and the District Board approved all of said changes.

The Technical Advisory Committee then revised Schedule D. B. 1-P-1 to incorporate the changes approved and adopted by the District Board as a result of the hearing on the protests and the Technical Advisory Committee's recheck of the wagon mine classifications. The District Board unanimously approved and adopted said Schedule D. B. 1-P-1 as thus amended as its proposed schedule of minimum prices and notified each and every code member within the District of the changes that had been incorporated therein. Copies of said schedule, which will be referred to herein as Schedule D. B. 1-P-2, together with the data upon which the proposed minimum prices were computed and the factors that were considered in determining the price relationships, were submitted to the Commission. A copy thereof was introduced in evidence herein as Exhibit No. 455.

After Schedule D. B. 1-P-1 was amended and re-served on the code members within District No. 1 as Schedule D. B. 1-P-2, six complaints thereto were filed with the District Board, but no action was taken on these protests by the District Board.

The schedule of minimum prices proposed by District Board No. 1, which was prepared by its Technical Advisory Committee, was unanimously approved by the entire District Board.

The Secretary-Treasurer of the District Board, one member of the Technical Advisory Committee, and another expert witness, two of whom are thoroughly familiar with the marketing and distribution of coals produced in District No. 1, testified in support thereof. Their knowledge of the coals of District No. 1 is based upon years of experience in said District.

The Technical Advisory Committee consists of two members, both of whom have had a wide range of experience in the coal industry, particularly in mining and in the sampling of coals, and in the preparation, analysis and classification of coals. This Committee was appointed by the District Board on July 20, 1937 and since that date it has been continuously engaged in the study of pricing and classification of coals. Upon its appointment said Committee took over

the work of collecting and using data for District No. 1, and of assembling the necessary information for the classification of the mines within District No. 1. Said Committee consulted frequently with representative operators and members of the District Board, and a committee of nine representative operators of the District, five of whom were also members of the District Board, spent considerable time conferring with the members of the Technical Advisory Committee in its offices at Altoona, Pennsylvania, concerning the details of the proposed schedule which the Committee prepared for the District Board.

District Board No. 1 consists of seventeen members, all of whom have been connected with the coal industry for a good many years and practically all of whom have had long experience in the mining and marketing of coal. Practically every member of the Board has been in the coal business directly or through inheritance for twenty years or more. They are all men of wide experience in the operation of coal mines, administration of general activities, and in the sale of coal, and many of them are also experienced engineers. The members of the District Board are truly representative of all sections of District No. 1, and they have an intimate knowledge of the relative values of the coals produced throughout the District. By reason of their intimate knowledge of the coals produced throughout the District they are fully capable of judging the price differentials and relationships between the kinds, qualities and sizes of coal produced within the District. From the date of its organization to the date of the hearing herein, District Board No. 1 held twenty-three meetings and the classification of coals was considered at eighteen of these meetings.

At the time Schedule D. B. 1-P-2 was approved and adopted by the District Board there were 1,284 code members and 584 non-code members in District No. 1, making a total of 1,868 companies or persons, operating 2,080 mines. During the year 1936, the code members in District No. 1 produced 36,924,000 net tons of coal, and the non-code members produced 2,969,000 net tons of coal, a total of 39,893,000 net tons for the year.

During the year 1937, companies operated or owned by District Board members in District No. 1 produced 18,443,000 net tons of commercial tonnage, and companies or persons other than District Board members produced 17,466,000 net tons of commercial tonnage. Captive tonnage amounted to 4,089,000, making a total of 39,978,000 net tons for the year. The companies operated by the largest Board member operator in District No. 1 produced 5,591,000 net tons of coal in 1937, and the smallest Board member operator, who represents the wagon producers, produced 13,082 net tons. The tonnage produced by the

Board members of District No. 1 during the year 1937 represented more than fifty per cent of the total commercial tonnage produced in the entire District, and it was truly representative of the total tonnage produced in District No. 1 during the year 1937.

The District Board sought to obtain from the all-rail mine producers within District No. 1, by means of a questionnaire, distribution data showing by tons the various sizes of coal produced by each producer during the calendar year 1937. Some producers did not respond to the questionnaire and where they failed to do so the data were obtained from this Commission. As a result the District Board received distribution data on 36,155,852 tons direct from the producers and on 1,088,077 tons from this Commission, making a total of 37,243,909 tons on which the District Board had distribution data. These data, which represented approximately ninety-three per cent of the total tonnage produced in District No. 1 during the year 1937, were introduced in evidence herein as Exhibit No. 457.

District No. 1 comprises an area commonly known as Eastern Pennsylvania, Maryland and three counties in Northeastern West Virginia, making a total of twenty-eight coal producing counties, covering 19,800 square miles of territory. The District has a maximum north and south length of 214 miles, and a maximum east and west width of 196 miles. There are thirteen different seams of coal in the District.

The Technical Advisory Committee analyzed the District on a geological basis and then separated it into small geographic Units comprising mines in close proximity to one another. The schedule of minimum prices proposed by the District Board divides the District into forty-five such subdistricts, based on their geographical location, as follows: (1) Clarion; (2) Dagus; (3) Tioga; (4) Sligo; (5) Brookville; (6) Punxsutawney; (7) Curwensville; (8) Philipsburg; (9) Snow Shoe; (10) Kittanning; (11) Dayton; (12) Burnside; (13) Madera; (14) Osceola Mills; (15) Clymer; (16) Barnesboro; (17) Hastings; (18) Coalport; (19) Smoke Run; (20) Ramey; (21) Houtzdale; (22) Shelocta; (23) Homer City; (24) Bakerton; (25) Dilltown; (26) Nanty-Glo; (27) Gallitzin; (28) Blairsville; (29) Johnstown; (30) South Fork; (31) Portage; (32) Holsopple; (33) Windber; (34) Lloydell; (35) Indian Head; (36) Boswell; (37) Hooversville; (38) Central City; (39) Broad Top; (40) Rockwood; (41) Meyersdale; (42) Grantsville; (43) Lonaconing; (44) Piedmont; (45) Thomas.

The District Board designated the entire area into which the producers of District No. 1 ship their coals as one consuming market area, and the minimum prices it proposed are the same for the entire area. Said consuming market

area, as designated at page 49 of the proposed schedule of minimum prices, Exhibit No. 455, is as follows:

"The principal markets for coals produced in District No. 1 are the territory lying east of the western boundary line of the State of Pennsylvania and north of the southern boundary of the State of Pennsylvania and of the southern boundary of the State of Maryland, whichever is southernmost, the Great Lakes, and Canadian all-rail destinations.

"In addition to the above markets, some coal is shipped to every State in the United States with the possible exception of Alabama, Georgia, South Carolina, Mississippi and Tennessee."

The schedule of minimum prices proposed by the District Board contains five size groups, numbered from one to five, and ten price classifications ranging from A to H-2. The size groups are set forth on page four of the proposed schedule.

Size Group No. 1 covers all lump coal and all double screened coal having a top size over two inches.

Size Group No. 2 covers all double screened coal with top size two inches and under.

Size Group No. 3 covers all run-of-mine, modified run-of-mine and minus resultant with top size over two inches.

Size Group No. 4 covers all minus resultant with top size over three-quarter inch and not exceeding two inches.

Size Group No. 5 covers all minus resultant with top size not exceeding three-quarter inch.

The coals produced in District No. 1 are very soft and friable. Producers therein do not get a large percentage of the plus 2-inch coal out of their run-of-mine coal, the percentage thereof for the year 1937 being less than six per cent. There is also a very small demand for the plus 2-inch size coals in the markets served primarily by District No. 1, which constitute approximately the territory east of the Ohio-Pennsylvania state line and north of the Potomac River, as the domestic demand in that territory is taken care of largely by anthracite coal, coke and fuel oil. The restriction on these sizes of coal in this particular territory is also applicable to size coal produced in other districts. The District Board for District No. 1 deemed it necessary, therefore, to place all of its lump and egg coal in one size group, namely, Size Group No. 1.

Prior to 1934, most of the coal produced in District No. 1 was sold as run-of-mine coal. Since 1934 there has been a continual increase in the amount of slack coals sold. This has resulted from the tendency of producers in other districts to sell their slack coals at a much lower price than their larger size coals, and from the increase of installation of equipment which could burn the finer sizes of coal. Due to its softness and

friability, the run-of-mine coal produced in District No. 1 has a high percentage of degradation upon arrival at destination, and as a result the producers in District No. 1 have had to place their run-of-mine coal in competition with the smaller sized coals produced in other Districts.

Most of the $\frac{3}{4}$ " x 0" slack coal produced in District No. 1 is unsatisfactory for use in stoker fired plants, and the market therefor is limited, because its use is restricted almost wholly to steam generation in pulverized fuel installations. On the basis of size alone for this use, there is practically no difference between the $\frac{3}{4}$ " x 0" size and those sizes with smaller top sizes, such as $\frac{1}{2}$ " x 0", or $\frac{3}{8}$ " x 0". District No. 1 run-of-mine coals must, therefore, have some of the finer coals removed before they can be used in industrial stokers. Irrespective of whether the top size is two inches or less, the important condition is the removal in whole or in part of the $\frac{3}{4}$ " x 0", or the $\frac{3}{8}$ " x 0" sizes. For this reason the District Board proposed a double screened coal with top size two inches and under, namely, Size Group No. 2.

In some instances the District No. 1 minus resultant with top size over three-quarters of an inch and not exceeding two inches, otherwise known as nut-slack, can be used in stokers. This size, therefore, has a somewhat broader market than the $\frac{3}{4}$ " x 0" slack. On size alone it makes little difference whether the top size is $1\frac{1}{4}$ inches or 2 inches. In fact, in the case of the harder structure coals the $1\frac{1}{4}$ " x 0" size is equally as suitable as the 2" x 0" size from the soft structure coals and so take the same price. For these reasons the District Board deemed it advisable to establish its Size Groups Nos. 4 and 5, in addition to its Size Group No. 3.

The District Board believes that the five size groups it has proposed represent a step towards simplification of its price list which is much needed; that they are all that are necessary; that by so limiting its size groups it will aid in eliminating requests for substitution of one size coal for another; and that said groups are fair and equitable as to both producers and consumers.

The price classification by sizes for all uses except those separately shown for the coals of each code member are set forth in alphabetical order on pages 6 to 45, inclusive, of the proposed schedule, Exhibit No. 455, and the prices for shipment into all markets by price classification and size groups are set forth on Page 46 of the same exhibit.

The "A" classification represents the highest price coal in each size group. The "B" to "H" classifications, inclusive, represent prices of coals that have values less than the "A" coals, in descending orders of value. The "H-1" and "H-2" classifications represent prices of coals in size groups Nos. 4 and

5 only, that have values less than the "H" coals in those two groups, and that would not be on a fair competitive basis if they carried the same price classification as the run-of-mine and other coals in size groups Nos. 1, 2 and 3.

Establishment of price classifications in District No. 1 have been an almost continuous process since late in September 1933, when what was then the eastern subdistrict of what is now District No. 1 was called upon to propose price classifications and prices under the National Industrial Recovery Act, and a group of approximately twenty to twenty-five marketing men from the District classified their coals as to their best judgment as to what said coals would do in the market. At that time they had no analytical data, or records of shipments available, and had to be guided entirely by their judgment and knowledge of the markets and the various competitive coals.

With the passage of the 1935 Act and the setting up of the various District Boards thereunder, District No. 1, in common with all other Districts, began the assembling and consideration of data and information as to their coals which has been continued all the way through to the present time. As previously stated, the present District Board, from the date of its organization under the 1937 Act to the date of the hearing herein, has held twenty-three meetings and has considered the classification of its coals at eighteen of them.

When the Technical Advisory Committee was appointed in July 1937, it proceeded to classify the coals of District No. 1 on a run-of-mine basis only and submitted said classification to the District Board. The District Board did not believe that the application of said classification to all sizes of coal produced within the District would reflect the relative market values of all of said coals, or give all of the producers within the District a fair competitive opportunity, and proceeded to reclassify all of its slack coals. The classifications which it thus proposed were used as the basis for the establishment of differentials on which the minimum prices for the District were made effective on December 16, 1937.

When the District Board directed the Technical Advisory Committee to prepare a proposed schedule of minimum prices pursuant to the provisions of Order No. 247 of the Commission, it also directed said Committee by an appropriate resolution to proceed on the basis of the eight price group classifications that had been established by the District Board in its December 16, 1937 minimum price proposals for run-of-mine coal, and to use a price spread therefor of thirty-five cents, or five cents per ton in establishing its price differentials, which was the same price differential that the District Board had previously used.

The Technical Advisory Committee accordingly confined its activities to classifying the run-of-mine coal into said eight groups with a price spread and price differentials as stated. It did not give any consideration to the matter of price differentials between size groups, but relied entirely upon the wisdom of the District Board in establishing such differentials. It also recommended the adoption of the same size groups and the classifications for the size groups for the purpose of further classification of the coals other than run-of-mine that the District Board adopted in December 1937.

The Technical Advisory Committee based its quality classifications on a geological seam classification, but took into account all factors on which either it or the District Board had accurate data available, and recognized that market experience must be relied on in the last instance to arrive at price variations as between coals, that would be just and equitable to producers and have due regard for the interest of the consuming public.

After analyzing the District on a geological basis and breaking the thirteen seams of coal therein down into forty-five subdistricts on the basis of their experience, the Technical Advisory Committee proceeded on the theory and on the principle that a seam of coal had many inherent characteristics that were similar, and that within a seam there may be conditions where the seam was faulty and has had disturbances that have brought about a local change in the seam itself.

The Technical Advisory Committee then classified all coal in the same seam in a given geographic unit or in the same subdistrict in the same class unless it was shown that one or more abnormal conditions existed that would take it out of such class, or that other factors required that the application of such theory be modified.

Coals classified in a particular area were compared with coals in other areas on the basis of the knowledge gained by the Technical Advisory Committee through past experience, through study of the various reports on the coals of Pennsylvania, through conversations its members had with men of experience in the marketing of coals, and on the general reputation of different coals.

The Technical Advisory Committee then checked the classifications it had thus made with averages of the run-of-mine analyses of rail mines grouped as to price classes, subdistricts and seams within the District. These data, which were introduced in evidence as Exhibits Nos. 458, 459 and 482, were compiled from the analytical data that were available to the Committee. Some of these data were obtained by said Committee from its own investigations, some from the statistical bureau, some from analyses that had been filed with

protests, and some from the files of the District Board that the Board had made of individual mines. Other analytical data which were not generally used by either the Technical Advisory Committee or the District Board were introduced in evidence as Exhibits Nos. 482-A, 482-B, and 613.

The Technical Advisory Committee submitted its proposed classifications to the Marketing Committee of the District Board. After considering and discussing said proposals fully with the Technical Advisory Committee, the Marketing Committee recommended certain changes therein which were adopted and made by the Technical Advisory Committee. In certain instances the relationships of certain mines were changed from what were formerly proposed and used in the December 16, 1937 schedule.

The Technical Advisory Committee then submitted its proposed schedule, which was prepared in the manner herein outlined to the District Board. The District Board after considering said schedule item by item and discussing and considering practically every item therein with the Technical Advisory Committee and its Marketing Committee approved and adopted same, and submitted it to the Commission as its proposed schedule of minimum prices.

In approaching the setting up of its price levels and the price differentials between size groups, District Board No. 1 constantly kept in mind the requirements of the Act, and that its first duty was to obtain as near as may be the weighted average cost of \$2.15 for Minimum Price Area No. 1.

Class E represents the heavy tonnage class, over 9,000,000 tons of said class of coal having been produced within the District during the year 1937. The District Board, therefore, used Class E run-of-mine coal as a base and set the price therefor at \$2.15 per ton, applying a differential of five cents per ton to each of the classes of run-of-mine above and below Class E. The District Board used a differential of five cents per ton because it believed that it represented the difference in value between the various price classes, and for the further reason that the same differential was used by District No. 1 under the National Industrial Recovery Act and under the 1935 Act, and was also approved by the Commission when the prices for District No. 1 were established in December 1937.

District No. 1 is primarily an industrial steam coal producing District. Due to the soft and friable structure of the coal produced therein there is very little demand for the domestic sizes thereof in the markets served by the District, because said markets are supplied by coke, anthracite coal, fuel oil and natural gas, and said coals are unable to compete for such domestic business against those competitive fuels, or against the Districts producing the harder structure coals. On account of

the softness and friability of District No. 1 coals there is also a very small percentage thereof that screens above two inches.

The demand for the size coal produced in the District is ordinarily so limited that frequently it is necessary for the producers in District No. 1 to sell their size coal for use as railroad locomotive fuel in order to keep their mines in balance or in operation, with attendant production for themselves, as well as attendant employment for their employees.

The District Board believed, therefore, that all coal in Size Group No. 1 should take a slightly higher price than the run-of-mine coal, because where coals of said size group are sold for domestic consumption to retail dealers, the credit risks are somewhat greater than when sold to industrials. The orders are also small and there are also many complaints, principally as to the fine coal in the domestic sizes, and for these reasons it was the judgment of the District Board that they could not market their lump and egg coals in Size Group No. 1 at a price more than ten cents per ton above the run-of-mine prices.

Size Groups Nos. 2 and 3, which are the double screened coal with top size not exceeding two inches, and the run-of-mine coal, are both sold for industrial purposes, but because of the friability thereof, some of the fines must be removed from the stoker sizes to permit their use in stokers. The District Board was of opinion, therefore, that Size Groups Nos. 2 and 3 are strictly competitive in the markets where the bulk of the District No. 1 coals are sold,

The double screened coals in Size Group No. 2 are used almost entirely for steam purposes. They are not adaptable for general use in small household domestic furnaces, due to their caking characteristics. The double screened stoker coals in this size are also used almost entirely for steam generation in competition with run-of-mine coals. Size Group No. 2 coals also necessarily have to compete with harder structure two inch and 1¼" x 0" coals from other Districts, and for these reasons the District Board deemed it necessary to place Size Group No. 2 and 3 coals on the same price level.

Size Group No. 4 consists of resultant coal with a top size over three-quarters of an inch and not exceeding two inches. In many instances this is coarse enough for satisfactory use in stokers, but not in as many instances as Size Group Nos. 2 and 3 coals. The presence of fines places certain restrictions on the use of this size group coal and limits its market, but the price therefor cannot be depressed too much because of its effect on realization. The quantity of the two inch coal marketed is so small that it is necessary to keep the price close to the run-of-mine price, and for these reasons the District Board proposes a differential of five cents per ton between its run-of-mine coal and

two inch nut-slack coal, Size Groups Nos. 3 and 2, respectively.

Size Group No. 5 consists of $\frac{3}{4}$ " x 0" coal and smaller sizes, the market for which is restricted almost entirely to steam generation in pulverized fuel installations. The competition between this Size Group coals and oil and gas is most severe in many plants, because in said type of equipment the change can be made very readily from coal to oil or gas installation. In order to market these size coals it is, therefore, necessary to sell them at a somewhat lower price than is asked for Size Groups 2, 3 and 4 coals, and the District Board proposed that they be placed at a price of ten cents per ton below the Size Group No. 4 coals.

Because of the type of equipment in which the coals in Size Group No. 5 are used, particularly in Classifications "A," "B," and "C," the District Board found it desirable to consolidate these three classifications in Size Group No. 5 under Class "C" thereof so that said coals might enjoy a fair competitive opportunity. The necessity for this consolidation was based upon the knowledge and marketing experience of the members of the District Board. With these classification consolidations effected, all differentials between Size Groups Nos. 4 and 5 were then maintained at a constant ten cent figure.

The evidence of record justifies the size groups, price classifications, and price differentials proposed by the District Board and the Commission approves same for the purpose of coordination.

The District Board proposes on page 47 of its proposed schedule that all coals sold for use as railroad locomotive fuel shall take a minimum price of \$2.15 per net ton of 2,000 pounds, f. o. b. the mines, except when coal of Size Group No. 1 is specified for locomotive fuel, it shall take a price of \$2.25 per net ton of 2,000 pounds, f. o. b. the mines.

This proposal is said to be entirely in accord with past practice, both under fixed prices and under open competition, because it is a field price applicable to all mines and to all size groups of coal. The District Board proposes the price on this basis, not as a concession to the railroads, but to meet the needs of the District by preserving to the producers therein this very important tonnage.

Railroads can use coals of varying sizes and qualities for railroad locomotive fuel. The District Board proposed a quality spread of 35 cents between its highest and lowest quality coals, but if the same spread were made in the prices established for coal used for railroad locomotive fuel, the natural tendency would be for the railroads to buy their coal from the lowest price mines due to their ability to satisfactorily use said types of coals.

Due to the growth of the sizing of coal in District No. 1 and in all other Districts, there are times when every producer finds himself with sizes of coal on hand that are not readily marketable,

and if he is unable to dispose of such sizes, he is forced to shut down his mine, as a result of which he loses production and his employees lose work. The railroad locomotive fuel business is one of the outlets to which the producers look to take care of their odd sizes, and the railroads have always been willing to make their demands meet the necessity of the operators in this respect so far as it is possible for them to do so. Their willingness to do this is one of the factors that enables the operators to take care of their orders for other sizes and thereby keep their mines in operation and their men employed.

Although District No. 1 produces only a small amount of the size coal over two inches, there are many times in the year when it practically has no market for such size coal, and if the producers in the District were not able to dispose of it to the railroads they would have no market therefor, and in many instances be compelled to close down their mines. The railroad business is also very desirable on account of the steady flow of tonnage it requires, and it was for these reasons that the District Board proposed one flat price of \$2.15 per net ton for all grades and all sizes of coal produced in District No. 1 and sold for such use, with the exception of Size Group No. 1 for which the price proposed is 10 cents per ton higher.

Furthermore the District Board in proposing commercial coal prices set them up on a basis which in its judgment would realize the weighted average cost of \$2.15 for Minimum Price Area No. 1, and it believed it should treat its railroad customers on the same basis.

When coal for use other than railroad locomotive fuel is sold to a railroad, the District Board proposed that the minimum price therefor shall be not less than the minimum established for the grade and size sold, applicable in the market area in which the mine is located. The Commission finds that the minimum prices proposed by the District Board for coal sold for use as railroad locomotive fuel are justified by the evidence and they are approved.

At page 48 of its proposed schedule, the District Board defines steamship bunker coal as coal that is furnished for a vessel's own consumption, to steamers ordinarily carrying cargo or passengers and engaged in foreign or coastwise trade and proposes minimum prices therefor f. o. b. mines on a use basis for the ports of New York, Philadelphia, and Baltimore as follows: Classifications based on run-of-mine A, B, C and D classifications, \$2.25 per net ton; Classifications based on run-of-mine E and F classifications, \$2.15 per net ton; and Classifications based on G and H classifications, \$2.05 per net ton.

In the sale of bunker coal it has always been the custom to mix coals of different grades, in order to give the operators of steamships the quality and size of coal that they desire. The pro-

posal of District Board No. 1 is the result of an agreement entered into by the bunker coal suppliers of the District as to a price set up which would suit their marketing needs; and was adopted by the Board upon the recommendation of said bunker coal suppliers. In following the recommendations of the bunker coal suppliers in this respect, the District Board pursued the same practice it did in proposing minimum prices under the 1935 Act and under the 1937 Act in December of 1937. The bunker coal suppliers of the District are of opinion that the size groupings and prices proposed for said coal will take care of their requirements and the necessity of the trade and give due consideration to their customers' interests. The proposals of the District Board in this respect appear to be justified by the evidence and they are approved.

The District Board proposed seven price instructions and exceptions, all of which are set forth on page three of the proposed schedule, Exhibit No. 455. Item No. 3 thereof provides that:

"All size designations are for round hole screens. If, when screens having other types of openings are used, the percentage of oversize, as determined in accordance with the method of test prescribed by A. S. T. M. designation D410-35T, exceeds 5% the price for the next higher size shall apply."

The evidence indicates that said rule should be clarified so as to read as follows:

"All size designations are for round hole screens. When screens having other types of openings are used and the percentage of over-size, as determined in accordance with the method of test prescribed by A. S. T. M. designation D410-35T, exceeds 5% the price for the next higher Size Group Classification for that mine shall apply."

Said language of Item No. 3 as it now appears on page three of the proposed schedule shall therefore be deleted and the language above quoted shall be inserted in lieu thereof.

Item No. 6, page No. 3, of the proposed schedule provides that:

"When coal is subjected to any chemical, oil or waxing process, an additional charge of not less than 10 cents per net ton shall be made."

The evidence indicates that it was not the intention of the District Board to apply this rule to chemicals placed in the bottom of hopper cars to prevent freezing and that said rule or instruction should be clarified to read as follows:

"When coal is subjected to any chemical, oil, or wax process an additional charge of not less than 10 cents per net ton shall be made. This does not apply to chemicals placed in the bottom of hopper cars to prevent freezing."

The Commission finds that the language of Item 6 as it now appears on page 3 of the proposed schedule should

be deleted and that the language above quoted should be inserted in lieu thereof.

In the alphabetical list of code members wherein the mine name, subdistrict number, seam or kind, price classification and size group numbers are set forth on pages 6 to 45, inclusive, of the proposed schedule, Exhibit No. 455, the "Bloss" seam appearing in the column headed "Seam or Kind" is sometimes designated "Blossburg." No evidence was presented with respect thereto, but the Commission finds that for purposes of uniformity the seams designated as "Blossburg" in said schedule should be corrected to read "Bloss."

The minimum prices proposed by the District Board are on a cents per ton basis. Decimal points appear, however, in the table headed "Prices for shipment into all markets" on page 46 of the proposed schedule. The Commission finds that for the sake of clarity all of said decimal points should be deleted.

The Commission also finds that the phrase "On and Off Line" should be deleted from the heading with respect to railroad locomotive fuel prices appearing on page 47 of the proposed schedule, since the heading "Railroad Locomotive Fuel Prices" covers coal purchased both on and off line and said phrase is unnecessary.

The proposed schedule at page 24 thereof classifies the Size Group No. 5 coals of the Kay Coal Mining Company at its Tussey No. 2 mine, in Subdistrict No. 39, in the Barnett seam as Class "B." This classification is not in accord with the classifications proposed by the District Board or the differentials for its Size Group No. 5 coals, previously referred to and obviously is in error. The Commission finds that said classification should be changed from "B" to "C."

Protests to the District Boards proposed schedule of minimum prices, Exhibit No. 455, were filed with the Commission by the Moshannon Smithing Coal Company; the Leland Coal Company; the Simpson Coal Company; the Penn Smokeless Fuel Company; the Bird Coal Company; the Loyal Hanna Coal and Coke Company; the Reitz Coal Company; and the Consolidation Coal Company.

The Moshannon Smithing Coal Company protests that the coals which it produces in its Glenmar No. 1 mine in Subdistrict No. 19 from the "D" seam of coal have not been properly classified by comparison with coals produced by other operators from the same seam or vein of coal and with other coals of equal or superior quality.

The District Board classified Protestant's coals in Size Groups Nos. 1, 3 and 4 in Class "B." Protestant contends that they should be placed in Class "C" on the ground that its coals in these size groups have always been classified as "C" coals in the past and were reclassified as Class "B" arbitrarily; that the coal it is now mining is below standard quality due to a fault condition in the seam; that by

reason of this fault condition its coal is more friable and the company is losing contracts; that similar coals produced by adjoining mines from the same "D" seam have a lower classification; that the analyses which it submitted to the District Board were subsequently shown to be incorrect by analyses made by the District Board; and that the analyses made of its coals by the District Board indicate that its coals should be placed in Class "C."

In response to Order No. 234 of the Commission the Protestant submitted the following analyses of the coals produced in its Glenmar No. 1 mine:

	Mod.		-2 inches	-3/4-inch
Size.....	R/M	R/M	Nut Slack	Slack
Moisture.....	(Dry)	(Dry)	(Dry)	(Dry)
Vol. Mat.....	23.60	23.60	23.30	23.30
Fixed Carbon.....	69.90	69.90	69.20	69.20
Ash.....	6.50	6.50	7.50	7.50
Sul.....	.70	.70	.90	.90
B. t. u.....	14610	14610	14400	14400
F. t. a.....	2800	2800	2750	2750

On September 20 and 30, 1938, the District Board Engineers collected samples from the same mine that analyzed as follows:

	Modified		-5/16-inch
Size.....	R/M	R/M	Slack
Moisture.....	2.32	2.69	2.45
Vol. Mat.....	22.86	22.42	23.16
Fixed Carbon.....	66.14	67.71	67.83
Ash.....	8.68	7.18	6.56
Sul.....	1.09	.86	.99
B. t. u.....	13889	14103	14220
F. t. a.....	2740	2800+	2720

The tabulation of the run-of-mine analyses above listed, together with the average analyses for the "D" seam in Class "B" and for all coals in Class "B," respectively, as set forth on page 1 of Exhibit No. 459 are as follows:

Source	Submitted by Protestant under Order 234	District Board	Average for Class B	
			D Seam	All coals
Moisture.....	Dry	2.69	1.28	1.22
Vol. Mat.....	23.60	22.42	19.55	18.69
Fixed Carbon.....	69.90	67.71	.....	.....
Ash.....	6.50	7.18	6.64	7.41
Sulphur.....	.70	.86	.81	1.10
B. t. u.....	14,610	14,103	14,458	14,363
A. s. t.....	2,800	2,800	2,778	2,769

The District Board contended that Protestant's coals had been properly classified considering their physical characteristics; the analytical data that Protestant had submitted; and the market history of said coals. The Board did not know, however, of the fault condition in which the Protestant claimed it was now mining or approaching and it was arranged by agreement between the Protestant and the District Board, with the approval of the Commission, that the Board would have its engineers make an investigation of said

conditions on the ground and then submit its recommendations to the Commission.

The report made by the District Board to the Commission and filed as a part of the record herein shows that Protestant's mine is located one-quarter of a mile northeast of Beccaria, Clearfield County, Pennsylvania, and is operating in the "D" or Moshannon seam. The main headings have been driven approximately S 78° W, the distance from drift to face being over 12,000 feet. About 8,000 feet from the drift mouth the main headings cross under a small stream known as McCoy Run. All advance work has been completed in the section between the drift mouth and McCoy Run. This section, now recovering pillars only, furnishes approximately 10 per cent of the total production of the mine.

A typical section of the coal seam east of McCoy Run shows roof—shale; bone—2 inches; coal—26" (1/2" to 1" canal coal binder 10" from bottom); and floor of soft fire clay. The coal is characterized by a columnar fracture and appears to be free from pyrite. The bone at the top seldom exceeds 2" in thickness.

In the portion of the mine west of McCoy Run, the bone over the coal is as much as six inches in thickness, the fracture of the coal is cubical, and small lenses and flakes of pyrite appear in the upper part of the bed. However, all of the analyses show that the sulphur content of the coal as shipped is not high.

A map showing the extent of development in that portion of the mine west of McCoy Run shows that the workings are approaching a fault having a displacement of 41 feet that roughly defines the boundary between Protestant's mine and the Camos mine of the Middle Pennsylvania Coal Corporation. The map also shows a fault in the "B" seam of coal that crosses under the principal workings of Protestant's mine. Nothing is known regarding this fault in the "B" seam, and as no displacement occurs in the "D" seam, there is some doubt as to whether this is a true fault.

Numerous slight irregularities have been encountered in the "D" seam west of McCoy Run and these were so indicated on the map. A few of these disturbances have the appearance of small faults and displacements were noted ranging from 0" to 24". The roof was broken for from fifteen to forty feet on either side of each displacement examined.

Sections of the seam in that part of the mine west of McCoy Run from which 90 per cent of the Protestant's production is now derived is indicated in the following seam cross sections:

3 Right Butt off No. 10 Left

A

Roof.....	Shale.
Bone.....	6"
Coal.....	24 1/2"
Floor.....	Hard shale.

B

Roof	Shale.
Bone (Hard black)	3 1/2"
Coal (High ash)	2 1/2"
Coal	24 3/4"
Floor	Hard shale.

Face 6 Right Butt, 10 Left

Roof	Shale.
Bone (Hard black)	3/4"
Coal (High ash)	2 1/2"
Coal	13"
Cannel Coal	1 1/2"
Coal (Good)	15"
Blackjack and Coal	5"
Floor	Hard shale.

10 Left at 6 Right Butt

Roof	Shale.
Coal	16 1/2"
Cannel	1 1/2"
Coal	7 1/4"
Shale	1/2"
Coal	7"
Floor	3" Blackjack to hard shale.

Face 10 Left

Roof	Shale.
Bone (Hard)	1 1/2"
Coal	14"
Cannel coal	1 1/2"
Coal	12 1/2"
Blackjack	2"
Coal	2"
Floor	Hard shale.

The investigation thus made by the District Board Engineers indicates that the coal bed was disturbed in the area west of McCoy Run; that the maximum severity was encountered along or in the vicinity of 10 left; that the intensity of the disturbances is decreasing toward the face of the main heading, 11 left and 21 right as indicated on said map; that the quality of the coal as shipped has not been impaired by the conditions encountered, and that the analyses of the run-of-mine coal produced therein approximate the averages for the "D" seam and all coals that the District Board has placed in Class "B."

Based on the evidence thus submitted the Commission finds that the conditions of which the Protestant complains have not materially affected his product as loaded into transportation facilities, and its protest is denied.

The Leland Coal Company protests that the coals which it produces in its Leland No. 10 mine in Subdistrict No. 19 from the "D" seam of coal have not been properly classified by comparison with other coals from the same seam with which they compete, and with other coals of equal or superior quality.

The District Board classified Protestant's coals in Size Groups Nos. 1, 2, 3, and 4 in Class "B," and its coals in Size Group No. 5 in Class "C." Protestant contends that all of its coals in Size Group Nos. 1, 2, 3, and 4 should be placed in Class "C" on the ground that its coals in these size groups have always been classified as "C" coals in the past and were reclassified in the present proposed schedule as Class "B" arbitrarily, and that the analyses it has submitted of its coals do not justify their placement in Class "B." As to its Size Group No. 5 coals, which are classified as "C," the Protestant contends that all "A" and "B" coals which have been placed in

Class "C" in Size Group No. 5 should have the same differentials, respectively, as the Class "A" and "B" coals in the run-of-mine and prepared sizes in Size Groups Nos. 1, 2, 3, and 4.

The average analyses of its coals which the Protestant submitted to the District Board in 1937 and 1938 are as follows:

	Mine run		3/4 inch slack	
	1937	1938	1937	1938
Volatile	23.02	22.50	23.12	22.50
Carbon	69.71	70.25	69.55	70.25
Ash	7.26	7.25	7.34	7.25
Sulphur	.87	.85	.77	.85
B. T. U. (Dry)	14,512	14,550	14,526	14,500
F. T. A.	2,830	2,800	2,830	2,800

In further support of its contention the Protestants introduced in evidence three analyses of its coal made by the City of New York on October 13, 18, and 20, 1938, respectively which corroborate the above analyses.

The Protestant also introduced in evidence Exhibit No. 478 in which it set forth a list of what it considered to be the more prominent and principal coals with which it competes, designating therein their classification in the run-of-mine and three-quarter inch slack sizes. The names of the code members producing said coals, together with the names of the mines operated and the classifications placed thereon by the District Board are as follows:

Coal member	Mine	Classification			
		1937		1938	
		R/M	3/4 inch	R/M	3/4 inch
Lincoln Coal Company, Inc.	Lincoln	C	C	C	C
Imperial Coal Company	Imperial Cardiff	C	C	C	C
Monroe Coal Mining Company	Revloc	C	C	C	C
Heisley Coal Company	Heisley #3	C	C	C	C
Ebensburg Coal Company	Ebensburg #1	C	C	C	C
Consolidation Coal Company	#120	E	E	E	E
	#121	E	E	E	E
Black Oak Coal Mining Co.	Black Oak #5	C	C	C	C
Middle Penn Coal Corp.	Cammos #1	C	C	C	C
Moshannon Smithing Coal Co.	Glenner #1	C	C	B	C
Leland Coal Company	Leland #10	C	C	B	C

It appears from the cross examination of the Protestant's witness that these coals were considered to be competitive with Protestant's coals because they were shipped to the same Eastern Markets. However, it also developed that the Protestant also considered its coals were competitive with all other central Pennsylvania and Maryland low volatile coals, the classifications of which it did not point out. Neither did Protestant establish the relationship of its coals to the poorer or better grade coals of the District.

Furthermore, the evidence shows that coal produced in certain of the mines enumerated was never sold in competition with the coals of the Protestant in the specific instance mentioned by the witness, and that the information on which he based his testimony was erroneous. Protestant's cross examination of one of the expert witnesses for the District Board also developed that the classifications placed upon the Protestant's coals represented the judgment of the District Board as to the relative market value of said coals for the uses to which they were put. On the evidence thus submitted it does not appear that any changes should be made in the classification proposed by the District Board, and the Commission finds that the protest should be denied.

The Simpson Coal Company requests a classification of "D" for the coals of its Vulcan Slope Mine No. 1, in Subdistrict 37, "D" seam. The District Board classified its Size Group Nos. 1, 3 and 4

as Class "B," and its Size Group No. 5 as Class "C."

The mine of Protestant has been operated for many years and is now producing coal from pillars of the old workings and also from a development made from a slope into the lower side of the property. It is contended that the coal from the new development is of inferior quality to that of the pillar coal and for that reason a lower classification should be made. The analyses in evidence, the market history, the plant performance and the identity of the seam each indicate that the coals of Protestants have been properly classified by the District Board. The evidence submitted is not sufficient to warrant making any change in the classification proposed by the District Board, and the protest is denied.

The Pennsylvania Smokeless Fuel Company protests that the coals which it produces in its Hiyasota Mine No. 1 in Sub-district No. 32, in the "C" Prime and "E" seams of coal, have not been properly classified. The District Board classified Protestant's coals in Size Group No. 3 in Class "E." Protestant contends that all of its Size Group No. 3 coal should be classed not higher than Class "F," on the ground that it has always been classified in the past as Class "E" under the old schedule, which it contends is equivalent to Class "G" in the present proposed schedule; that the coal which it produces from the "C" Prime and "E" seams is sold as a mixture, namely, 20 per cent from the "E"

seam and 80 percent from the "C" Prime seam; that the "E" seam coal is of a lower grade than the "C" Prime seam coal, and that, therefore, the combination of the two should take a lower classification than the "C" Prime coal only; that the percentage of "E" seam coal in said mixture will increase as time goes by, and further lower the quality of said mixture.

The Protestant introduced in evidence certain analyses and the oral testimony of one witness in support of its contention. The evidence presented by the Protestant, however, is not sufficient to warrant any changes in the classifications proposed by the District Board, and the protest is denied.

The Byrd Coal Company protests that the coals which it produces in its Brookwood Shaft Mine in Subdistrict No. 21, from the "B" seam of coal, have not been properly classified. The District Board classified Protestant's coals in all Size Groups in Class "C." Protestant contends that they should be placed in Class "D," or, as an alternative, that certain mines whose coals are now classified as "D" should be re-classified as Class "C," and that coals of certain other mines now in Class "C" should be raised one classification. Protestant contends that unless this is done it will be unable to meet the competition of certain mines whose coals are now classed in either "C" or "D." In support of its contention Protestant submitted in evidence certain analyses that had been submitted by some of these competitive mines to the statistical bureau of District No. 1. It also offered the oral testimony of a witness in explanation of said analyses and its contentions. Careful consideration and comparison of said analyses with analyses of the coals of said mines that were introduced in evidence by the District Board as Exhibits Nos. 482, 482-A and 482-B, indicate that the coals of the Protestant are classified properly with the coals produced by the mines named by the Protestant as its major competition.

Protestant cites several instances where it believes it would lose tonnage if its classification is not changed, but the testimony of its witness shows that a general shifting of tonnage from one purchaser to another is a normal competitive market condition.

The evidence submitted is not of a convincing nature, and does not substantiate the Protestant's contentions. The protest is denied.

The Loyal Hanna Coal and Coke Company protests that the coals which it produces in its No. 7 Mine in Subdistrict No. 38, from the "C" Prime seam of coal, have been improperly classified by the District Board. The District Board classified all of Protestant's coals in the various Size Groups in Class "D." Protestant contends that they should have been placed in Class "E," in order to properly classify them with the coals of other mines with which it competes.

This protest is similar to the protests presented by the Protestant to the District Board on three different occasions. The evidence shows that each of said protests filed by the Protestant with the District Board was heard at length by the Board or by its Technical Advisory Committee, and that the issues were the same as those presented to the Commission. The witness appearing on behalf of the Protestant stated that more complete and detailed evidence was presented to the District Board and its Technical Advisory Committee than was presented to the Commission.

All of the evidence here presented has been fully considered by the members of the Technical Advisory Committee and the Marketing Committee of District Board No. 1, as well as by the members of the District Board.

Protestant also claims that under former regulated prices giving its coals the same classification as that now proposed, it lost sales to certain competitors. In this it appears that the witness was in error, for in the principal instances the mines complained of were not competitors of the Protestant for said business.

Protestant contends further that the analyses submitted to the District Board for its coals and the coals of some of its competitors, also indicate that its coals have been improperly classified. An examination of the analyses presented in evidence, however, does not show any inconsistencies, from an analytical standpoint, in the relationships that have been proposed by the District Board.

The evidence of record does not justify any changes in the proposed classification of Protestant's coals. Consequently, the Commission finds that the protest should be denied.

The Reitz Coal Company protests that the coals which it produces in its Reitz No. 3 Upper Mine in Subdistrict No. 38, from the "C" Prime seam, and also the coals which it produces in its No. 5 Mine in Subdistrict No. 33, from the "C" Prime seam, have been improperly classified by the District Board. The District Board classified Protestant's coals in Size Group No. 3 in its No. 3 Upper Mine as Class "D," and its coals in Size Groups Nos. 1, 3 and 4 in its No. 5 Mine in Class "E." Protestant contends that its Size Group No. 3 coals in its No. 3 Upper Mine should be placed in Class "F," and that its coals in its Size Groups Nos. 1, 3 and 4 in its No. 5 Mine should be placed in Class "G."

The Protestant based its contention primarily on information furnished it by distributors through whom it sells its coal, to the effect that its coal had been improperly classified, and that it would be necessary for the Protestant to obtain a re-classification of its coals downward before they could be successfully sold in competition. Protestant also contended that the analyses submitted to the District Board of its coals and its competitors' coals warranted the revision in classifications that it seeks.

The testimony and the analytical data presented in evidence, however, do not justify a change in the proposed classifications that have been made by the District Board. The Commission, therefore, finds that the protest should be denied.

The Consolidation Coal Company protests that certain coals which it produces in its Mines Nos. 1, 3, 4, 10, 119, 120, 121 and 123 have been improperly classified by the District Board.

The District Board classified Protestant's coals in said mines as follows:

Mine name	Sub-district	Seam	Price classifications and size group numbers				
			1	2	3	4	5
Consolidation 1.....	43	Big Vein.....	D	*	D	D	D
Consolidation 3.....	43	Big Vein.....	D	D	D	D	D
Consolidation 4.....	43	Big Vein.....	D	D	D	D	D
Consolidation 10.....	43	Tyson.....	E	E	E	E	E
Consolidation 119.....	36	C Prime.....	*	*	E	*	*
Consolidation 120.....	36	C Prime.....	E	E	E	E	E
Consolidation 121.....	36	E Seam.....	E	E	E	E	E
Consolidation 120 and 121.....	36	C Prime and E (Acosta).....	(1)	(1)	(1)	(1)	(1)
Consolidation 123.....	36	E Seam.....	E	E	E	E	E

¹ Not classified.

Protestant contends that its coals produced in these mines should be classified as follows:

Mine name	Sub-district	Seam	Price classifications and size group numbers				
			1	2	3	4	5
Consolidation 1.....	43	Big Seam.....	D	D	D	E	E
Consolidation 3.....	43	Big Seam.....	E	E	E	E	E
Consolidation 4.....	43	Big Seam.....	E	E	E	E	E
Consolidation 10.....	43	Tyson.....	G	G	E	E	E
Consolidation 119.....	36	C Prime.....	*	*	DF	*	*
Consolidation 120.....	36	C Prime.....	G	G	G	G	G
Consolidation 121.....	36	E Seam.....	E	E	EF	E	E
Consolidation 120 and 121.....	36	C Prime and E (Acosta).....	G	G	F	F	F
Consolidation 123.....	36	E Seam.....	E	E	EF	E	E

The changes in classification of its coal that the Protestant here seeks are the same as those which it contended for in the hearings on its protests before the Technical Advisory Committee and the District Board, with the following exceptions:

- (1) Mine No. 1, in which all size groups are classified as "D," and in which no changes were previously sought, Protestant asks that the classification for Size Group Nos. 3 and 4 be changed from "D" to "E."
- (2) Mines Nos. 3 and 4, in which all size groups are classified as "D," and in which no changes were previously sought, Protestant asks that the classification for each Size Group in each mine be changed from "D" to "E."
- (3) For Mine No. 120 Protestant asks that the classification for Size Group Nos. 1 and 2 be changed from "E" to "G."
- (4) For the Acosta mixture from Mines Nos. 120 and 121 for which no classification was proposed by the District Board, the Protestant now asks for a "G" classification instead of an "F" classification for Size Group Nos. 1 and 2.
- (5) For Mines Nos. 121 and 123, in which all size groups are classed "E," and in which no changes were previously sought, Protestant asks that the classification for Size Group No. 3 in each mine be changed from "E" to a dual "EF" classification.

All of the changes in classification which the Protestant contended for before the Technical Advisory Committee and the Board were denied by the Board.

The expert witness presented by the Protestant, who testified in support of its contentions as to the classifications sought, stressed the fact that there are many factors, both tangible and intangible on which it would be necessary for the District Board to have full and complete data before it could properly classify the coals of the District. He stated, however, that complete data on some of the factors he considered essential were not available to either the District Board or the Protestant, and that in such cases it would be necessary for the District Board to rely on its opinions, judgment and general experience to determine the proper weight that should be given to such factors in determining the relative market values of the coals of the District.

In this respect the Protestant contends that it has considerably more information relating to both the tangible and the intangible factors affecting its own coals than the District Board, and that in addition it also has a more intimate knowledge of the marketability of its own coals in District No. 1 than the District Board, which has enabled it to present to the Commission an accurate classification which truly reflects the relative market values of its own coals within the District, and their consumer acceptance in the common consuming markets in which they are sold.

Protestant admits, however, that it does not have any information as to the proximate analyses, the chemical analyses, the ultimate analyses, the ash analyses, the grindability, and all of the other intangible factors its witness stated were necessary, as to the coals of its competitors that it asks to be classified with, and concedes that the classifications proposed for the coals of its competitors are correct, if the District Board in its superior judgment felt that it had properly classified said coals.

Protestant concedes further that the weight to be given the factors its witness has designated as intangible, because accurate data relating thereto were not available and some of them are not actually measurable, is a matter of judgment, and that the judgment displayed by the District Board in classifying Protestant's mines is correct, except in the instances named. On the other hand, the classifications it seeks to have changed are based primarily upon the judgment of its expert witnesses as to the effect of these factors, and this witness as previously stated concedes that neither he nor the Protestant had any information with respect to such factors applicable to the coals of its competitors.

Protestant's contentions and the testimony of its witnesses with respect to the changes in classification sought for Mines Nos. 1, 3 and 4, are that the coal produced at Mines Nos. 3 and 4 is not comparable in chemical quality, physical characteristics, performance characteristics, or consumer acceptance to the coal produced in Mine No. 1; that the coal produced in Mines Nos. 3 and 4 is very soft and friable and the degradation therein is so great that dealers are unable to make a suitable preparation thereof for domestic purposes; that it is, therefore, essential that Mines Nos. 3 and 4 have an "E" classification in all size groups to enable them to compete with other Big Vein coals that have been placed in Class "D," and that it is likewise essential that Size Groups Nos. 4 and 5 for Mine No. 1 be given an "E" classification.

No data with respect to these mines of the Protestant or competitor mines were introduced in evidence, and the classification proposed by the Protestant were apparently based primarily upon the judgment of its expert witness. All size groups for each of these mines, with the exception of Size Group No. 2 for Mine No. 1, which the Protestant does not make in that mine, were also classified as "D" by the District Board in its price classification proposed in December 1937. Careful consideration of the evidence here submitted does not justify any change in the classifications proposed for these three mines by the District Board, and the Commission finds that none should be made therein.

The District Board placed Protestant's Mines Nos. 10 and 17, which operate in the Tyson seam, in Class "E." This was

the same classification that it proposed for these mines in its December 1937 classification. Mine No. 17 produces only run-of-mine coal in Size Group No. 3 and no objection was made by the Protestant to such classification. Protestant contends, however, that the Tyson seam conditions are such that the lump coal produced therein is so laminated with impurities that it cannot be prepared to compete with coals classified as either "E," "F," or "G," due to the fact that it has a very poor appearance, is over 10 per cent in ash, and is very friable. Protestant has never been able to locate any regular customers who would accept its lump coal from this mine and in the past few years has been unable to sell any lump coal therefrom, but believes that it would be able to sell a small quantity thereof on a "G" basis to a few special accounts. The evidence, which is lacking of any specific data with respect to competitor coals, and which apparently is primarily based upon the judgment of the witness, is not sufficient to warrant a change in the classification proposed by the District Board for Mine No. 10. The protest relating to this mine is therefore denied.

The evidence submitted by the Protestant with respect to Mines Nos. 119, 120, 121 and 123 show that in its opinion there is a definite relationship that exists between them. Mine No. 119 produces two kinds of coal, namely, one with a low ash, low sulphur content of very limited acreage, and one with a high ash, high sulphur content of very large acreage in comparison. At the present time Protestant is loading about 150 to 200 tons of the low ash, low sulphur coal per day which it is shipping to a customer for special application, but it has been forced to determine on a policy of mixing the two grades of coal so as to establish a uniform average quality that would be acceptable for commercial shipment, and at the same time conserve its limited quality acreage for mixing purposes, and it seeks permission to withhold its better grade coal for this purpose.

There are no screening facilities at Mine No. 119 and all of the coal produced therein is sold as run-of-mine. The market history of this mine for a good many years also shows that by reason of the structure and appearance of the coal produced in Mine No. 119, the Protestant has been able to supply the demand for a considerable tonnage of C Prime coal that it could not competitively meet with C Prime coal from its Mine No. 120.

The C Prime coal produced in Protestant's Mine No. 120 is the least salable of any of the coals that Protestant produces. Analyses submitted by the Protestant, as well as analyses made by representatives for the District Board of coals from this mine show that the coal therefrom is not comparable with Protestant's "E" seam coal which the District Board has placed in Class "E," and Protestant

contends that it is also unreasonable to expect that the C Prime coal from its Mine No. 120 can compete with its C Prime coal from its mine No. 119.

Protestant states that it has been unable to sell a car of lump coal from its Mine No. 120 for commercial distribution in the past two years and that C Prime lump coal is not acceptable at any price to a consumer who requires a lump preparation. Protestant states further that if Mine No. 120 is left in Class "E," or given the same market price as its Mine No. 123 or its Mine No. 119, that its Sales Department will be unable to market the coal therefrom in competition with its "E" seam coals from Mines Nos. 121 and 123, or its other C Prime coal from Mine No. 119.

Although the proximate analyses referred to show that the C Prime coal from Mine No. 120 is slightly improved by cleaning, they do not reveal that the size consist of the raw coal has been virtually destroyed thereby.

All coal produced in Mine No. 121 is loaded over the tippel of Mine No. 120. At the present time Protestant sells almost the entire output of Mine No. 121 in a 50-50 mixture with C Prime coal from Mine No. 120, which mixture it calls Acosta coal.

Protestant has had its Acosta coal on the market for the past three years. There was so much sales resistance in the movement of its C Prime coal from Mine No. 120 that it was necessary for the Protestant to develop an "E" Seam mine near the tippel of Mine No. 120 which it designated as its Mine No. 121. Mine No. 121 was developed entirely to provide an "E" Seam coal which would supplement the production of Mine No. 123, and also to provide a coal which it could mix with its C Prime coal from Mine No. 120. The mixture thus made enabled the Protestant to dispose of its C Prime coal from Mine No. 120 and to improve the performance results and performance characteristics of said coal to such an extent that the mixture was acceptable as an intermediate grade, with a lower value than Protestant's straight "E" Seam coal. Protestant states that said mixture has proven quite satisfactory and that it has been able to market it at a price higher than its C Prime coal from its Mine No. 120, and at a price which is below that of the standard "E" Seam coal. Protestant states further that it has found from its experience in marketing its Acosta coal that said coal has a market value between its standard quality "E" Seam coal and its standard quality C Prime coal from Mine No. 120 and that from a standpoint of customer acceptance, it has practically the same market value as its C Prime coal from Mine No. 119. Protestant is also of opinion that both the raw and the cleaned Acosta coal should have the same market price in all size groups. It states that for a long period of time it has also sold its "E" Seam coal and its C Prime coal from its

Mine No. 120 in the same market area to the same customers and finds that its customers will not accept its Mine No. 120 C Prime coal except at a minimum differential of 10 cents less than its "E" Seam coal.

To the average consumer, it would appear that the coals produced in Mines Nos. 119 and 123 could justifiably be placed in the same classification, because the proximate analyses of the two coals are about the same and there is very little factual data available outside of what the Protestant has to show the relative market value of its "E" Seam coal in its Mine No. 123 and its C Prime coal in its Mine No. 119. Protestant states further that when considering all the factors which must be evaluated to determine the proper classification of the coals from these two mines, that Mine No. 119 should have at least a 5 cent differential under Mine No. 123; and that Mine No. 119 has just the performance characteristics that make it have a different market value from the "E" Seam coals of Mine No. 123. It states that the customers, however, prefer the "E" Seam coal at even a higher price and that if its Mine No. 119 is to continue in production it must be given at least a 5 cent differential under the "E" Seam coal which has been placed in Class "E."

The standard "E" Seam which Protestant produces at these Mines Nos. 121 and 123 have a satisfactory performance characteristic for wide industrial application.

Because of its fool-proof characteristics, "E" Seam coal enjoys a good reputation in the market and Protestant states that there is certainly no justification, from the standpoint of customer acceptance or relative market value, for placing Mines Nos. 123 and 119 in the same class. Protestant states that the "E" Seam coal produced in Mine No. 121 is reasonably comparable in chemical quality with the "E" Seam coal from Mine No. 123, and that it believes it should have the same classification that is given to Mine No. 123.

Based on the evidence submitted by the Protestant with respect to the coal produced in these four mines and other evidence of record herein, the Commission finds that no change should be made in the classification of Size Group No. 3 coal produced in Mine No. 119 which the District Board classified as "E"; that all of the size groups of coal produced in Mine No. 120 should be classified as "F" instead of "E"; that all of the size groups of coal produced in Mines Nos. 121 and 123 should be classified as "D" instead of "E" and that all sizes of the 50-50 mixture produced from Mines Nos. 120 and 121 and known as "Acosta" should be classified as "E."

Exhibit No. 457 shows the 1937 production of code members, and such other producers as production figures were obtainable from, in District No. 1, which represents approximately 95 per cent of

the tonnage produced within the District during that year, broken down into size groups showing the respective realization and weighted average realization per ton for the District at the prices proposed by the District Board for said District and submitted to the Commission in Exhibit No. 455.

The average realization to be expected from the minimum prices proposed by the District Board for District No. 1 has been computed by the District Board at \$2.1501 as shown on Exhibit No. 457. The weighted average cost of Minimum Price Area No. 1 in which District No. 1 is located as determined by the Commission is \$2.157. There is, therefore, a difference of only about 6 mills between the average yield upon the tonnage under the prices as proposed by the District Board for District No. 1 in Exhibit No. 457, and the weighted average cost of production for Minimum Price Area No. 1 as determined by the Commission.

The changes which the Commission has approved herein will increase the realization as determined by the District Board by an increase of approximately \$0.0002 per net ton, which will bring the computed realization still closer to the weighted average cost of production for Minimum Price Area No. 1 as determined by the Commission, and within approximately 5 mills of that average cost.

District Board No. 1 approved the schedule of proposed minimum prices which it submitted to the Commission and, in the judgment of said Board, the prices which it proposed to the Commission in said schedule, Exhibit No. 455, under the Commission's Order No. 247, are just and equitable between the producers within the District, have due regard to the interests of the consuming public, and do not and will not permit dumping. It was also the judgment of the District Board, that the prices it proposed to the Commission under the Commission's Order No. 247 reflect, as nearly as possible, the relative market values of the various kinds, qualities and sizes of coal produced in District No. 1, and that said schedule of proposed minimum prices also reflects price variations as to values and as to uses, price variations as to consuming market areas of the various kinds, sizes and qualities of coal produced within the District, and conform to the requirements of said Order No. 247 of the Commission.

And now, upon the record herein, and upon the evidence submitted, both oral and documentary, and upon the foregoing facts found to exist, the Commission finds:

That the District Board for District No. 1, as directed in Order No. 247 of the Commission, proposed minimum prices free on board transportation facilities at the mines for kinds, qualities and sizes of coal produced within the District, classification of coal and price variations as to mines and consuming market areas, and values as to uses.

That the District Board for District No. 1, as directed in Order No. 247 of the Commission, submitted to the Commission a schedule of such proposed minimum prices, together with the data upon which same were computed, including, but without limitation, the factors considered in determining the price relationships.

That the minimum prices proposed by the District Board for District No. 1, as herein modified, reflect, as nearly as possible, the relative market value of the various kinds, qualities and sizes of coal produced within the district; are just and equitable as between producers within the District; have due regard to the interests of the consuming public, and do not permit dumping.

That the minimum prices proposed by the District Board for District 1 for any kind, quality or size of coal for shipment into any consuming market area, as herein modified, are just and equitable between producers within the District.

That the minimum prices proposed by the District Board for District 1, as herein modified, yield a return per net ton for the District equal as nearly as may be to the weighted average of the total costs per net ton of the tonnage of Minimum Price Area 1, the price area in which District 1 is placed under the Act.

That the schedule of proposed minimum prices, as amended, and submitted to the Commission by the District Board for District 1, as amended, corrected, modified and revised, as hereinabove set forth, conforms to Order No. 247 of the Commission and to the requirements of Section 4-II (a) of the Act, and as so amended, corrected, modified and revised, said schedule should be, and the same is hereby, approved by the Commission to serve as a basis for the coordination provided for in Section 4-II (b) of the Act. A copy of said schedule as amended, corrected, revised and modified appears in the Appendix for District 1.

APPENDIX FOR DISTRICT NO. 1

SCHEDULE OF MINIMUM PRICES AS MODIFIED AND APPROVED TO SERVE AS A BASIS FOR COORDINATION

NOTE.—The prices in this schedule are not the final prices that will be established on coal for shipment by Code Members within this district into consuming markets of this district. In the ultimate establishment of the effective minimum prices, pursuant to subsection (b) of Part II, Section 4 of the Act, the minimum prices in this schedule are subject to such increase or decrease respectively, as may be necessary to carry out the provisions of subsections (a) and (b) of Part II, Section 4 of the Act.

F. W. McCULLOUGH,
Secretary.

Issued: January 16, 1939.

Price Instructions and Exceptions

1. Prices listed herein are per net ton of 2,000 pounds f. o. b. transportation facilities at the mine.

2. All prices are subject to the Marketing Rules and Regulations issued by the National Bituminous Coal Commission.

3. All size designations are for round hole screens. When screens having other types of openings are used and the percentage of over-size, as determined in accordance with the method of test prescribed by A. S. T. M. designation D410-35T, exceeds 5% the price for the next higher Size Group Classification for that mine shall apply.

4. In the sale of coal to destined points outside the boundary of the United States, prices stipulated herein are for payment in United States funds.

5. Modified run-of-mine is run-of-mine from which a part of the fines have been removed but which, as shipped, shall contain at least 45% slack that will pass through a 3/4 inch round hole screen.

6. When coal is subjected to any chemical, oil, or wax process an additional charge of not less than 10¢ per net ton shall be made. This does not apply to chemicals placed in the bottom of hopper cars to prevent freezing.

7. If, in converting a net or gross ton price, the calculation extends to more than 3 decimals, and the 4th decimal is 0.0005 or more, it shall be added as 0.001, and if under 0.0005 it shall be eliminated.

Size Groups

Sizes Included

Size Group No. 1.—All lump coal and all double screened coal having a top size over 2 inches.

Size Group No. 2.—All double screened coal with top size 2 inches and under.

Size Group No. 3.—All run-of-mine, modified run-of-mine and minus resultant with top size over 2 inches.

Size Group No. 4.—All minus resultant with top size over 3/4 inch and not exceeding 2 inches.

Size Group No. 5.—All minus resultant with top size not exceeding 3/4 inch.

Identification of Sub-District Numbers

Identification

- Subdistrict No. 1.—Clarion.
- Subdistrict No. 2.—Dagus.
- Subdistrict No. 3.—Tioga.
- Subdistrict No. 4.—Sligo.
- Subdistrict No. 5.—Brookville.
- Subdistrict No. 6.—Punxsutawney.
- Subdistrict No. 7.—Curwensville.
- Subdistrict No. 8.—Philipsburg.
- Subdistrict No. 9.—Snow Shoe.
- Subdistrict No. 10.—Kittanning.
- Subdistrict No. 11.—Dayton.
- Subdistrict No. 12.—Burnside.
- Subdistrict No. 13.—Madera.
- Subdistrict No. 14.—Osceola Mills.
- Subdistrict No. 15.—Clymer.
- Subdistrict No. 16.—Barnesboro.
- Subdistrict No. 17.—Hastings.
- Subdistrict No. 18.—Coalport.
- Subdistrict No. 19.—Smoke Run.
- Subdistrict No. 20.—Ramey.
- Subdistrict No. 21.—Houtzdale.
- Subdistrict No. 22.—Shelocta.
- Subdistrict No. 23.—Homer City.
- Subdistrict No. 24.—Bakerton.
- Subdistrict No. 25.—Dilltown.
- Subdistrict No. 26.—Nanty-Glo.
- Subdistrict No. 27.—Gallitzin.
- Subdistrict No. 28.—Blairsville.
- Subdistrict No. 29.—Johnstown.
- Subdistrict No. 30.—South Fork.
- Subdistrict No. 31.—Portage.
- Subdistrict No. 32.—Holsopple.
- Subdistrict No. 33.—Windber.
- Subdistrict No. 34.—Lloydell.
- Subdistrict No. 35.—Indian Head.
- Subdistrict No. 36.—Boswell.
- Subdistrict No. 37.—Hooversville.
- Subdistrict No. 38.—Central City.
- Subdistrict No. 39.—Broad Top.
- Subdistrict No. 40.—Rockwood.
- Subdistrict No. 41.—Meyersdale.
- Subdistrict No. 42.—Grantsville.
- Subdistrict No. 43.—Lonaconing.
- Subdistrict No. 44.—Piedmont.
- Subdistrict No. 45.—Thomas.

Alphabetical List of Code Members Showing Price Classification by Sizes for All Uses Except as Separately Shown

Code member	Mine name	Subdist.	Seam or kind	Price classifications and size group Nos.				
				1	2	3	4	5
A. G. & S. Mining Co.	Brilliant	10	B	*	*	H	*	*
Adams Fuel Corp.	Riverside #2	30	C'	*	*	E	*	*
Adams, Thomas	Adams	6	E	*	*	F	*	*
Ajax Coal Co., Inc.	Ajax #2	44	E	H	H	H	(1)	(1)
Albert, Frank W.	Albert	8	A	*	*	H	*	*
Albert & Sons, Newton	Albert	8	A	*	*	F	*	*
Alberter, C. G.	Alberter	29	B	*	*	H	*	*
Allegheny Coal Co.	Wiseman	44	Bakerstown	*	*	H	*	*
Allegheny River Mng. Co.	Cadogan	10	B	H	H	H	(2)	(2)
Allegheny River Mng. Co.	Chickasaw	11	B	H	H	H	(2)	(2)
Allegheny River Mng. Co.	Mohican	10	E	H	H	H	(2)	(2)
Allison, W. F. (Windber High Grade C. Co.)	Windber #5	34	B	*	*	A	*	*
Altimus & Bechtel	Altimus	26	B	*	*	C	*	*
Anderson, Emory	Anderson	6	C'	*	*	F	*	*
Anderson, Vernon	Anderson	6	E	*	*	F	*	*
Andrew Coal Co.	Andrew #1	18	C'	*	*	E	*	*
Anita Coal Co.	Coolspring	5	D	*	*	E	*	*
Anita Coal Mining Co.	Anita #1	6	D	*	*	E	*	*
Ankney, Miles	Lohr	37	E	*	*	E	*	*
Antes, C. L.	Anderson #1	7	D	*	*	F	*	*
Anzinger, R. J.	Anzinger	2	B	*	*	H	*	*
Appalacha Coal Co.	Appalacha	23	E	G	*	G	G	G
Apple Coal Co.	Apple #1 & 2	18	E & D	*	*	F	*	*
Argyle Coal Co.	Argyle #2	30	B	B	*	B	B	*
Argyle Coal Co.	Bennington "B"	27	B	*	*	B	*	*
Argyle Coal Co.	Tunnel #1	27	E	F	*	F	F	F

See footnotes at end of table.

Alphabetical List of Code Members Showing Price Classification by Sizes for All Uses Except as Separately Shown—Continued

Table with columns: Code member, Mine name, Seam or kind, Subdist., Price classifications and size group Nos. (1-5), and another set of Price classifications and size group Nos. (1-5). Rows list various coal companies and mines such as Arnagost, Armstrong, Arrow #5, etc.

See footnotes at end of table.

Alphabetical List of Code Members Showing Price Classification by Sizes for All Uses Except as Separately Shown—Continued

Code member	Mine name	Subdist.	Seam or kind	Price classifications and size group Nos.				
				1	2	3	4	5
Buffalo Coal Co.	Pine Hill No. 2	41	Pittsburgh	*	*	*	*	*
Buffalo & Susq. C. & O. Co.	Sagamore	11	E	(?)	(?)			
Buffalo & Susq. C. & C. Co.	Sykesville	6	D	E	E			
Bumbernick Coal Co.	Bumbernick	29	B	F	F			
Burke, Jesse; Gray, Edw. F. & Upinger, Glen	Burke	44	B	H	H			
Burkett, A. R.	Lick Run	34	B	F	F			
Burket, Anthon	Brubaker	27	E	F	F			
Burket, Andy	Burket	7	B	F	F			
Burnsworth, H. O.	Burnsworth	14	D	F	F			
Burton & Taylor	Fairview	18	C	E	E			
Bush Coal Company	Ridge No. 8	15	C	F	F			
Buskirk, Frank	Buskirk	8	C	F	F			
Butlin, Thomas & Kerfoot, E. & G.	Teaberry	5	D	F	F			
Butterbaugh, M. R.	Butterbaugh	8	D	F	F			
Butterbaugh, D. S. (Burwell Coal Co.)	Burwell	29	B	F	F			
Butterworth Bros. C. Mng. Co.	Keystone #1 & 2	14	E	F	F			
Butterworth Coal Co., Inc.	Butterworth #2	16	D	F	F			
Butts, Wilbert & Rohrbau, Jesse	Creamer House Coal	18	D	F	F			
C. Coal Co.	C. Coal Co.	18	C	F	F			
Cable, Scott	Cable	29	E	F	F			
Cambria Fuel Company	Carl Cambria	18	D	F	F			
Cambria Fuel Company	Cambria No. 1	32	D	F	F			
Cambria Fuel Company	Cambria No. 2	32	D	F	F			
Cambria-Lochrie Coal Co.	Cambria-Lochrie #1	29	C	F	F			
Cambria-Lochrie Coal Co.	Cambria-Lochrie #2	29	C	F	F			
Cameron Mining Co.	Cameron	2	A	F	F			
Campbell, Aden (Aden Coal Co.)	Aden	44	D	F	F			
Campbell, C. C.	Campbell	6	D	H	H			
Campbell Coal Co.	Hamshire	43	B	H	H			
Campbell Coal Co.	Mill Run	43	B	D	D			
Campbell & Hill	Campbell & Hill	8	E	D	D			
Carles, Maurice	Carles	3	B	C	C			
Carlson, John E.	L. B. Jones Estate	3	B	E	E			
Carlson, Jander	Carlson	6	D	E	E			
Carroll, J. L. Steel Corp.	Ingliside	33	D	F	F			
Carr, William M.	Carr	7	D	F	F			
Carrick, David	Carrick	6	D	F	F			
Carroll Coal Co., E. J.	Lutz	1	A	G	G			
Carroll-Gatesman C. Co.	Carroll	1	A	G	G			
Carrolltown Coal Co.	Victor No. 9 & 10	24	B	D	D			
Carson, O. R.	Bachle	3	C	D	D			
Casella, Thomas	Casella	30	C	H	H			
Casher Coal Co.	Casher	21	B	F	F			
Cassler Coal Sales Agency	Imperial #11	14	B	E	E			
Cassler Coal Sales Agency	Imperial #12	14	B	E	E			
Catalano, Arch	Catalano	6	E	F	F			
Centennial Smokeless C. Co.	Centennial	29	E	F	F			
Center Coal Co.	Idabelle	23	D	G	G			
Central Moshannon C. Mng. Co.	Central Mosh. #2	13	D	G	G			
Cessna & Farnery (c/o D. Earl Cessna)	Cessna	12	D	G	G			
Chamberlain Brothers	Chamberlain	39	Barnett					
Chambers, Roy A. (Roy A. Chambers C. Co.)	Clarence #1	9	A	B	D			
Charlestown Big Vein C. Co.	Bivecol #	43	Big Vein	D	D			
Cherry Run Coal Mng. Co.	Cherry Run #1	9	A	D	D			
Cherry Tree Coal Co.	Victor #15 & #17	16	D	E	E			
Chesnik, William	Chesnik	22	D	E	E			
Chester Hill Coal Co.	Chester Hill	8	D	E	E			
Chittister, C. O. (Mill Creek Coal Co.)	Mill Creek	5	D	E	E			
Christner, H. R.	Christner	41	Pittsburgh	G	G			
Christy, Charles	McNeese #1	10	B	H	H			
Chuhan Coal Company	Chuhan	16	D	F	F			
Citizens Coal Company	Dale	29	E	F	F			
City View Coal Co.	City View	29	E	F	F			
Clark Brothers	Hungry Hill	43	Big Vein	D	D			
Clark & Brother C. Co., Thos. J.	Clark	43	Big Vein	D	D			
Clark, M. A.	Carry Coal Co.	44	B	F	F			
Clauson, G. W.	Mount Tabor	29	B	F	F			
Claypool, M. J.	Claypool	10	B	F	F			
Clearfield Bituminous C. Corp.	Clymer	15	D	F	F			

See footnotes at end of table.

Alphabetical List of Code Members Showing Price Classification by Sizes for All Uses Except as Separately Shown—Continued

Code member	Mine name	Subdist.	Seam or kind	Price classifications and size group Nos.				
				1	2	3	4	5
Clearfield Bit. C. Corp.	Rossier	6	E	F	F			
Clearfield Bit. C. Corp.	Commodore	15	E	F	F			
Clearfield Bit. C. Corp.	Cooper	8	B	H	H			
Clites, John R.	John R. Clites	41	B	F	F			
Clossin, Marshall	Bennington	27	A	C	C			
Clyde Coal Company	Clyde #28	20	B	G	G			
Clymer Moshannon C. Co.	Charley Frank #1	15	D	F	F			
Coal Mng. Co. of Gracetown, Inc.	Gracetown	23	B	G	G			
Coleman and Son, O. B.	Chenman	37	B	H	H			
Collins, James	Millers Run	44	B	F	F			
Collins, Robert	Perry Faugh	44	B	F	F			
Collins and Voyzey	Collins & Voyzey	8	C	F	F			
Colonial Iron Company	Brown	39	B	F	F			
Commercial Coal Mng. Co.	Commercial #5	26	B	F	F			
Community Coal Co.	Piedmont	44	B	C	C			
Confer, Berton J.	Confer	9	B	E	E			
Conrad, Jacob E.	Rolling Stone	6	D	H	H			
Consolidation Coal Co.	Red Jacket	8	A	D	D			
Consolidation Coal Co.	Consolidation #1	43	Big Vein	D	D			
Consolidation Coal Co.	Consolidation #3	43	Big Vein	D	D			
Consolidation Coal Co.	Consolidation #4	43	Big Vein	D	D			
Consolidation Coal Co.	Consolidation #10	43	Tyson	D	D			
Consolidation Coal Co.	Consolidation #12	43	Big Vein	D	D			
Consolidation Coal Co.	Consolidation #17	43	Tyson	D	D			
Consolidation Coal Co.	Consolidation #119	36	C	F	F			
Consolidation Coal Co.	Consolidation #120	36	C	F	F			
Consolidation Coal Co.	Consolidation #121	36	E	F	F			
Consolidation Coal Co.	Consol. #120-#121	36	C' & E	D	D			
Consolidation Coal Co.	Consolidation #123	36	E	D	D			
Cook, J. M.	Cook	6	D	E	E			
Cooks Run Coal Co.	Wertz	3	B	D	D			
Coons, John W.	Coons	7	E	E	E			
Copelin, Millie (Copelin Ridge Coal Co.)	Copelin Ridge	8	E	E	E			
Coral Coal and Coke Co.	Potter #1	23	E	F	F			
Corbett, L. W.	Corbett	5	B	E	E			
Corbin, J. H. and Son	Corbin	3	B	E	E			
Coupe, Percy	Coupe	14	D	E	E			
Couser-Moshannon Coal Co.	Sterling #3	42	D	E	E			
Cover, James A.	Cover	5	D	E	E			
Cox, D. R. (Brook Mining Co.)	Brook	10	E	E	E			
Craft and Sons, M. O.	Craft	10	E	E	E			
Crago, Harry F.	Chester	8	B	F	F			
Craig, W. J.	Craig	22	Pittsburgh					
Craighead, S. J. (Beaverdale Coal Co.)	Rosebud	34	B	E	E			
Cramer, F. W. & G. V.	Cramer	22	E	F	F			
Crawford, A. C. & W. B.	Crawford	22	Pittsburgh					
Crawford, Lyle	Chase	3	B	E	E			
Crawford, S. M.	Crawfords	6	E	F	F			
Cree, W. Herman (W. Herman Cree Coal Co.)	Cree #1	18	E	F	F			
Cromwell and Son, H. L.	Cromwell #7	39	Barnett					
Crosley and Thomas	Crosley & Thomas #1	39	Kelly					
Cumberland Coal Company of Baltimore City	Douglas #1	45	E	F	F			
Cumberland Park Seam Coal Corp.	Parker	43	Parker					
Dahlin Brothers	Sunnyside	21	A	H	H			
Dahlin Brothers	Copeland	14	D	F	F			
Dahlin Brothers	Stanley #1	21	D	F	F			
Dahlin, Roy N. (Mountain Branch Coal Co.)	Mountain Branch	21	D	F	F			
Dale & Son, William M.	Lewis	7	C'	F	F			
Darr, Charles F.	Darr	36	E	E	E			
Daugherty Estate, W. A.	Daugherty	6	D	E	E			
David, A. E.	A. E. David	6	D	E	E			
Davidson, Dickey & Lyons	Davidson	7	D	F	F			
Davis, Claire J.	Davis	18	B	F	F			
Davis Coal & Coke Co., The	Orenda #2	36	C	F	F			
Davis Coal & Coke Co., The	Fendleton #23	45	E	D	D			
Davis Coal & Coke Co., The	Coketon #37	45	E	D	D			
Davis Coal & Coke Co., The	Benbush #38	45	E	D	D			

Alphabetical List of Code Members Showing Price Classification by Sizes for All Uses Except as Separately Shown—Continued

Alphabetical List of Code Members Showing Price Classification by Sizes for All Uses Except as Separately Shown—Continued

Code member	Mine name	Subdist.	Seam or kind	Price classifications and size group Nos.				
				1	2	3	4	5
Davis Coal & Coke Co., The	Pierce #39	45	E					
Davis Coal & Coke Co., The	Pierce #40	45	E	E	E	E	E	E
Davis Coal & Coke Co., The	Kempton #42	45	E	E	E	E	E	E
Davis, Elsie B. & Houston, Jas. R., Receivers (Page Coal Co.)	Joseph Page	30	B					
Davis, Charles W., Rec. (Middle Penna. Coal Corp.)	Cammos #1	19	D		C	C	C	C
Davis, Charles W., Rec. (Middle Penna. Coal Corp.)	Mid-Pen #4	13	A		H	H	H	H
Davis, Joseph A.	Davis	21	B		D	D	D	D
Davis, R. J.	North America	44	B		H	H	H	H
Daywood Coal Co.	Daywood No. 1	14	D	F	F	F	F	F
Decker, H. C.	Decker No. 1	1	B		H	H	H	H
Deer Park Fuel Co.	No. 1	44	Bakerstown					
DeHarven, Edward E.	Big 2	15	D		F	F	F	F
DeLullo, R. N.	R. N. DeLullo	5	D		E	E	E	E
DeMarks, James	DeMarks	42	E		F	F	F	F
Demchak, John	Demchak	14	C		F	F	F	F
Demo, Simon	Demo	29	D		F	F	F	F
Dernaun, John R.	Derham	44	Bakerstown		H	H	H	H
Deringer Fuel Co.	Woodland #2	16	D		E	E	E	E
Deshong, I. L. (Deshong Coal Co.)	Furroff Hill	44	Bakerstown		H	H	H	H
Deshong, I. L. (Deshong Coal Co.)	Barrick	44	Bakerstown		H	H	H	H
Deer, John	Deer	29	E		F	F	F	F
Detrick, John	Detrick's	1	E		F	F	F	F
Diamond & Wicks (Russell Wicks)	Diamond & Wicks	30	E		E	E	E	E
Dibert Mines, David	David Dibert	29	E		E	E	E	E
Dick Coal Company	Dick	44	C		H	H	H	H
Diehl, Frank	Frank Diehl	18	C		B	B	B	B
Diehl & Son, J. C.	Diehl	39	Barnett					
Dillon, A. J.	Kittanning	43	D		F	F	F	F
Dixon, John F., and Thompson, J. H.	Kibler	17	D		E	E	E	E
Dix Run Coal Co.	Joe Dippold	12	B		H	H	H	H
Dix Run Coal Co.	Dix Run #1	15	D		F	F	F	F
Dixon, James A.	Dixon	44	E		D	D	D	D
Dora Coal Co., Inc.	Dora	5	B		E	E	E	E
Dorko, A. J.	Dorko #1	16	D		E	E	E	E
Dougherty, John H.	Rusty "B"	27	D		E	E	E	E
Dougherty Coal Co.	Dougherty	18	C'		E	E	E	E
Dougherty Mountain C. Co.	Rutter #1	18	C'		E	E	E	E
Douglas, Donald	Millside	18	E		E	E	E	E
Douglas, John B.	Douglas	23	E		E	E	E	E
Dropleman, John	Sipsie #3	23	E		E	E	E	E
Dugan, Edward I. (Sterling Moshannon C. Mng. Co.)	Penn #4	21	B		C	C	C	C
Dumbleton Brothers	Dumbleton	8	A		H	H	H	H
Duncan Spangler Coal Co.	Delta #2	16	C'		E	E	E	E
Dupin, Frank	Benshoff	29	B		D	D	D	D
Dushan Coal Mng. Co.	Dushan #1	21	B		D	D	D	D
Dye, Cecil (Dye and Sons, Edward)	Thomas P. Dwyer	4	B		D	D	D	D
Eagan, Charles J.	Dye Coal Co.	43	Bakerstown		G	G	G	G
Eastment, S. H.	Gilmore	14	E		H	H	H	H
Eastment, S. H.	Coaldale	14	E		F	F	F	F
Eastment, S. H.	Reading #3	14	E		F	F	F	F
East Windber Coal Co.	East Windber #1 & #5	32	B		D	D	D	D
Ebensburg Coal Co.	Ebensburg #1	26	B		C	C	C	C
Echo Mining Co., The	Lunsted	11	C		H	H	H	H
Eddy Coal Company	Eddy #1	44	C'		H	H	H	H
Eddy, Joseph	Eddy	6	D		E	E	E	E
Eddy, Sam'l. & Fowler, Mart.	Widdowson	15	D		E	E	E	E
Edmiston, C. E.	Ridge #16	18	C'		E	E	E	E
Edmiston and Doyle	Elmer Edmiston	18	C'		E	E	E	E
Edmonds and Haines	Edmonds & Haines	4	D		E	E	E	E
Edmondson and Sons, Chas.	Edmondson	31	B		B	B	B	B
Ednie Fuels, Inc.	Ednie	21	B		B	B	B	B
Egdyth Coal Co.	Egdyth Coal Co.	27	E		F	F	F	F
Eger, Edward	Ed. Eger	3	E		F	F	F	F
Eichelberger, Abe R. (Abe R. Eichelberger & Son)	Eichelberger	39	Barnett					
Eichelberger Brothers	Hillside	39	Barnett					
Eichelberger & Co., E.	Bacon No. 2-4-5	39	Barnett					

See footnotes at end of table.

Alphabetical List of Code Members Showing Price Classification by Sizes for All Uses Except as Separately Shown—Continued

Code member	Mine name	Subst.	Seam or kind	Price classifications and size group Nos.				
				1	2	3	4	5
Fraser and Son, J.	Fraser	3	B					
Frederick, Stanley	Frederick & Signor	3	A					
Fredonia Coal Co.	Colonial No. 6	18	E					
Frederick and Welsner	Hill Top	5	E					
Frenzel, George (Frenzel & Sons, Geo.)	Frenzel	43	Bakerstown	C				
Fritz, Homer Y.	Fritz	41	Pittsburgh	F				
Fritz, J. F.	J. F. Fritz	36	B	G				
Frostburg Coal Co.	Frostburg #1	6	D	E				
Fryburg Motor Co.	Weaver	1	A	F				
Fulford, Fannie S. (Salem Coal & Coke Co.)	Black	1	B					
Fulton, C. M.	Paramount	18	B	D				
Fulton, Matthew	Fulton	7	D	F				
Fyook Coal Co.	Gibson	15	D	F				
Gallagher & Brother, W. R.	Fyook	29	C	F				
Gardner, Ray (Gardner Coal Mine)	Black Oak No. 1	20	B	E				
Gardner, A. Y.	Gardner Coal Mine	2	C	E				
Garman, Brothers	Klondike	27	B	E				
Garman, Charles W.	Dyart Klondike	13	B	D				
Garman, E. W.	C. W. Garman	18	A	F				
Garman, E. W.	New House	18	A	F				
Garman, Mrs. Margaret L.	Garman	18	A	F				
Garzoni, Chinito A.	Garman	18	A	F				
Gaunter Coal Co.	Garzoni	6	E					
Gaylor Bros. Coal Co.	Gaunter	22	E					
George, A. A.	Frank Loar	40	E					
Georges Creek C. Co., Inc.	George & Jamison	43	E					
Georges Creek C. Co., Inc.	No. 2	10	H					
Georges Creek C. Co., Inc.	No. 3	43	Waynesburg	F				
Gerber & Gahr	No. 4	43	Tyson	F				
Gertz, Fred	Gerber & Gahr	29	E	F				
Giacomelli, Erio	Gertz	2	B	F				
Gilligan, Harry E.	St. Clair	28	B	G				
Gillesperger & Brandt	Orr Farm	10	B	H				
Gindlesperger & Gilbert	Harry E. Gilligan	41	B	F				
Glasgow, Edward	Barkley	18	E	G				
Glass Bros.	Peterson	36	E	F				
Glen Ridge Coal Co., Inc.	Reynolds	19	E	E				
Gnasey, Homer H.	Glass Bros.	16	E	F				
Golding, Sincor & Co.	Miller Run #4	40	E	G				
Gonzales Coal Sales Co.	Gnasey	8	E	H				
Good Clay & Coal Co.	Gooding-Sincor	7	D	E				
Good Coal Co.	Gonzales No. 1	9	C	E				
Goshen Coal Co.	Good A-22	8	B	F				
Gould, Thomas V.	Good	40	B	F				
Gould, Thomas V.	Good No. 5 & 6	14	E, D					
Grace Brothers	Gould No. 1	13	D, E					
Graf, F. Malcolm, Rec. (Banner Coal Mng. Co.)	Superior No. 1	14	D, E					
Grasso, A. D. (Grasso Coal Mng. Co.)	Grace Bros.	39	B	C				
Green, Elmer	Banner	21	B					
Grego, Mrs. Rocco	Graham	18	C'					
Griebel Brothers	Liberty No. 2	1	B	F				
Griebel Coal Co.	Liberty No. 4	1	B	F				
Griffith, George W.	Wabash	44	Big Vein	F				
Griffith, Robert	Tyler #5	6	A'	F				
Griffith Est. Mines, E. W.	Mottmiller's	1	A'	F				
Gross, Earl F.	Griebel	1	A'	F				
Guenot, Charles	Griffith	49	B & C'	F				
Guernsey Coal Co.	Borden	23	Tyson	F				
Guinn, Harry J. (Peerless Coal Co.)	Seven Mile Run	29	A	F				
Gulbranson, W. O.	Gross #51	44	Bakerstown	H				
Gulbranson, W. O.	Quick	4	B	G				
Gulbranson, W. O.	Moshannon Coal Co.	9	D	G				
Gulbranson, W. O.	Henrietta No. 1	13	D	F				
Gulbranson, W. O.	Peerage #1	33	B	F				
Gulbranson, W. O.	Imperial No. 2	13	B	F				
Gulbranson, W. O.	Imperial No. 3	13	C	F				

See footnotes at end of table.

Alphabetical List of Code Members Showing Price Classification by Sizes for All Uses Except as Separately Shown—Continued

Code member	Mine name	Subst.	Seam or kind	Price classifications and size group Nos.				
				1	2	3	4	5
Gulbranson, W. O.	Imperial No. 4	14	B	G				
Gunstan	Gunstan	43	C	G				
Guthrie, W. A. M.	Guthrie	5	B	E				
Gwisdak, Frank	Gwisdak	24	D	E				
Haer, Samuel C. & Fred B.	Haer	15	D	F				
Haggerty, Patrick	Haggerty	22	D	F				
Halley, Charles Lee	Halley	44	Bakerstown	H				
Hamil, No. 1	Hamil No. 1	44	B & E	H				
Hamil, No. 12	Ridge #12	18	E	H				
Hamler	Hamler	4	B	G				
Handel & Son, William	Handel	6	D	G				
Hanna Coal Co.	Hanna	20	B	E				
Hannold, John E.	Scotch Hill C. Co.	1	A	F				
Harlan Coal Co.	Harlan	1	B	F				
Harman, Brewer, Jewart and Ray	Harman	22	E	F				
F. R. & H. L.	Harrington #1	9	B	G				
Hart and Son, E. M.	Rattler	3	B	C				
Hartshorn and Browns	Royal	8	A	C				
Hartshorn, George	Hartshorn	8	A	E				
Harve-Maek #1	Harve-Maek #1	15	B	G				
Harve-Maek #2	Harve-Maek #2	15	B	G				
Hassinger, C. P.	Hassinger	8	A	G				
Hastings No. 1	Hastings No. 1	17	B	C				
Hauger, J. E.	Hauger	40	E	C				
Hawk, George	Hauk	24	B	C				
Hawk Run Coal Mng. Co.	Coaldale No. 26	8	A	H				
Heath Bros.	Healy	27	B	H				
Heath Bros.	"B" Mine	21	B	D				
Heckler, B. F.	"C" Mine	21	C	F				
"B" Quality #1	"B" Quality #1	33	B	A				
"B" Quality #2	"B" Quality #2	33	B	A				
"B" Quality #3	"B" Quality #3	33	B	A				
"B" Quality #4	"B" Quality #4	33	B	A				
Oakland No. 2	Oakland No. 2	18	B	D				
Iselin	Iselin	26	B	C				
Waterman #2	Waterman #2	22	B	C				
Yatesboro #5	Yatesboro #5	11	E	H				
Pollocks	Pollocks	6	E	G				
Loyal T. Henderson	Loyal T. Henderson	10	E	F				
F. D. Henry	F. D. Henry	6	E	F				
Henrietta No. 6	Henrietta No. 6	21	E	F				
Henrietta No. 2	Henrietta No. 2	34	B	A				
McCreery	McCreery	23	B	A				
Hensal	Hensal	21	E	F				
Hersberger	Hersberger	10	E	F				
Hertlein's	Hertlein's	9	C	H				
Hessline	Hessline	16	D	E				
Heshbon No. 2	Heshbon No. 2	25	D	E				
Fall Creek	Fall Creek	3	A'	F				
Hi-Grade C. Corp.	Hi-Grade C. Corp.	29	C'	F				
Dean #9	Dean #9	18	C'	F				
Ashman No. 4	Ashman No. 4	8	D & E	F				
Hill #1	Hill #1	8	E	F				
Hillegas	Hillegas	41	C'	F				
Jerome No. 1 & 2	Jerome No. 1 & 2	32	E	F				
Jerome No. 3	Jerome No. 3	32	E	F				
Hillman Coal & Coke Co.	Hillman Coal & Coke Co.	29	B	D				
Hillside Coal Co.	Hillside	26	D	G				
Hilvitz, Joseph	Hilvitz, Joseph	19	B	G				
Himes, A. J. (Himes Coal Co., A. J.)	Himes	39	Barnett	F				
Himes, C. L. & R. E.	Himes	31	E	F				
Himes, R. M.	Himes	6	D	F				
Hoak, H. T.	Hoak	22	E	F				
Hochstein	Hochstein	66	E	F				
Hodgson & Sons, John	Hodgson	29	C'	F				
Hofecker, M. & Fyook, W.	Hofecker	29	C'	F				
Hoffa, Arthur P. (Hoffa Coal Co., A. P.)	White Ash	29	C'	F				
Hoffa No. 2	Hoffa No. 2	43	Big Vein	D				

Alphabetical List of Code Members Showing Price Classification by Sizes for All Uses Except as Separately Shown—Continued

Table with columns: Code member, Mine name, Seam or kind, Subdist., Price classifications and size group Nos. (1-5), and Price classifications and size group Nos. (1-5). Rows list various coal companies and their products, such as Hoffmann, Holcomb, and James Coal Mining Co.

See footnotes at end of table.

Alphabetical List of Code Members Showing Price Classification by Sizes for All Uses Except as Separately Shown—Continued

Code member	Mine name	Subdist.	Seam or kind	Price classifications and size group Nos.				
				1	2	3	4	5
Kyle, Joseph	Dusty Diamond	39	Barnett	G	G	B	G	G
Laing, C. H. (Victor Hill Coal Co.)	Victor Hill No. 1	18	B	C	C	D	C	C
Lamb and Helman	Lamb & Helman #3	37	B	C	C	C	C	C
Lanark Coal Co. (Hastings)	Lanark No. 1	18	B	C	C	C	C	C
Langdon, Chester J. (Executor) (Langdon Coal Co.)	Glendale No. 4	39	Barnett	C	C	B	C	C
Langham and Boal	Langham	43	Bakerstown	C	C	H	C	C
Lanzy Brothers	Lanzy's	24	D	C	C	E	C	C
Lanzoy Coal Co.	Greenwich	16	D	C	C	E	C	C
Lanzendorfer, George	Lanzendorfer	26	B	C	C	F	C	C
Larson, J. W.	Larson's	7	A	C	C	F	C	C
Lauer, Edward M.	Lauer	18	B	C	C	D	C	C
Laurel Run Coal Mng. Co.	Laurel Run	18	B & C	C	C	D	C	C
Lawson, St. John (Richland Coal Mng. Co.)	Richland	18	B & C	C	C	D	C	C
Leadbetter, D. J. (Wells Cr. Smithing Co.)	Adams	37	D	C	C	B	C	C
Leadbetter, William R. (Leadbetter Coal Co.)	Empire "G"	16	D	C	C	E	C	C
Lee and Sons, D. M.	Tressler	41	D	C	C	F	D	D
Lehigh Valley Coal Co., The	Lehigh Valley #28	9	A	D	D	D	D	D
Lehman & Estep Coal Co.	Lehman & Estep	19	B	B	D	B	C	C
Leland Coal Co., The	Leland No. 10	38	D	B	B	C	C	C
Lemmon, W. H.	Lemmon	29	C	B	G	E	F	F
Lenox Coal Co.	Thermal No. 8	32	C	F	F	C	C	C
Lenox Coal Co.	Thermal No. 9 & 10	38	B	F	F	C	C	C
Lenox Coal Co.	Thermal No. 11	32	B	F	F	C	C	C
Lenox Coal Co.	Thermal No. 15	25	B	H	H	H	H	H
Lewis, G. H.	Lewis	21	E	C	C	E	C	C
Lewis, Russell (Honesty Coal Co.)	Honesty	17	E	C	C	E	C	C
Lidwell, James (Ashville Coal Co.)	Shaver #7	19	D	F	F	F	F	F
Lidwell, Charles L.	Lidwell	16	D	F	F	F	F	F
Light, A. L. (Special)	Light	8	B	F	F	F	F	F
Lighner, J. R.	Lighner	16	B	F	F	F	F	F
Lilly-Benscreek Coal Co.	Lilly-Benscreek 1	21	B	C	C	C	C	C
Lincoln Coal Co., Inc.	Lincoln	26	B	C	C	C	C	C
Lindquist & Johnson	Lindquist & Johnson	8	B	C	C	E	F	F
Lindsey Coal Mng. Co.	Lindsey #8	6	D	F	F	E	E	E
Lingenfelter, J. M. & Mark	Lingenfelter	17	D	F	F	E	E	E
Linglet and Lansberry	Foxburg No. 1	15	D	F	F	E	E	E
Lipscomb, J. R.	Arnold	44	E	H	H	H	H	H
Little Ben Coal Co.	Little Ben	44	E	H	H	H	H	H
Lloyd, J. H.	Little Ben Coal Co.	44	E	H	H	H	H	H
Lo-Ash Coal Company	Lo-Ash Sugar Run	27	E	H	H	H	H	H
Lochrie, Hannah (Mountain Top Coal Co.)	Mountain Top	34	B	C	C	A	A	A
Lochrie, Hugh (Rummel Coal Co.)	Rummel	33	B	C	C	A	A	A
Lokey & Bumbarger	L & B	34	B	C	C	A	A	A
Logan Coal Co.	Logan No. 4	34	B	C	C	A	A	A
Logan Coal Co.	Logan No. 4 1/2	34	B	C	C	A	A	A
Logan Coal Co.	Logan No. 6	30	D	H	H	H	H	H
Long, J. S. & R. L.	Long	10	A	H	H	H	H	H
Long & Little	Long No. 1	8	A	H	H	H	H	H
Lowdermich, Arthur	Lowdermich	43	A	H	H	H	H	H
Loyal Hanna C. & C. Co.	Loyal Hanna #3	38	B	H	H	H	H	H
Loyal Hanna C. & C. Co.	Loyal Hanna #6	38	B	H	H	H	H	H
Loyal Hanna C. & C. Co.	Loyal Hanna #7	38	B	H	H	H	H	H
Lubert and Winters	Irish Bros. #1	24	C	D	D	D	D	D
Lucas, Harry G.	Lucas	7	E	F	F	F	F	F
Luke, Milton C.	Luke	29	C	C	C	E	F	F
Lumadue, Joseph B.	Lumadue	14	C	C	C	E	F	F
Luther, R. M.	Luther	29	C	C	C	E	F	F
Lutz, Robert	Lutz	29	C	C	C	E	F	F
Lytle, Arthur M.	Sunnyside	1	A	E	E	G	G	G
Lytle Brothers C. Co.	Universal #2	22	B	E	E	G	G	G
MacGregor, Samuel A.	Tyson	43	B	E	E	G	G	G
MacMannis Sons, Andrew	Hoffman Dump	43	B	E	E	G	G	G
MacMannich Brothers	MacMannich Bros.	6	B	E	E	G	G	G
McCall and Young	McCall	4	B	E	E	G	G	G
McCartney Coal Co.	McCartney	21	E	E	E	G	G	G
McCartney, T. V.	McCartney #1	18	C	C	C	E	F	F

See footnotes at end of table.

Alphabetical List of Code Members Showing Price Classification by Sizes for All Uses Except as Separately Shown—Continued

Code member	Mine name	Subdist.	Seam or kind	Price classifications and size group Nos.				
				1	2	3	4	5
McClain, Harry C. (McClain Coal Co.)	Black #1	39	Fulton	C	C	B	C	C
McClintock, Clair (Fairview Mines)	Fairview	2	B	H	H	H	H	H
McCloskey, Edward C.	Weber	9	B	H	H	H	H	H
McClure, H. A. Kline #1	H. A. Kline #1	26	E	F	F	F	F	F
McClure Mining Co.	McClure #1	8	E	F	F	F	F	F
McCombie, Frank	Bakerston 3, 4 & 5	24	B	D	D	D	D	D
(McCombie Coal Mng. Co.)	Bakerston #6	24	D	D	D	D	D	D
(McCombie Coal Mng. Co.)	Miller Run #5	24	D	D	D	D	D	D
(McCombie Coal Mng. Co.)	McCombie #2	24	D	D	D	D	D	D
McConnell & Berish	Sodmont	24	D	D	D	D	D	D
McConnell, C. J.	McConnell	7	D	D	D	D	D	D
McConnell, Henry T.	Henry McConnell	15	D	D	D	D	D	D
McCracken, Leroy	Bradley #1	27	B	H	H	H	H	H
McCracken, T. W.	McCracken	5	A	H	H	H	H	H
McCullough Coal Corp.	McCullough #1	42	C	H	H	H	H	H
McDonald, James (McDonald Coal Co., The)	McDonald	43	Bakerstown	H	H	H	H	H
McDowell, Edward	McCracken	23	B	C	C	H	C	C
McFadden, John U. (Jackson Hill Coal Co.)	Jackson	26	B	C	C	H	C	C
McFarland, Eugene	McFarland	6	E	E	E	E	E	E
McGary, David	McGary	7	E	E	E	E	E	E
McGary Coal Mng. Co.	McGary #2	5	B	E	E	E	E	E
McGarvey Brothers	McGarvey's	18	C	E	E	E	E	E
McGarvey, Walter	McGarvey	7	E	E	E	E	E	E
McGowan and Winner	McGowan & Winner	43	E	E	E	E	E	E
McGeary, A. J.; Mead, W. Carroll; White Coal & Lbr. Co.	(Glen White #1)	27	B	A	A	A	A	A
Gilbert, R. H.; receivers, (Taylor & McCoy C. & C. Co.)	(Glen White #2)	27	E	F	F	F	F	F
McIntyre Coal Co.	Gallitzin Shaft	27	E	F	F	F	F	F
McIntyre & Co., James M.	Miners Run	3	Bloss	C	C	F	F	F
McIntyre and Co., James M.	Shreeve Run #1	39	E	F	F	F	F	F
McKee, G. B., W. G. & H. S., V. A.	Shreeve Run #2	39	E	F	F	F	F	F
McKenzie, Francis H.	Boisford	15	E	F	F	F	F	F
McLaughlin, E. J.	Brush Creek	43	E	F	F	F	F	F
McLaughlin & Co., J. M.	McLaughlin	9	D	E	E	E	E	E
McMillen, C. E.	McLaughlin	1	D	E	E	E	E	E
McNitt Coal Co., The	Jones Coal Co. #1	43	B	F	F	F	F	F
Manor Coal Co., The	McNitt No. 2	44	B	H	H	H	H	H
Mapes, C. W.	Manor #1	44	B	H	H	H	H	H
Markton Coal Co.	Mapes	5	B	H	H	H	H	H
Marshall, H. A. & Hobbs, W. G., Rec. (Shallimar Mng. Corp.)	Oliver	27	A	F	F	F	F	F
Martell, W. B.	Rusty Buckhorn	44	A	F	F	F	F	F
Martin Bros. Coal Co.	Wolf Den	8	E	E	E	E	E	E
Martin-Wilcox Coal Co.	Martell	39	C	H	H	H	H	H
Maryland Coal Co. (of Md.)	Louise #5	44	C	H	H	H	H	H
Mastellar Coal Co., The	Willford	44	C	H	H	H	H	H
Mastarese, Frank	Kingsland	43	B	H	H	H	H	H
Mattam, Carl	Hampshire #9	44	B	H	H	H	H	H
Matthews, E. G.	New Creek	16	E	F	F	F	F	F
Matthews and Sons, R. L.	Lenox	29	E	F	F	F	F	F
Mazenko, Geo. J. (Mazenko Coal Co., Geo. J.)	Mattam	11	B	H	H	H	H	H
Mease, George B.	Matthews	29	E	F	F	F	F	F
Meeching, H. D.	Belfast #2	17	D	B	B	D	D	D
Meredith and Dumlap	Mazenko #1	15	B	E	E	G	G	G
Merrbach Brothers	Phillips	8	B	E	E	G	G	G
Metz Coal Company	Meaching	10	E	F	F	F	F	F
Metz and Sons, Thomas	Merrbach & Dumlap	7	D	E	E	G	G	G
Meyer, J. Bruce	Merrbach Bros.	41	B	E	E	G	G	G
Michael, A. D.	Metz Coal Company	43	B	E	E	G	G	G
	Metz	43	B	E	E	G	G	G
	Thos. Metz & Sons	43	B	E	E	G	G	G
	Peters #2	7	C	C	C	E	F	F
	Michael	43	B	E	E	G	G	G

Alphabetical List of Code Members Showing Price Classification by Sizes for All Uses Except as Separately Shown—Continued

Table with columns: Code member, Mine name, Searn or kind, Subdist, Price classifications and size group Nos. (1-5), Mine name, Code member, Searn or kind, Subdist, Price classifications and size group Nos. (1-5). The table lists numerous coal mines and their associated details.

See footnotes at end of table.

Alphabetical List of Code Members Showing Price Classification by Sizes for All Uses Except as Separately Shown—Continued

Code member	Mine name	Subst.	Seam or kind	Price classifications and size group Nos.				
				1	2	3	4	5
Pennsylvania C. & C. Corp.	Penna. #21 & 22	16	D	E	E	E	E	E
Pennsylvania C. & C. Corp.	Penna. #42	12	E	G	G	G	G	G
Pennsylvania C. & C. Corp.	Penna. #46	8	D	H	H	H	H	H
Pennsylvania C. & C. Corp.	Penna. #55	10	D	E	E	E	E	E
Fentz, J. H. and R. H.	Wildcat	3	D	E	E	E	E	E
Ferival, Paul	Lone Star	6	D	E	E	E	E	E
Feters, R. F.	R. F. Peters	26	B	E	E	E	E	E
Ferguson, A. J.	Linwood #3	8	B	E	E	E	E	E
Ferguson, Albert	Albert Peterson	6	C	E	E	E	E	E
Ferguson, John B. (Peterson & Sons, John B.)	John B. Peterson	6	C	E	E	E	E	E
Fetter, J. Theo.	Foster #4	39	Barnett	E	E	E	E	E
Fleisher, L. V.	Fleisher	24	D	E	E	E	E	E
Fleasant, Elbie J.	Pheasant	29	D	E	E	E	E	E
Phillips, Reese	Phillips	6	D	E	E	E	E	E
Pilkington, Wm. P. (Pilkington Coal Co.)	Ladysmith #5	39	Barnett	E	E	E	E	E
Pine Hill Smokeless C. Co., Inc.	Ponfeigh #0	41	Pittsburgh	E	E	E	E	E
Piper & Co., Inc. W. H.	Sonman #2	31	B	E	E	E	E	E
Pittsburgh-DuBois Co.	Deer Park	5	D	E	E	E	E	E
Plant, George H.	Plant	4	B	E	E	E	E	E
Plunkard, H. H.	Plunkard	43	B	E	E	E	E	E
Porter Brothers	Portage #4	31	B	E	E	E	E	E
Porter and Harding	Porter	39	Barnett	E	E	E	E	E
Porter, James V. (Porter Fuel Mine)	Porter & Harding	43	Big Vein	E	E	E	E	E
Porter and Rephan	Porter Fuel	43	Big Vein	E	E	E	E	E
Potomac B. V. Geo. Cr. C. Co., The	Rephan	43	Big Vein	E	E	E	E	E
Potomac B. V. Geo. Cr. C. Co., The	Elkhart	43	Bakersdown	E	E	E	E	E
Potomac B. V. Geo. Cr. C. Co., The	Union #1	43	Big Vein	E	E	E	E	E
Potomac B. V. Geo. Cr. C. Co., The	Union #2	43	Big Vein	E	E	E	E	E
Potomac B. V. Geo. Cr. C. Co., The	Union #4	43	Tyson	E	E	E	E	E
Potomac Fuel Co., Inc., The	Franklin #4	43	Bakersdown	E	E	E	E	E
Powell Coal Co.	Founds & Palmer	29	B	E	E	E	E	E
Price, C. O. & Chester	Powell	29	B	E	E	E	E	E
Primavera, Ralph	Louise #7	32	C	E	E	E	E	E
Pritt Brothers Coal Co.	Otis	32	C	E	E	E	E	E
Progress Coal Co.	Pritt Bros. C. Co.	28	E	E	E	E	E	E
Putnam, Lindsay H.	Progress #1	28	E	E	E	E	E	E
Quality Coal Co., Inc., The	Putnam	37	B	E	E	E	E	E
Quality-Pine Hill No. 1	Fallen Timber	37	B	E	E	E	E	E
Quality-Pine Hill No. 2	Quality-Pine Hill No. 1	41	Sewickley	E	E	E	E	E
Quemahoning Valley C. Co.	Kimberly	37	C	E	E	E	E	E
Quinn, Fred L.	Acco	18	C	E	E	E	E	E
Rafferty, Ralph & John W.	Quinn	6	D	E	E	E	E	E
Ralphon Coal Company	Rafferty Bros	7	E	E	E	E	E	E
Rankin, Arch	Ralphon #1	36	E	E	E	E	E	E
Rattlesnake Coal Company	Max	39	B	E	E	E	E	E
Revenscroft, Carl and Johnson, Thomas	Rattlesnake	5	E	E	E	E	E	E
Reynolds, Alfred G.	Mill Run	42	E	E	E	E	E	E
Reynolds Coal Co.	Raybould #1	7	D	E	E	E	E	E
Richards, J. W.	Raybould #1	7	D	E	E	E	E	E
Richard, L. E.	Raylam Coal Co.	16	D	E	E	E	E	E
Ridge #17	Rea's	6	D	E	E	E	E	E
Ridings, J. A.	Read Brothers	6	D	E	E	E	E	E
Ridley & Shafer	Reading Iron Company	37	D	E	E	E	E	E
Ringold #1 & 2	Reading #3	37	D	E	E	E	E	E
Risch, George M.	Reading #5	37	D	E	E	E	E	E
Risbon, William S.	Red Arrow Coal Co.	18	B	E	E	E	E	E
Ritz, Mike	Red Arrow	18	B	E	E	E	E	E
Riverside Coal Co.	Redding, Thomas (Redding Coal Co.)	9	A	E	E	E	E	E
Rizzi, Henry	Reddis, John	3	B	E	E	E	E	E
Robbins, J. L. (McGuire Coal Co.)	Red Top Coal Co.	17	C	E	E	E	E	E
Robertson, William A.	Red Top	17	C	E	E	E	E	E
Robuck & Co., M. J.	Red Top Coal Co.	17	C	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed, Melvin (Parker HyGrade C. Co.)	43	Parker	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed Brothers	2	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed, W. H. (Reed Coal Co., Warren H.)	39	Fulton	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed, William W. (Reed Coal Co., W. W.)	39	Fulton	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #1	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #2	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #3	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #4	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #5	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #6	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #7	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #8	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #9	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #10	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #11	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #12	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #13	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #14	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #15	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #16	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #17	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #18	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #19	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #20	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #21	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #22	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #23	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #24	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #25	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #26	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #27	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #28	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #29	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #30	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #31	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #32	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #33	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #34	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #35	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #36	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #37	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #38	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #39	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #40	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #41	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #42	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #43	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #44	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #45	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #46	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #47	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #48	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #49	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #50	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #51	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #52	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #53	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #54	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #55	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #56	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #57	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #58	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #59	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #60	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #61	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #62	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #63	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #64	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #65	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #66	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #67	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #68	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #69	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #70	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #71	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #72	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #73	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #74	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #75	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #76	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #77	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #78	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #79	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #80	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #81	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #82	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #83	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #84	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #85	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #86	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #87	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #88	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #89	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #90	44	D	E	E	E	E	E
Rochester & Pitts. C. Co.	Reed #91							

Alphabetical List of Code Members Showing Price Classification by Sizes for All Uses Except as Separately Shown—Continued

Table with columns: Code member, Mine name, Seam or kind, Subdist., Price classifications and size group Nos. (1-5). Lists members like Slagle, Jared; Sleppy, Isaac M.; Sloan, George E.; Smeal, Clifford; Smiles & Tubo; Smith & Son, A. J.; Smith, A. D.; Smith, Claude; Smith, Edgar; Smith, Edward; Smith, H. B.; Smith, L. W. (Penfield Coal Co.); Smith, Marling; Smith, Percy E.; Smith, Sherman; Smith, Robert; Smith & Son, Thomas H.; Smith, Robert; Snoddy, Ward; Snow Shoe Coal Co.; Snyder Brothers; Snyder, J. P.; Snyder & Son, W. F.; Solomun Run Fuel Co.; Sommerville Coal Co.; Sommerville Coal Co.; Sonman Run Mining Co.; Sonman Shaft Coal Co.; Sonman Shaft Coal Co.; Sorgan & Dickson; Sprankle, C. D.; Sprankles Mills Coal Co.; Springfield Coal Corp.; Spylke, W. F. and former Bros.; St. Clair, Rinn & Co.; Staehura, A. (Staehura Coal Co., A.); Stahlman, Preston A.; Standard Moshannon C. Co.; Stark, Thomas & James; Stear, B. C., Stear, T. H., Lydle, F. H. & Henry, Clarence; Steek, Albert; Stelmack, A. J.; Sterling Coal Co.; Sterling Coal Co.; Steuart, Don F.; Stewart, David (Stewart Mining Co.); Stineman, William R.; Stineman Coal & Coke Co.; Stineman Coal & Coke Co.; Stineman Coal Mining Co.; Stitt, F. H.; Stitt, L. D.; Stitt, L. D.; Stitt, Russell D.; Stiver Brothers; Stone Bridge Coal Co.; Stony River Coal Co.; Stratiff, D. W.; Stratiff, D. W.; Stratwell Mining Co.; Streams, S. C.; Strube & Wabert; Stuekey, A. C. & J. K. Sullivan, J. A. (Sullivan Coal Co., John); Sundberg, Charles F.; Sunnyside Coal Co.; Superior Cherry Run Coal Corp.; Sutter, J. L.; Swank's Sons, Hiram.

Alphabetical List of Code Members Showing Price Classification by Sizes for All Uses Except as Separately Shown—Continued

Table with columns: Code member, Mine name, Seam or kind, Subdist., Price classifications and size group Nos. (1-5). Lists members like Sandy Run Coal Co. (Fallen Timber); Sandy Run Coal Co. (Wells Tannery); Sankey, E. Guy & Gratt, Max; Saupp & Co.; Sausman; Savage, W. W.; Saxman Coal & Coke Co., The; Scalse, T. J.; Scanlon, Thomas; Schill-Staab Coal Co.; Schirer, Albert (Schirer Coal Co.); Schirer, Frank E.; Schmadler Coal Co.; Schmadler and Hamberger; Schmars Coal Co., R. R.; Schreiber, Francis; Schuekers, G. L., H. C., R. M.; Schuekers; Schultz, Alfred; Schwab, F. J. (Schwab Coal Co.); Scollins, John; New Castle Coal Co.; Lobb #1; Scotko Coal Company; Scott Brothers Coal Co.; Seurfield, W. E.; Secary Coal Company; Seeking Coal Mng. Co.; Selker, E. C. (Selker Coal Company); Sell, J. J.; Shafer, Charles K.; Shafer, Chas. K.; Shafer, Chas. K.; Shafer, Dewey; Shafer, Orlo; Shafer & Sons; Shanholtz, O. W. (Shanholtz Mine); Shannont, Spencer S. (Shannon Co., The); Shannon, William E.; Sharpless, Leslie B.; Shaw, J. W.; Shaw Big Vein Coal Co., Inc.; Shaw Big Vein Coal Co., Inc.; Shawmut Mining Co.; Shawmut Mining Co.; Shawmut Mining Co.; Shawmut Mining Co.; Shawmut Mining Co.; Sheeler Coal Company; Sheeler Coal Company; Sheesley Coal Company; Sheets, E. E. (Sheets Coal Co. E. E.); Shero, Vincent; Shetler, Harry Y.; Shields, Dale G.; Shifter, Dayton; Shimmel & Sons, Thomas G.; Shirey, A. B.; Shirey, Charles; Shirey, Wade; Shomo Coal Company; Shomo Coal Company; Showman Brothers; Shriver & Drummond; Shuttleworth, Joseph; Siegel, Harold A.; Siegel & Schupp; Simeox and Cann; Simons, J. H.; Simpson, Don R. (Simpson Coal Co.).

See footnotes at end of table.

Alphabetical List of Code Members Showing Price Classification by Sizes for All Uses Except as Separately Shown—Continued

Code member	Mine name	Subst.	Seam or kind	Price classifications and size group Nos.				
				1	2	3	4	5
Swanks Sons, Hiram	No. 1-A	29	B					
Swanks Sons, Hiram	Swank No. 2	18	B		F			
Swanks Sons, Hiram	Swank No. 6	15	B		D			
Swanks Sons, Hiram	No. 10	19	B		G			
Sweeney Coal Co.	Kelly No. 1	39	B		F			
Swisher, Dory	Horn	18	B		F			
Swope Coal Co.	Swope	18	A		H			
Tasker, Walter B.	Bean	8	B		D			
Taylor, Albert	Taylor	4	B		E			
Taylor, Tingles & Ritchie	Red Whiskers	14	E		G			
Taylor, Zimmerman & Thomas	R. W. Adams	18	E		F			
Tedjeske, Bernard J. (Yeager Coal Co.)	Yeager	29	E		F			
Testa, Luigi	Testa	41	Pittsburgh		F			
Thomas, Alfred P.	Hoagland Run	3	D		C			
Thomas, C. E.	Sunnyside	43	B		E			
Thomas, Carson:								
(Thomas Coal Co., Carson)	Moscow #2	43	B		D			
(Thomas Coal Co., Carson)	Moscow #3	43	B		H			
Thomas, Frank S.	Thomas	39	B		F			
Thomas, J. W.	Thomas	17	B		H			
Thomas, R. E.	Ashville Fuel	8	B		F			
Thomas, Thomas	Thomas	18	B		F			
Thomson-Joa Coal Mfg. Co.	Elton Colliery #1	18	C'		H			
Tichnell Coal Co.	Tichnell 4 F. Co.	44	B		E			
Tioga Mining Co.	Tioga	29	B		C			
Tire Hill Coal Co.	Tire Hill	3	B		C			
Titus, Charlie and Wolfe, M. J.	Wolfe	10	E		H			
Treasure, William	Conquest "E"	18	E		E			
Tretznik, Charles	Tretznik	16	D		E			
Trexel, Ed	Trexel	29	B		E			
Trimble, Jesse	Du-Well	43	B		E			
Trimble, Victor	Trimble	29	B		F			
Trimble, William	Trimble	29	B		F			
Tri Towns Fuel Co.	Tri Towns	44	B		H			
Trojan Coal Mfg. Co.	No. 1	12	C		C			
Trout Run Coal Co.	Trojan #3	2	C		E			
Trout Run Coal Co.	Trout Run #1	2	C		E			
Trout Run Coal Co.	Trout Run #2	2	C		E			
Troxell, Lloyd	Lloyd Troxell	18	B		H			
Trumbull, George	Trumbull	8	B		G			
Tuscarora Smokeless C. Co.	Colorado #3	32	C'		F			
Tutko and Brothers, G. E.	Pretoria	27	E		D			
Umbarger, J. J.	Tutko	38	E		D			
Underhill Coal Mfg. Co.	Umbarger #6	2	B		H			
Vale Summit B. V. Coal Co.	Vale Summit B. V. Coal Co.	43	B		D			
Vallmont, Arthur	Ace	8	C		F			
Van Norman, S. T.	Van Norman	5	B		G			
Vanner, Harley	Vanner	44	B		D			
Vanner, H. B. & Butler, J.	Vanner	8	C		D			
Vaughn Brothers	Vaughn	21	A		F			
Vaughn and Reese	Vaughn	21	A		H			
Vell, Ralph	Vell	33	B		H			
Veite, James	James Veite	6	D		A			
Viaduct Coal Co.	Viaduct	1	A		E			
Vinton Colliery Co.	Vinton Colliery #1	26	B		E			
Vinton Colliery Co.	Vinton Colliery #6	26	B		E			
Vitez, John	Vitez	42	C'		E			
Vogelbacher Coal Co.	Vogelbacher	1	A		H			
Wabash Coal Co.	Bernard	44	B		H			
Waddell, Douglas	Waddell	43	B		D			
Wahl and Bitner	Hays No. 2	40	B		H			
Walker & Bros., W. D.	Bradford	8	B		E			
Walker and Woodhall	Walker's	8	A		H			
Walker, Walker & Rorabaugh	King	10	E		H			
Walker, Walker & Rorabaugh	Glasser	15	D		F			
Walworth Coal Co.	Hawthorn	4	B		G			
Walnut Run Coal Co.	Byrnes #1 & #2	16	D & E		G			
Walnut Run Coal Co.	Sunshine	16	E		G			
Wardo and Sons, Louis	Atlantic No. 2	21	E		F			
Wargo, Joseph	Wargo	16	D		E			

See footnotes at end of table.

Alphabetical List of Code Members Showing Price Classification by Sizes for All Uses Except as Separately Shown—Continued

Code member	Mine name	Subst.	Seam or kind	Price classifications and size group Nos.				
				1	2	3	4	5
Waring Bros. (John Waring)	Waring Bros. (John Waring)	8	A					
Warren, Roger O.	Warren No. 1 & 2	3	B			H		
Warrick & Couperthwaite	Warrick & Couperthwaite	21	D			C		
Warshel	Warshel	33	B			F		
Watson, A. G.	A. G. Watson	18	D			A		
Watson and Sons, Fred	Watson and Sons, Fred	8	A			H		
Watson, A. G. (Watson Coal Company)	Watson, A. G. (Watson Coal Company)	3	B			C		
Waxler, Bessie (Waxler Estate, Samuel)	Waxler, Bessie (Waxler Estate, Samuel)	8	A			H		
Wayne, T. J.	Wayne	6	D			E		
Weakland, Leo	Weakland	17	D			E		
Weamer, Robert S. (Weamer Coal Co.)	Weamer, Robert S. (Weamer Coal Co.)	18	D			F		
Webster Coal & Coke Co.	Webster #14	26	B			D		
Weese, J. C.	Weese, J. C.	44	E			H		
(Weese Coal Co.)	(Weese Coal Co.)	44	E			H		
Weimer, Melvin	Weimer	44	B			H		
Weimer, Roy H.	Weimer	41	B			H		
Weiser, A. W.	Weiser	41	B			H		
Welch, G. C. & Odell, Moon, A. M. & Kimmell, Wallace	Welch, G. C. & Odell, Moon, A. M. & Kimmell, Wallace	1	G			G		
Wertz, Alvin (Wertz Coal Company)	Wertz	29	C'			E		
Wertz, J. Wm., Receiver (Rockhill Coal & Iron Co.)	Wertz, J. Wm., Receiver (Rockhill Coal & Iron Co.)	39	F			A		
Wheeler, F. & McDonald J. Co.	Wheeler, F. & McDonald J. Co.	39	E			A		
Wheeler, Joseph G. D. (Peoples Coal Co.)	Wheeler, Joseph G. D. (Peoples Coal Co.)	28	F			B		
Whitefield, Thomas	Whitefield	6	D			F		
Whitehill & Pasquette	Whitehill & Pasquette	1	B			F		
Wilbur Coal Mining Co.	Wilbur Coal Mining Co.	37	B			F		
Wilbur Coal Mining Co.	Knickerbocker #2	37	B			F		
Wilkinson Bros.	Wilkinson	18	E			E		
Williams Coal Co.	Mary Henry	10	B			H		
Williams, D. R. (Olymer) (Williams Coal Mfg. Co.)	Williams, D. R. (Olymer) (Williams Coal Mfg. Co.)	15	D			F		
Williams, Robt. A. (Ramey) (Williams Coal Mfg. Co.)	Williams, Robt. A. (Ramey) (Williams Coal Mfg. Co.)	19	D			B		
Willmore Fuel Co.	Willmore Fuel Co.	15	D			F		
Wilson, Robert	Wilson	15	B			E		
Winslow Bros. Coal Co.	Winslow Bros. Coal Co.	2	C			E		
Winters & Brode	Winters & Brode	43	D			E		
Wise, J. M.	K #2	14	B			E		
Wiseman, Roy E.	Wiseman	44	B			E		
Witt Brothers	Witt Brothers	41	B			D		
Woolf, Lawrence	Woolf, Lawrence	2	A'			F		
Woolf, T. L.	Woolf, T. L.	2	A'			H		
Woolf Coal Co.	Woolf Coal Co.	28	C'			E		
Woodall, John	Woodall, John	5	A			H		
Woodcock Brothers	Woodcock Brothers	2	A			H		
Wood Coal Mfg. Co., F. B.	Wood Coal Mfg. Co., F. B.	17	B			E		
Wooding, Paul M.	Wooding	9	C			C		
Woodridge Coal Co.	Woodridge #1 & 3	8	B			E		
Woodridge Coal Co.	Woodridge #2	8	C			E		
Woodridge, J. O.	Woodridge	7	D			F		
Woomer, Ralph O.	Woomer #1	21	E			F		
Worful, William	Peak Hill	18	E			F		
Workman, C. O.	Workman	43	B			D		
Wyoming Valley Eng. Co. Inc.	Wyoming Valley Eng. Co. Inc.	3	G			G		
Yaste, Elmer	Yaste	42	E			E		
Yeager, Harry L.	Yeager	9	B			G		
Yeagin, Joseph W.	Yeagin	24	B			A		
Yingling Bros. Coal Co.	Yingling	18	A			C		
Yingling and Powell	Strip	18	A			F		
Yoke, W. B.	McCure & Tyson #3	6	C'			F		
Yorkshire Coal Co.	Homestead	13	D			H		
Yorkshire Coal Co.	Yorkshire	13	A			H		

Alphabetical List of Code Members Showing Price Classification by Sizes for All Uses Except as Separately Shown—Continued

Code member	Mine name	Subdist.	Seam or kind	Price classifications and size group Nos.				
				1	2	3	4	5
Yost, Albert (Yost Coal Co., Albert)	Yost	29	C'	*	*	E	*	*
Young, George and John	Reitz	5	B	*	*	E	*	*
Young, Frank	Crescent #2	39	Barnett	*	*	B	*	*
Young & Son Coal Co.	Young & Son	1	A'	*	*	G	*	*
Yunker Coal Co.	Yunker	29	C'	*	*	E	*	*
Zacherl Coal Co.	Zacherl	1	A'	*	*	G	*	*
Zimmerman and Graboski	Zimmerman	7	C	*	*	F	*	*
Zimmerman, Howard	Zimmerman	18	E	*	*	F	*	*
Zolyak, Steve	Zolyak	13	D	*	*	D	*	*

¹ H2 (see next table).
² H1 (see next table).
 * Equipment not available for loading this size.

Prices for Shipment Into All Markets

PRICES IN CENTS PER NET TON OF 2,000 POUNDS AND SIZE GROUP NUMBERS

Price classification	Size groups				
	1	2	3	4	5
A	245	235	235	230	220
B	240	230	230	225	215
C	235	225	225	220	210
D	230	220	220	215	205
E	225	215	215	210	200
F	220	210	210	205	195
G	215	205	205	200	190
H	210	200	200	195	185
H1				190	180
H2				185	175

Railroad Locomotive Fuel Prices

All coal sold for Railroad Locomotive Fuel shall take a minimum price of \$2.15 per net ton of 2,000 pounds f. o. b. mines except, when coal of size group No. 1 is specified for locomotive fuel, it shall take a price of \$2.25 per net ton of 2,000 pounds f. o. b. mines.

When coal, other than Locomotive Fuel, is sold to a railroad, the price shall be not less than the minimum established for the grade and size sold, applicable in the market area in which the mine is located.

Steamship Bunker Coal Prices

1. Steamship Bunker Coal shall be defined as coal that is furnished for a vessel's own consumption, to steamers ordinarily carrying cargo or passengers and engaged in foreign or coastwise trade.

2. Minimum prices for such Bunker Coal for the ports of New York, Philadelphia and Baltimore shall be as follows:

Price classification (based on run of mine)	Price, F. O. B. mine (per net ton)	Price, port of New York (per gross ton F. A. S.)	Price, port of Philadelphia (per gross ton F. O. B. cars at piers)	Price, port of Baltimore (per gross ton F. O. B. cars at piers)
A, B, C and D	2.25			
E and F	2.15			
G and H	2.05			

Geographical Description of Consuming Market Area to Which Prices Apply

The principal markets for coals produced in District No. 1 are the territory lying east of the western boundary line of the State of Pennsylvania and north of the southern boundary of the State of Pennsylvania and of the southern boundary of the State of Maryland, whichever is southernmost, the Great Lakes, and Canadian all rail destinations.

In addition to the above markets, some coal is shipped to every State in the United States with the possible exception of Alabama, Georgia, South Carolina, Mississippi and Tennessee.

MINIMUM PRICE AREA No. 1—DISTRICT No. 7

PROPOSED MINIMUM PRICES

In compliance with Order No. 247 of the Commission, the District Board for District No. 7 prepared a schedule of proposed minimum prices f. o. b. transportation facilities at the mines, for kinds, qualities and sizes of coal produced by the various Code Members within the District and such classification of coals and price variations as to mines and consuming market areas and values as to uses and seasonal demand as it deemed proper and within the authority conferred by the Act, and transmitted a copy thereof to every Code Member within District No. 7.

Forty-two protests to such schedule were received by the District Board for District No. 7. All of said protests were set for hearing and passed upon at a regular meeting of said Board. Sixteen of said protests were overruled, three were tabled, sixteen were raised, and seven were granted. The District Board then revised its proposed schedule of minimum prices to incorporate the changes it had made as a result of the hearing on the protests and re-served the schedule as thus amended upon each and every Code Member within the District. A copy of the proposed Schedule of Minimum Prices as thus revised, together with the data upon which same were computed and the factors considered in determining the price relationships, were submitted to the Commission.

Said amended schedule was introduced in evidence as Exhibit No. 402.

The schedule of minimum prices proposed by the District Board for District No. 7 and submitted to the Commission was adopted by the entire District Board. The Secretary and the Chief Classification Engineer of said District Board, both of whom are thoroughly familiar with the marketing and distribution of coals produced in District No. 7, testified in support thereof. A mining engineer with twenty seven years' experience in the production, sale and distribution of coal in said District also testified in support thereof. The knowledge of such witnesses of the coals in District No. 7 is based upon years of experience in the coal industry in said District.

The District Board for District No. 7 consists of 17 members, all of whom, excluding the labor member of the Board, have been connected with the coal industry for many years and all of whom have had long experience in the mining and marketing of coal. The average experience of all the members of said District Board in the coal industry is approximately twenty-seven years. By reason of the intimate knowledge of the Board Members of the coal industry in District No. 7, they are fully capable of judging the price differentials and relationships between the kinds, qualities and sizes of coal produced within the District.

The schedule of minimum prices proposed by the District Board for District No. 7 and submitted to the Commission divides the District into six subdistricts.

Subdistrict No. 1 is the Greenbrier subdistrict. In this subdistrict the Sewell, Fire Creek and Pocahontas No. 6 seams are mined. In 1936, this subdistrict produced 2,053,438 tons of coal, or 4% of the production of District No. 7 for said year.

Subdistrict No. 2 is the New River subdistrict. In this subdistrict (low volatile) the Sewell, Fire Creek, Pocahontas No. 4, and Beckley seams are mined and (high volatile) the No. 2 Gas, Coalburg, Eagle and Powellton seams are mined. In 1936, this subdistrict produced 9,939,261 tons of coal, or 19.1% of the entire production of District No. 7 for said year.

Subdistrict No. 3 is the Pocahontas subdistrict. In this subdistrict, the Pocahontas No. 3, Pocahontas No. 4, Pocahontas No. 6 and Pocahontas No. 9 seams are mined. In 1936, this subdistrict produced 17,573,525 tons, or 33.8% of the entire production of District No. 7 for said year.

Subdistrict No. 4 is the Tug River subdistrict. In this subdistrict (low volatile) Pocahontas No. 3, Pocahontas No. 4, Pocahontas No. 5, Jewell, Red Ash, Bradshaw, War Creek, Fire Creek, Welch and Davy-Sewell seams are mined and (high volatile) Big Eagle and Lower Seaboard seams are mined. In 1936, this subdistrict produced 11,515,075 tons of coal, or 22.1% of the entire production of District No. 7 for said year.

Subdistrict No. 5 is the Winding Gulf subdistrict. In this subdistrict the Beckley, Pocahontas No. 3, Pocahontas No. 4, Pocahontas No. 6, Sewell and Fire Creek seams are mined. In 1936 this subdistrict produced 10,931,775 tons of coal, or 21% of the entire production of District No. 7 for said year.

Subdistrict No. 6 is the Kanawha subdistrict. In this subdistrict the Powellton seam is mined. In 1936, this subdistrict produced 924,070 tons.

The District Board for District No. 7, as shown by Exhibit No. 405, compiled analyses of coals produced by mines in the respective subdistricts within District No. 7. Said exhibit sets forth the seams from which such coals were extracted and sets forth the moisture content, volatile matter, fixed carbon, ash, sulphur, B. t. u., A. S. T., size stability, slack index, size percentage and average particle size of such coals. The coals produced within each of the subdistricts vary as to their respective analyses and are different one from the other as to same. Coals produced in District No. 7 vary in their structure also, that is, from firmness to softness.

Sixteen consuming market areas were established by the District Board for District No. 7 into which the producers of District No. 7 ship their coals. They appear in the record on pages 16 to 20, inclusive, of the proposed schedule of minimum prices.

The schedule of minimum prices proposed by the District Board for District No. 7 and submitted to the Commission, contains nine (9) size groups numbered from one (1) to nine (9), inclusive, and twelve (12) price classifications ranging from "A" to "L," inclusive. The nine sizes provided are lump, egg, stove, nut, pea, prepared mine run, standard mine run, 1 1/4" screenings and 3/4" screenings. For a long period of time, coals produced in District No. 7 have generally been marketed in nine (9) well-defined size groups. Certain markets desire certain sizes, while other markets desire other sizes, and, as a result of the requirements of the markets, the nine sizes proposed have been developed and offered to the trade.

The District Board for District No. 7, in preparing its schedule of proposed minimum prices as submitted to the Commission, used a base coal equivalent starting with Classification "A", and then related the other coals of all the Code Members in the District according to their values based on analyses, physical characteristics and market history.

The District Board for District No. 7, in classifying the coals produced in said District, did not base such classification upon an analyses basis alone. Other factors, such as marketability, consumer acceptance, physical characteristics, plant performance, values as to uses and seasonal demand, were also taken into consideration.

The differentials adopted by the District Board for District No. 7 appearing in the schedule of proposed minimum prices as submitted to the Commission, as hereinafter amended and revised, truly reflect the relative market values of the qualities and sizes of coals produced in said district for a representative period of time under normal conditions.

As shown in Exhibit No. 402, Schedule A, the minimum prices proposed by the District Board for District No. 7 would yield \$2.237 per ton as an average for the production of District No. 7. This realization was arrived at in this manner:

The District Board for District No. 7 possessed data showing approximately 100% of the production in District No. 7 for the year 1936. Said Board also possessed data showing the production in District No. 7 for the period January 1-March 31, 1937, inclusive.

Such tonnage was broken down into sizes and then applied to the proposed prices for each kind and size. Using the proposed prices for each kind and size, the realization for the entire district was arrived at by multiplying the tonnage for each size group and kind by its price. The realization thus resulting was \$2.237. The weighted average cost for Minimum Price Area 1, as established by the Commission, is \$2.157. The

difference, therefore, between realization and cost is \$0.08 per ton. The District Board deducted \$0.08 per ton from the initial prices and after such deduction, the minimum prices proposed by the District Board yield a return per net ton for the District of \$2.157, which realization equals the weighted average cost of \$2.157 per ton, as established by the Commission for Minimum Price Area 1.

The Raleigh Coal and Coke Company (Black Knight No. 3 Mine, Beckley Seam, New River Subdistrict) filed a protest against the schedule of minimum prices proposed by the District Board for District No. 7. This protest is directed against Size Groups 8 and 9 Classification "A" in the schedule which carries respective prices of \$1.82 and \$1.72. The protestant contended for a price of \$1.77 and \$1.67, respectively, or in the alternative that all mines in Size Groups 8 and 9 in Class "B" be raised to Class "A." Protestant presented Exhibit No. 407 which lists the official analyses as made by the District Board for District No. 7 on Black Knight No. 3 Mine, Size Groups 8 and 9, and compares them with numerous other official analyses on mines classed in Size Groups 8 and 9 as Class "B." Protestant's analyses are given as follows:

Size	As received basis						Percent on dry basis					
	M	A	VM	FC	S	BTU	A	VM	FC	S	BTU	AST
1 1/4-3/4 inch.....	3.30	4.25	19.96	72.49	0.71	14,572	4.40	20.63	74.97	0.73	15,069	2,816

The average analyses of mines in Class "B" as shown in Exhibit No. 407 are as follows:

Size	As received basis						Percent on dry basis					
	M	A	VM	FC	S	BTU	A	VM	FC	S	BTU	AST
	4.01	5.11	19.63	71.25	.75	14,280	5.32	20.44	74.24	.78	14,877	2,691

It is evident from the above that Black Knight #3 is superior analytically to the other nut-slacks listed. In addition, in Exhibit 407 there is listed Black Knight #3 1-1.4" - 3/4" screenings, whereas, in the case of other mines, the range in sizes is from 1 1/4" screenings to 3/8" screenings. Exhibit No. 405, page 165, shows that analytically the smaller slack sizes

from Black Knight #3 Mine are superior to the larger screening sizes appearing in questionnaires filed by protestant in accordance with Order No. 234 of the Commission and 1937 Board questionnaires dated July 10, 1937.

Average analyses for Class "A" coals in Size Groups 8 and 9 as shown on Exhibit No. 416 are as follows:

	M.	A.	V. M.	F. C.	B. T. U.	S.	A. S. T.
Average of Class "A".....	3.85	5.20	18.16	72.79	14,319	.60	2,885
Average Black Knight #3.....	3.30	4.25	19.96	72.49	14,572	.71	2,816

Black Knight #3 is, therefore, analytically comparable to the other Class "A" nut-slacks, and to lower Black Knight #3 prices would be unfair to other mines in Class "A."

Based upon the above and foregoing facts found to exist and upon other evidence relative thereto in the record, the Commission finds that the request of the Raleigh Coal and Coke Company to

the effect that its coals falling within Size Groups 8 and 9 classified as "B" with respective prices of \$1.77 and \$1.67 is not well founded and same should be denied.

Coals from Black Knight #3 Mine of the Raleigh Coal and Coke Company have, at times, been used interchangeably with nut-slack coal produced by the Madeleine Coal Company, the Minter Coal Company, the Wacomah Coal Company (now the Arbutus Coal Company) and the Lillybrook Coal Company. For Size Groups 8 and 9, a "B" Classification is given to such coals.

Comparing the analyses of Black Knight #3 coal with the analyses of the coals produced by the Lillybrook Coal Company (Lillybrook #3) and the Lamar Colliery Company (Lamar) given Classification "B" as to Size Groups 8 and 9, in the Schedule of Proposed Min-

imum Prices, it is evident that the moisture is about similar; the volatile matter of the coal of Raleigh Coal and Coke Company, Black Knight #3 averages 3% higher, an advantage in steam generation; the average ash of the Raleigh Coal and Coke Company coal is 1.42 below the average of the coal produced by the Lillybrook Coal Company (Lillybrook #3) and the Lamar Coal Company (Lamar); the sulphur content is approximately average and the B. t. u. is 208 higher in the Raleigh Coal and Coke Company coals than in the coals produced by the Lillybrook Coal Company (Lillybrook #3) and the Lamar Coal Company (Lamar); and the fusion temperature of ash is approximately the same in all the coals. The following table of analyses (Exhibit No. 405) demonstrates the truth of the above facts.

	M	VM	FC	A	S	BTU	AST
Raleigh Coal & Coke Co. Black Knight #3 1 1/4 inches Scgs.....	3.30	19.96	72.49	4.25	0.71	14,572	2,816
Lillybrook Coal Co. Lillybrook #3 1 1/4 inches Scgs.....	3.13	15.93	75.22	5.72	.85	14,399	2,818
Lamar Colliery Co. Lamar 5/8 inch Scgs.....	3.48	17.47	73.42	5.63	.64	14,329	2,770

The above analyses would indicate that the above coals are not wholly comparable. However, it is a recognized fact that seams of coal change in quality underground and the quality of coal from two adjacent mines is not necessarily the same.

The coals produced by the Raleigh Coal and Coke Company at its Black Knight #3 mine and at its Black Knight #6 mine are not comparable, the coal from the Black Knight #3 mine being more salable than the coals from the Black Knight #6 mine. One of the factors responsible for the above is that the screenings in Size Groups 8 and 9 from Black Knight #6 mine contain a relatively large amount of moisture as compared to those from Black Knight #3 mine.

By reason of the above factor, together with the relative analytical qualities of Black Knight #3 and Black Knight #6, it is evident that there should be a lower price on screenings from the Black Knight #6 mine than on those from the Black Knight #3 mine of the Raleigh Coal and Coke Company.

Upon the above and foregoing facts found to exist and other evidence relative thereto in the record, the Commission finds that the request of protestant to the effect that if the slack coal from the Black Knight #3 mine of the Raleigh Coal and Coke Company is not reduced to Class "B" that all other Class "B" slacks should be raised to Class "A" should be denied. To grant such request would be unfair to the other Class "B" slacks since same are not comparable in quality or acceptability to present existing Class "A" slacks.

The Raleigh Wyoming Mining Company (Glen Rogers Mine—Beckley

Seam—Winding Gulf Subdistrict) filed a protest against the schedule of minimum prices proposed by the District Board for District No. 7.

Protestant challenges the schedule upon two grounds.

The first ground relates to the "spread" between screenings (Size Groups 8 and 9) classified as "A" and "C" in the Schedule. Protestant's screenings are placed in Class "C" in the schedule and it is readily seen by reference to the schedule that the spread between screenings classified "A" and screenings classified "C" is ten cents (10¢). Protestant alleges that such "spread" of ten cents (10¢) between such screenings is inadequate to properly reflect the relative market value of each class and that such is especially true in the tidewater and other distant consuming markets where freight and transportation charges result in a high delivered cost. Protestant further alleges that experience dem-

onstrates that the higher quality screenings in classification "A" will out-perform the screenings in classification "C" by more than the ten cents (10¢) per ton differential provided in the schedule. That the narrow spread of five cents (5¢) per ton between the various classes of screenings does not provide enough flexibility in marketing to assure the lower-rated coals any degree of stability for the future and unless such inequality is remedied the effect will be to greatly limit the market for the Class "C" screenings produced by protestant.

The second ground relates to the "B" classification proposed for screenings produced by the Amigo Coal Company (Amigo Mine); Buckeye Coal and Coke Company (#3 Mine); Red Jacket Coal Corporation (Wyoming Mine); Koppers Coal Company (Helen #9 Mine); Lamar Collieries Company (Lamar Mine); Lillybrook Coal Company (Killarney Mine); C. H. Meade Coal Company (#2 and #4 Mines); E. C. Minter Coal Company (Minter Mine); Turkey Gap Coal Company (Wenonah Mine); Weyanoke Coal & Coke Company (Arista Mine); and Weyanoke Coal & Coke Company (Hiawatha Mine).

Protestant alleges that the screenings from all the mines listed above should have been placed in Classification "A," since experience shows that from the standpoint of performance, the coals (screenings) from all the above mines have an equal value for general application as screenings from the mines classified "A."

Exhibit No. 416 shows the weighted average summary analyses of screenings from District No. 7 in Classes "A," "B," "C," and "D." For comparative purposes, the following is an average of the official nut-slack analyses of the mines alleged by the protestant to be improperly classified, that is, those mines protestant claims should be raised from Class "B" to Class "A," as compared with the averages of all Class "A" nut slacks and all Class "B" nut slacks as shown in Exhibit No. 416 with the corrections in classification as shown in the proposed price schedule Exhibit No. 402:

	M.	A.	V. M.	F. C.	B. T. U.	S.	A. S. T.
Average of twelve (12) mines which protestant claims should be raised from Class "B" to Class "A" on nut slack.....	3.93	5.61	16.78	73.68	14,242	.64	2,808
Average of fourteen (14) mines of all "A" nut slack 1 1/4 inches to 5/8 inch.....	3.85	5.20	18.16	72.79	14,319	.60	2,885
Average of seventy-four (74) mines of all "B" nut slack.....	3.99	5.03	20.20	70.78	14,291	.75	2,687

According to the above analyses, the mines which protestant contends should be raised from Class "B" to Class "A" have a moisture content of approximately the same as other Class "B" mines; an ash content of 0.58 higher than other Class "B" mines; a lower volatile content; and a B. t. u. content of 49 below the other Class "B" mines, a sulphur content 0.11 below the other Class "B" mines;

and an A. S. T. of 121 degrees higher than the other Class "B" mines.

Based upon the above and foregoing facts found to exist and other evidence relating thereto in the record, the Commission finds that protestant's request that the mines above named be raised from Class "B" to Class "A" is not well founded and that such request should be denied.

As to that feature of the protest relative to the spread between Class "A" and Class "C" coals in Size Groups 8 and 9, to wit, ten cents (10¢), the evidence justifies such spread. A widening of such differential to fifteen cents (15¢) between "A" coals and "C" coals in Size Groups 8 and 9 would disturb the existing price relationship between such coals and would place too high a premium on "A" and "B" coals over "C" and "D" coals and other classifications.

The Commission finds, therefore, that protestant's request for a differential of fifteen cents (15¢) between Class "A" and Class "C" coals in Size Groups 8 and 9 is not justified by the evidence and that same should be denied.

The Low Ash Smokeless Fuel Company, (Green Siding Mines, Pocahontas #6 Seam, Greenbrier Subdistrict) protested

against the schedule of proposed minimum prices submitted to the Commission by the District Board for District No. 7. The gravamen of protestant's complaint against the schedule of the proposed minimum prices submitted to the Commission by the District Board for District No. 7 goes to the price classification of its coals falling within Size Groups 8 and 9. The schedule gives to such coals a price classification of "A" and a price of \$1.82 for Size Group 8 and a price of \$1.72 for Size Group 9. Protestant alleges that such coals should be given a price classification of "B" with a price of \$1.72 for Size Group 8 and a price of \$1.62 for Size Group 9.

The official analysis from the nut-slack coals from the Green Siding Mine (Ex. 416) is as follows:

	M.	A.	V. M.	F. C.	S.	B. T. U.	A. S. T.
Green siding 1 1/4 inch Segs.....	3.02	5.84	22.58	68.56	.54	14,353	2,801

The average analysis of the Class "B" nut slacks is as follows:

	M.	A.	V. M.	F. C.	S.	B. T. U.	A. S. T.
Average Class "A" (14 mines) screenings.....	3.85	5.20	18.16	72.79	.60	14,319	2,285
Average Class "B" (74 mines) screenings.....	3.99	5.03	20.20	70.78	.75	14,291	2,687

The average analysis of the Class "C" mines is as follows:

	M.	A.	V. M.	F. C.	S.	B. T. U.	A. S. T.
Average All Class "C" (19 mines) Screenings.....	4.54	5.20	20.87	69.39	0.81	14,161	2,552

Comparing the above analyses, it is clear that coal from the Green Siding Mine is considerably higher in B. t. u. and AST than the average for Class "C" nut-slack. To place nut-slack from the Green Siding Mine in Class "C" would be unfair to mines producing coals similar to those produced at the Green Siding Mine. It is also evident that analytically the nut-slack from the Green Siding Mine is also higher in B. t. u. and AST than the average of the Class "B" nut-slack. However, the volatile content of 22.58 of the Green Siding Mine limits the market distribution and makes it difficult for it to compete in the by-product outlets.

In the sale of nut-slack coal, the chemical characteristics are a much more important factor than the physical characteristics of coal.

Based upon the above and foregoing facts found to exist and other evidence relating thereto in the record, the Commission is of the opinion and so finds that the protest of the Low Ash Smokeless Fuel Company, Green Siding Mine, Pocahontas #6 Seam, Greenbrier Subdistrict, is well taken in part, and that it is proper to give to the nut-slack coals

from the Green Siding Mine in Size Groups 8 and 9 a "B" Classification, with a price of \$1.77 for Size Group 8 and a price of \$1.67 for Size Group 9. Such reduction of 5¢ affects only approximately 35,564 tons, and does not materially affect the realization of District No. 7. The Commission also finds that the seam designation as "Pocahontas No. 6 Seam" for this mine is inaccurate, and that such designation should be revised to read "Fire Creek Seam," and it is ordered that the schedule be revised accordingly.

The Pocahontas Fuel Company, Incorporated, The Pocahontas Corporation and The Pulaski Iron Company filed a protest against the schedule of proposed minimum prices submitted to the Commission by the District Board for District No. 7.

Protestants assert that the proposed minimum prices are arbitrary, unjust and inequitable, and do not reflect as nearly as possible the relative market value of the various kinds, qualities and sizes of coal to which they are applicable; nor are they just and equitable as between producers within the District; nor do they have due regard to the interests

of the consuming public. The allegation that such prices are arbitrary is a mere conclusion and without evidence to sustain same.

Protestant objects to the schedule of proposed minimum prices relative to Size Group 9. The proposed price schedule reads:

"3/4" screenings.—Includes all sizes of screenings with a maximum top size of 3/4" or less from which no elimination of any intermediate size has been made except in a process of cleaning or dedusting."

Protestant requests that a separate price be established for 3/8" screenings at 10¢ per ton below the proposed price for 3/4" screenings, which would result in a separate size group designation as follows:

"Size group 10—3/8" screenings.—Includes all sizes of screenings with a maximum top size of 3/8" or less from which no elimination of any intermediate size has been made except in the process of cleaning or dedusting."

It is clear under the evidence that there is a well-defined seasonal disadvantage in handling 3/8" slack in the winter months, as against the summer months. Consumer acceptance is a factor in the marketing of fine slack coal. Consumers frequently will not be interested, even where results are just as good, with a consequent saving in cost. Size plays a very important part in the marketing of coal. There is a tremendous psychological factor which results in sales resistance and makes it practically impossible to market the smaller sizes without the inducement of a lower price, since, in the customer's mind, such sizes are a waste product. Consumers can use 3/8" or smaller sizes, but not with as satisfactory results as 3/4". Even when the customer can use the finer sizes with satisfactory results, he will not do so because of prejudice and the additional supervision required by his operating personnel and himself. In addition to the above, there is a nuisance factor to be included. To obtain good fuel beds and efficient results with small sizes, constant and careful supervision is necessary. This is a nuisance factor, and if such responsibility is not carefully carried out by an intelligent personnel, savings in cost per ton will very easily and quickly be lost where finer sizes are used. Extra supervision is expensive and is a decided nuisance factor. Every normal customer prefers 3/4" screenings to 3/8" screenings for the operation of his plant. This is due to the fact that 3/8" screenings are much harder to handle than 3/4" screenings. They are harder to burn, tend to result in operating loss, loss in capacity, increased cinder remission, and poorer smoke condition. 3/8" screenings enjoy no advantage over 3/4" screenings. 3/8" screenings will not feed as well as 3/4" screenings due to moisture and fineness. Steady feeding of 3/8" screenings in plants using pulver-

ized fuel is at most difficult, and any interruption therein creates a hazard, as well as lowering efficiency. 3/8" screenings are very subject to dampness, and when once damp will stay damp longer, hold more moisture, and tend to pick up moisture faster than 3/4" screenings.

Based upon the above and foregoing facts found to exist, and other evidence relative thereto in the record, the Commission finds that the request of Protestant for an additional size group for 3/8" screenings, to be known as Size Group 10, with a spread between similar classes of coals with Size Group 10 of 10¢ per ton below the same classification in Size Group 9, is well founded, and should be granted as requested.

According to Exhibit No. 422, the effect upon realization of the creation of Size Group 10, at 10¢ per ton below Size Group 9, will be \$0.0037 per ton on all production.

Protestant protests Item 6 under the Price Instructions and Exceptions, contained in the schedule of proposed minimum prices submitted to the Commission by the District Board for District No. 7. This price exception reads as follows:

"When coal is subjected to any chemical, oil or waxing process, an additional charge of not less than 10¢ per net ton shall be made, except in Size Groups 8 and 9, which will not be subject to this provision."

The gravamen of Protestant's complaint against the schedule in this regard is that treatment of coal by chemical, oil or waxing process is a part of the regular preparation of coals, and no special charge should be made for same, and for the further reason that such cost is taken into consideration, together with other costs, in determining what price must be charged for such coal generally.

The Commission finds that by oiling, waxing, or chemically treating coals, except in Size Groups 8 and 9, the value thereof is increased. It has been customary in District No. 7 to make an additional charge for such treatment of coals. The Commission finds that the request of the Protestant that such charge should be deleted from the schedule should be denied.

Protestant objects to the price classifications in Size Groups 8 and 9 given to the following mines in the Schedule of Minimum Prices proposed by the District Board for District No. 7: Amigo Coal Co. (Amigo Mine); Brule Smokeless Coal Company (Brule Mine); Buckeye Coal and Coke Company (No. 3); Douglas Coal Company (Douglas Mine); Koppers Coal Company (Helen No. 9); Koppers Coal Company (Stotesbury #8); Lecony Smokeless Coal Company (Besoco Mine); Lilly and Hornbrook Coal Company (Crab Orchard Mine); Lillybrook Coal Company (Lillybrook #3); C. H. Mead Coal Company (Mead #2); C. H. Mead Coal Company (Mead

#4); E. C. Minter Coal Company (Minter); Sterling Smokeless Coal Company (Sterling); Kingston Pocahontas Coal Company (Springton); Lamar Colliery Company (Lamar); and Turkey Gap Coal and Coke Company (Wenonah).

All the above mines in the Schedule of Minimum Prices proposed by the District Board for District No. 7, in Size Groups 8 and 9, were given a price classification of "B," Size Group 8 taking a price of 177 cents and Size Group 9 taking a price of 167 cents. Protestants request that said mines be given a price classification of "A" in Size Groups 8 and 9, Size Group 8 to take a price of

182 cents and Size Group 9 a price of 172 cents.

The table hereinbelow sets forth the analyses of coals in Size Groups 8 and 9 produced at the mines Protestants desire raised to "A" Classification; the average analyses of such coals; average analyses of mines in Class "A" (screenings); average analyses of mines in Class "B" (screenings); average analyses of Protestants' mines in Class "C" (screenings); average analyses of Protestants' mines in Class "D" (screenings); and average analyses of Protestants' mines in Class "E" (screenings). All analyses were taken from Exhibit 416.

Comparison of Mines That Pocahontas Fuel Co., Pocahontas Corporation and Pulaski Iron Co. Desire To Have Raised From "B" to "A" With the Average Analysis of All Mines in Class A, Class B, and the Mines of Petitioners

Company	Mine	Size	M.	A.	V. M.	F. C.	S.	B. T. U.	A. S. T.
Average Analysis of Mines in Class "A" (14 Mines)			3.85	5.20	18.16	72.79	.60	14,319	2,885
Average Analysis of Mines in Class "B" (74 Mines)			3.99	5.03	20.20	70.78	.75	14,291	2,687
Amigo Coal Co.	Amigo	5/8"	3.76	5.77	16.92	73.55	.65	14,230	2,806
Brule Smokeless Coal Co.	Brule	1 1/4"	3.74	5.21	16.89	74.16	.77	14,451	2,768
Buckeye Coal and Coke Co.	#3	3/4"	2.64	6.22	17.37	73.77	.64	14,278	2,856
Douglas Coal Company	Douglas	1"	5.83	5.24	16.00	72.93	.83	14,053	2,704
Koppers Coal Co., The	Helen #9	1 1/4"	4.28	5.79	15.13	74.80	.75	14,125	2,871
Koppers Coal Co., The	Stotesbury #8	3/8-3/4"	3.01	6.13	16.52	74.34	.65	14,350	2,908
Lecony Smokeless Coal Co.	Besoco	5/8"	10.90	6.47	14.94	67.69	.69	12,982	2,834
Lilly and Hornbrook Coal Co.	Crab Orchard	Mach. Cut	6.73	5.07	18.34	69.86	.71	13,885	2,731
Lillybrook Coal Co.	#3	1 1/4-3/4"	3.13	5.72	15.93	75.22	.85	14,399	2,818
C. H. Mead Coal Co.	Mead #2	3/4"	4.64	5.82	15.23	74.31	.62	14,056	2,850
C. H. Mead Coal Co.	Mead #4	3/4"	3.25	5.98	15.77	75.00	.71	14,284	2,906
E. C. Minter Coal Co.	Minter	7/8"	5.96	6.01	16.91	72.12	.74	14,026	2,865
Sterling Smokeless Coal Co.	Sterling	1"	4.28	5.24	16.50	73.98	.85	14,241	2,812
Kingston Pocahontas Coal Co.	Springton	1 1/2"	5.55	5.06	16.10	73.29	.62	14,103	2,688
Lamar Colliery Co.	Lamar	5/8-3/4-1 1/4"	3.48	5.63	17.47	73.42	.54	14,329	2,770
Turkey Gap Coal and Coke Co.	Wenonah	1 1/4"	5.20	5.63	16.28	72.89	.59	14,091	2,698
Average Analysis (16 mines)			4.71	5.69	16.39	73.21	.70	14,118	2,805
Average Analysis of Protestants' Mines in Class "C" (3 Mines)			5.87	4.81	18.26	71.06	.54	14,109	2,533
Average Analysis of Protestants' Mines in Class "D" (7 Mines)			4.24	5.55	19.42	70.79	.58	14,232	2,344
Average Analysis of Protestants' Mines in Class "E" (2 Mines)			4.37	6.46	21.99	67.19	.52	14,056	2,303

NOTE.—All analyses were copied from Exhibit 416.

It is evident from the above analyses that the mines which Protestants have requested be raised in Size Groups 8 and 9 from Class "B" to Class "A" fall more reasonably within Class "B" than Class "A." It is also evident that if such mines were raised to Class "A," such mines would be penalized to the extent of competing at the same price with screenings which would have .86 lower moisture, .49 lower ash, .10 lower sulphur, 201 higher B. t. u. and 80 degrees higher A. S. T.

It is also clear that the mines named by Protestants for change in classification are .72% higher in moisture, .49% higher in ash, 173 lower in B. t. u. and 118 degrees higher in A. S. T. than all the other mines in Class "B." The average analysis of Protestants' mines in Class "C," "D," and "L" does not justify the granting of Protestants' request.

Based upon the above and foregoing facts and other evidence relative thereto

in the record, the Commission is of the opinion, and so finds, that the request of Protestants that the price classification of the mines above named in Size Groups 8 and 9 be changed from Class "B" to Class "A" is not justified and Protestants' request to this extent should be denied.

Protestants protest the differential of 25¢ between the price for Size Group 5 (pea coal) shown as \$2.10 (less \$0.08) per ton for each of the "A," "B," and "C" classifications and \$1.85 (less \$0.08) per ton for the "D" classification. Protestants request that such differential be reduced to 10¢ per ton between Size Group 5 Class "D" coal and Size Group 5 Class "A," "B," and "C" coals.

The following are average analyses of Pea coals in the various classes as taken from Exhibit 405, which show the relative analytical qualities of these four differently classed Pea coals:

	M.	V. M.	F. C.	A.	S.	B. T. U.	A. S. T.
Average Class A Pea (12 Mines)	2.94	20.99	70.96	5.43	.69	14,473	2603
Average Class B Pea (14 Mines)	3.86	18.14	72.41	5.84	.59	14,257	2463
Average Class C Pea (9 Mines)	3.99	17.07	74.07	6.43	.64	14,266	2685
Average Class D Pea (3 Mines)	3.70	17.06	68.71	10.53	.62	13,410	2675

These analyses, together with the facts of consumer acceptance and the comparative worths of nut and stove coals, establish the fact that a 10¢ spread between "A" and "D" coals in the Pea size would not be sufficient to give to the "D" Class Pea coals a fair opportunity to compete in normal markets and that such spread should not be less than 25 cents.

The Commission, therefore, finds that the request of Protestants that the differential of 25¢ between the price for the "A," "B," and "C" Classifications for Pea coals on the one hand and the price for the "D" Classification on the other hand should be reduced to 10¢, is not well founded and the request should be denied.

On Page 15 of the Schedule of Minimum Prices, the price for Size Group 4 (Nut Coal) is shown as \$2.30 (less \$.08) per ton for each of the "A," "B" and "C" classifications and \$2.05 (less \$.08) per ton for the "D" classification. Protestants protest the differential of 25¢ between the price on the "A," "B," and "C" Classifications on the one hand and the price on the "D" Classification on the other hand. Protestants request that such differential be reduced to 10¢ per ton.

The following table shows the relative analytical qualities of the four Nut Class coals:

	M.	V. M.	F. C.	A.	S.	B. T. U.	A. S. T.
Average Class A Nut Coal (30 Mines).....	2.81	21.72	71.05	5.01	.66	14,573	2523
Average Class B Nut Coal (32 Mines).....	4.12	17.36	72.46	6.61	.59	14,118	2454
Average Class C Nut Coal (15 Mines).....	3.38	17.81	74.28	6.45	.74	14,518	2666
Average Class D Nut Coal (3 Mines).....	2.91	17.59	69.31	10.19	.57	13,593	2635

The above evidence and other evidence showing the structure and appearance of nut coals shows, and the Commission so finds, that a spread of less than 25¢ per ton between "A" and "D" coals would not permit the "D" class Nut coals to maintain their proper relationships on the competitive market, and for such reason, amongst others, apparent in the record, the Commission is of the opinion that the request of Protestants that a differential of 10¢ between Class "D" Nut coal (Size Group 4) and Class "A," "B," and "C" Nut coal (Size Group 4) be established, should be denied.

On Page 15 of the Schedule of Minimum Prices, the price for Size Group 3 (stove coal) is shown as \$2.55 (less \$0.08) per ton for price classifications "A" and "B," \$2.45 (less \$0.08) per ton for price classification "C," and \$2.35 (less \$0.08) per ton for price classification "D."

Protestants protest against the differential established between the "A" and

"B" price classification on the one hand and the "D" classification on the other hand. Protestants contend that the price for Size Group 3 should be the same on "C" coal as on the "A" and "B" classifications. The prices, according to the price schedule, vary for different months and such price variations result in price differentials for different months from 10¢ to 40¢ between "A" and "B" classifications on the one hand and "C" classification on the other hand. Protestants contend that if any differential is established as between "A" and "B" classifications and "C" classification, it should only be for the months of May, June and July and should not exceed 15¢ per ton, and that the price for "D" classification in Size Group 3 should in no instance be more than 10¢ per ton below the price for the "A" and "B" classifications for this size group.

The following table shows the average analyses of Class "A," "B," "C," and "D" Stove coals as taken from Exhibit 405:

	M.	V. M.	F. C.	A.	S.	B. T. U.	A. S. T.
Average Class "A" Stove coals (40 mines).....	2.51	22.62	71.59	4.12	.60	14,764	2539
Average Class "B" Stove coals (34 mines).....	3.70	17.39	72.61	6.72	.59	14,146	2479
Average Class "C" Stove coals (18 mines).....	2.85	18.54	78.59	6.14	.77	14,569	2658
Average Class "D" Stove coals (5 mines).....	1.38	17.42	71.00	10.17	.62	13,826	2453

These analyses show, or at least indicate, a wide variation in the quality of Class "D" Stove coals as compared with Class "A," "B," and "C" Stove coals. Degradation on stove coal is a substantial factor to be considered in the pricing of stove coals. Stove coals move chiefly to the domestic markets for use in hand fired furnaces and large heating stoves where structure and appearance are of great importance. Ash content is a factor but not a governing factor un-

less the range is quite wide. Fusion temperature of ash, if above medium, is not a factor but when this fusion temperature goes below the general average of ash fusion temperature of this District, it becomes an important factor. Volatile content is always of importance on hand fired equipment, whether domestic or industrial, since generally the volatile content is a criterion of the relative smokelessness of the coal.

Based upon the above and foregoing facts and other evidence relative thereto in the record, the Commission finds that a spread in price of less than 20¢ between Class "A" and Class "D" stove coals would be an unwarranted handicap in the sale of Class "D" coals in their normal markets and that the request of Protestants in this regard should be denied.

On Page 15 of the Schedule of Minimum Prices, the prices for Size Groups 1 and 2 (lump and egg coal) show a varying differential between the "C" and "B" price classification groups in each of these size groups ranging from 20¢ to 55¢, according to the price fixed for the different calendar months. Protestants contend that the price variation between the "B" classification for each of these two size groups and the "C" classification for the corresponding size group should not be more than 10¢ for any month in the year.

The Commission finds that the establishment of seasonal advances for size groups 1, 2 and 3 is necessary in District No. 7. Such practice has been in vogue for many years and has been an important factor toward the equalization of mine running time throughout the normally dull summer season, where ordinarily the demand for prepared coals which move for domestic consumption drops off precipitously with the end of the heating season and where the demand for the industrial sizes, such as slacks, continues with a much less drop off. A price inducement is about the only incentive which a heating consumer has for buying coal during the non-heating season. Seasonal advances are justified on Class "C" coals and Class "E" coals. The evidence does not substantiate the proposal of the District Board to vary the rate of seasonal price variation as between the Class "A," "B," and "D" coals which would advance uniformly 10¢ per month as compared with the Class "C" and "E" coals, which would have no advances during May, June and July, but which would take a flat increase on August 1st.

Based upon the above and foregoing facts found to exist, and other evidence in the record, the Commission finds that the following should be made a part of the schedule of "Prices for shipment into all market areas":

"For all mines within District 7, size group 1 (lump), size group 2 (egg), and size group 3 (stove), prices shall be advanced not less than 10¢ for shipments in May, not less than 20¢ for shipments in June, not less than 30¢ for shipments in July, not less than 40¢ for shipments in August, and not less than 50¢ for shipments in September through March, inclusive."

Protestants allege that the prices established for Size Groups 1, 2, 3, 4, 5, 6,

and 7 for certain of Protestant's own mines, do not reflect the relative market value of the coals of these size groups as applied to such mines when compared with each other, or as compared with as indicated:

Company	Mine	Subdistrict Seam
The Pocahontas Corpn.	Bottom Creek	3 Poca. #3 B to C.
Pocahontas Fuel Co.	Lick Branch	3 Poca. #3 B to C.
Pocahontas Fuel Co.	Norfolk-Angle	3 Poca. #3 B to C.
Pulaski Iron Co.	Pulaski	4 Poca. #5 A to B.
The Pocahontas Corpn.	No. 31	4 Poca. #5 A to B.
The Pocahontas Corpn.	No. 32	4 Poca. #5 A to B.

After a careful consideration of the evidence, the Commission finds that the evidence is insufficient to warrant the changes requested by Protestants and further finds that the present groupings and classifications are consistent. The Commission is of the opinion, and so finds, that Protestants' request in this regard should be denied.

Protestants also protest the classification of Size Groups 8 and 9 of the land coal and Coke Company's 3-6-9 mine in Classification "H" for Size Groups 8 and 9; likewise, the inclusion of the Ashland Coal and Coke Company's #9 mine in Classification "H" for Size Groups 8 and 9. Protestants contend that a premium classification should not be given coal from the #9 mine or for a mixture of coal from #9 mine, until some basis for establishing what the actual mixture of coal from these different seams may be and until experience and customer demand has established the market value of coal from seam #9.

M.	A.	V. M.	F. C.	B. T. U.	S.	A. S. T.
5.63	8.64	17.11	68.62	13,456	.59	2535
5.42	9.02	17.46	68.10	13,445	.60	2597
4.64	9.60	17.09	68.67	13,462	.64	2555
4.21	6.28	22.24	67.27	13,934	1.23	2306

From this comparison, it appears that analytically the screenings from Pond Creek #3 and #4 would be at a handicap in competition with the Class "F" screenings through having higher ash content and lower B. t. u. The Pond Creek mines show an advantage in sulphur and A. S. T. To change the classification of Pond Creek #3 and #4 mines upward would be to handicap them in the competitive sale of their screenings, since screenings in the higher group of Class "F" have a substantially lower ash content and higher B. t. u.

The Commission is of the opinion, and so finds, that the request of Protestants in this regard should be denied. Protestants protest the inclusion in the Schedule of Minimum Prices of the Ash-

Carter Coal Company, conducting five operations in the Pocahontas #4, War Creek, Davy-Sewell and Lower Seaboard Seams, with regard to Caretta Mine, War Creek Seam, Tug-River Subdistrict, proposed by the District Board for District No. 7. Said schedule provides a

price classification of H—\$1.47 for its 1 1/4" screenings. The Protestant requests that its 1 1/4" screenings be given a price classification of L—\$1.27.

Exhibit No. 416, which was introduced in evidence by the Protestant, contains the following analyses:

	M.	A.	(A. R.) B. T. U.	(Dry) B. T. U.	S.	A. S. T.
Carter Coal Co. Caretta Mine, War Creek Seam 1 1/4"	2.79	10.38	13,579	13,969	0.93	2596
Fond Creek Pocahontas Co. #3 Mine, War Creek Seams 3/4"	5.63	8.64	13,456	14,238	.59	2535
Fond Creek Pocahontas Co. #4 Mine, War Creek Seam 3/4"	5.42	9.02	13,445	14,215	.60	2597
Yukon Pocahontas Coal Co. Yukon Mine War Creek Seam 1 1/4"	2.69	12.01	13,378	13,747	.64	2542

Production tonnages for the years 1933, 1934 and 1935, in District No. 7, are as follows:

	Production, low volatile commercial district 7	Production, low volatile Tug River subdistrict	Production, Pond Creek Pocahontas Company	Production, Carter Coal Company
1933	38,582,752	7,205,253	623,455	224,641
1934	41,119,737	8,473,124	666,847	167,981
1935	41,351,428	9,217,955	681,495	141,410
1937				206,001
				84,104

The coal in Size Group 8 in the Schedule of Minimum Prices proposed by the District Board for District No. 7, of the Yukon Pocahontas Fuel Co., Yukon Mine, is adjacent to, competitive with and similar to Caretta Nut-slack, and any discrepancies in prices between these two screenings would work an injury to the coal having the higher price.

There is no evidence in the record which would tend to show that any particular factor caused the Caretta tonnage to drop as indicated. Only during the latter part of 1933, most of 1934 and during the last 15 days of 1937, did any price regulations prevail. Since the Protestant had the privilege of selling this coal at any price it desired during 1936 and almost all of 1937, relative prices were not the sole factor causing this drop in tonnage.

During the first period of N. R. A., the screenings from Caretta mine were given a differential of 35 cents per ton below those in what was then designated as "Base" group, which generally corresponds with what is now proposed as Group "A." The 35 cents differential was subsequently widened to 45 cents, as a result of a protest lodged by this Protestant, who complained that because of the small differential of 35 cents per ton between the base coals and its Caretta mine screenings, it was unsuccessful in marketing Caretta mine screenings in competition with other screenings. A similar adjustment was made to the Warrior Mine of Warrior Coal Company and the Yukon Mine of Yukon Pocahontas Fuel Company, but was not granted to the No. 3 and No. 4 mines of Pond Creek Pocahontas Company. Under that

schedule, Groups "A," "B," "C," and "D" screenings had a price differential of 15 cents more than is provided for in the present proposal of District Board No. 7. That is to say, instead of a differential of 35 cents below Group "A," as is now provided for, the Caretta mine screenings were given a differential of 50 cents below Group "A," and the same thing applied to the other groups in a proportionate manner. During the brief operation under the N. R. A. schedule, operating time was practically negligible, due to Protestant's inability to move Caretta mine screenings.

There is a similarity in the B. t. u. between the Pond Creek Mines and the Caretta Mine, the difference being in favor of the latter. To a degree, the higher ash content of the Caretta Mine appears to be offset by the higher moisture content of the Pond Creek Mines. No evidence can be found to substantiate so wide a discrepancy in the moisture of the Pond Creek #3 and #4 mines, as compared with the Caretta Mine, except that the nut size of the Pond Creek Mines is washed and reassembled with the slack, while the Caretta Mine screenings are sold raw. The evidence indicates that at least a part of the moisture from washed Pond Creek coal will drain off or evaporate in transit and give the consumer a higher as-received B. t. u. on the Pond Creek nut-slack, as compared with the Caretta Mine slack.

It is generally conceded that washed coal drains to some extent in transit to destination. The evidence in General Docket No. 15 indicates that the railroads in the central part of the United States have recognized this characteristic of "Wash Water" by making a flat freight rate adjustment on all washed coal moving by rail to markets from Districts Nos. 10 and 11. There is a definite sales resistance to these lower grade low volatile screenings. Screenings from the Caretta Mine are, and have been, very difficult to dispose of. Price history shows that the spread between the price of Caretta Mine screenings, as compared with Grade "A" screenings from District No. 7, has been wider than the 35 cents allowed by the proposed schedule. A widening of the price differential to the full extent of Protestant's request is not justified, but a change of 10 cents per ton is justified, which, according to Exhibit No. 422, would cause a reduction of \$0.0002 in the net realization of District No. 7. Such reduction is negligible.

Based upon the above and foregoing facts found to exist, and other evidence in the record, the Commission is of the opinion, and so finds, that the protest of Carter Coal Company is well taken in part, and that the Schedule of Minimum Prices proposed by the District Board for District No. 7 should be changed as to Size Group 8 from price classification "H" to price classification "J," and Size Group 9 should be given the price classi-

fication of "J." The Commission further finds that Size Group 8 of the Yukon Pocahontas Coal Company, Yukon Mine, War Creek Seam, should be similarly reduced from price classification "H" to price classification "J."

Carter Coal Company, operating Olga #1 and #2 mines, Pocahontas #4 Seam, Tug River Subdistrict, further protested the Schedule of Minimum Prices proposed by the District Board for District No. 7. Said schedule provides a price classification for Size Group 5 of "B." The Protestant requests a separate size group for $\frac{1}{4}$ " x $\frac{1}{8}$ " stoker coal, with a price of \$1.77, or 25 cents below Size Group 5.

Protestant requests a lower price on $\frac{1}{4}$ " by $\frac{1}{8}$ " stoker coal because it claims that this size is a new size, and that it needs a lower price in order to introduce it on the market and to ascertain whether or not this coal will be as acceptable to the markets as the other pea sizes.

One-fourth inch by one-eighth inch size coal, having a narrower size between top and bottom size, is more desirable than coal with a wider range of top and bottom sizes. If a special introductory price were offered on a coal that is recognized as superior, an undesirable precedent would be established. While such an introductory price would hasten the introduction of this coal to the market, no evidence was adduced to deny that this coal cannot be introduced to the market at the going pea coal price, without disturbing the relationship of markets already enjoyed by other coal producers, and at the same time offer an outlet to the new size made by the petitioner. A separate price is not justified on this smaller size stoker coal.

Based upon the above and foregoing facts found to exist, and other evidence in the record, the Commission is of the opinion, and so finds, that the protest of Carter Coal Company in this regard should be denied.

Carter Coal Company, all mines, all seams, also protested the schedule of minimum prices proposed by the District Board for District No. 7. Said schedule reads (Page 4, Size Group 9):

" $\frac{3}{4}$ " screenings.—Includes all sizes of screenings with a maximum top size of $\frac{3}{4}$ " or less from which no elimination of any intermediate size has been made, except in a process of cleaning or dedusting."

The Protestant requests a separate size group for $\frac{3}{8}$ " x 0" screenings, same to have a price of 10¢ per ton below Size Group 9.

The Protestant, by taking out the pea and stoker size from $\frac{3}{4}$ " x 0" screenings, has a resultant of $\frac{3}{8}$ " x 0", and the total realization of the Protestant is increased, accounted for by its ability to sell the pea and stoker sizes at higher prices than it is possible to obtain for screenings even of a $\frac{3}{4}$ " x 0" size.

The production of screenings of a $\frac{3}{8}$ " x 0" top size is not an attempt by Protestant to reduce realization, but rather is an attempt to increase it, and it would tend to increase realization, even if the $\frac{3}{8}$ " x 0" screenings are sold at a lower price than the $\frac{3}{4}$ " x 0" screenings. Such has been true in the past in the markets as they have existed.

The request made by this Protestant for the establishment of a $\frac{3}{8}$ " x 0" size is identical with that made in the petition of the Pocahontas Fuel Company and its subsidiaries, heretofore disposed of, which sufficiently disposes of the instant request.

Carter Coal Company, all mines, all seams, also protested the size designation for $\frac{3}{4}$ " screenings. Said size designation reads (Page 4, Size Group 9):

" $\frac{3}{4}$ " screenings.—Includes all sizes of screenings with a maximum top size of $\frac{3}{4}$ " or less from which no elimination of any intermediate size has been made, except in a process of cleaning or dedusting."

The Protestant requests that a special size group be established for 100 mesh x 0 slack and that a price be given this size at \$1.00 lower than the price on regular Size Group 9 coals.

Disposition of dust is not a new problem to the coal industry. It has been a constant problem ever since the more refined preparation and sizing of coal has come into prominence. While dust is difficult to handle by itself, its analytical value is quite similar to the regular screenings. Protestant can reassemble this dust with its regular screenings and sell the surplus amount through this channel until such time as it may, or may not, develop other outlets. Utilization of dust coal for combustion is not a new problem and does not necessitate special prices for experimentation. The use of dust for other than combustion purposes is largely a matter of laboratory experiments. Small quantities of the dust would be used until and unless some process might be developed for its more extensive use.

Based upon the above and foregoing facts found to exist, and other evidence relative thereto in the record, the Commission is of the opinion, and so finds, that the protest of Carter Coal Company in this regard should be denied.

And now upon the record herein, upon the evidence, both documentary and otherwise, and upon the above and foregoing facts found to exist, the Commission finds:

That the Schedule of Minimum Prices (Exhibit 402) submitted to the Commission by the District Board for District No. 7 should be corrected and revised in order that same may better conform to Order No. 247 of the Commission and to the provisions of Section 4-II (a) of the Act, and said schedule is in the following respects modified:

District No. 7—Prices for Shipment Into All Market Areas

PRICES IN CENTS PER NET TON OF 2000 POUNDS AND SIZE GROUP NUMBERS

Price classification	1	2	3	4	5	6	7	8	9	10
A.....	1 275	1 285	1 290	225	205	240	215	185	175	165
B.....	1 260	1 270	1 245	215	195	235	210	180	170	160
C.....	1 235	1 245	1 240	205	185	220	205	175	165	155
D.....	1 230	1 235	1 230	200	180	220	200	170	160	150
E.....	1 225	1 225	1 225	200	180	220	200	165	155	145
F.....	.....	.....	.....	.....	.....	.....	.....	160	150	140
G.....	.....	.....	.....	.....	.....	.....	.....	155	145	135
H.....	.....	.....	.....	.....	.....	.....	.....	150	140	130
I.....	.....	.....	.....	.....	.....	.....	.....	145	135	125
J.....	.....	.....	.....	.....	.....	.....	.....	140	130	120

1 For all mines within District No. 7, size group 1 (lump), size group 2 (egg), and size group 3 (stove) prices shall be advanced not less than 10¢ for shipments in May, not less than 20¢ for shipments in June, not less than 30¢ for shipments in July, not less than 40¢ for shipments in August, and not less than 50¢ for shipments in September through March, inclusive.
 2 May remain the same from April through August but shall be advanced not less than 10¢ per ton for shipments from September through March, inclusive.

The following Prices, in Cents per Net Ton of 2,000 Pounds, Apply to Coal From Mines Shown as Classification "A"

Mine	1	2	3	4	5	6	7	8	9	10
Cartor Coal Co., Inc.....	Sea-board.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Gauley Mt. Coal Co., The.....
Gauley Mt. Coal Co., The.....
Hill-Anderson Coal Co.....
Koppers Coal Co., The.....
Koppers Coal Co., The.....
Koppers Coal Co., The.....
Koppers Coal Co., The.....
Loup Creek Coal Co., The.....
Mill Creek Coll. Co.....
Vera Pocahontas Coal Co.....

The above amendment renders the first paragraph appearing at the bottom of page 14 unnecessary and its deletion proper.
 That pages 16 to 20, inclusive, be deleted from the Schedule of Minimum Prices proposed by the District Board for District No. 7, and that the following be inserted in place thereof:
Geographical Description of Consuming Market Areas to Which Prices Apply
 "All market areas in the United States and Canada."
 That the protest of the Low Ash Smokeless Fuel Company against the Schedule of Proposed Minimum Prices submitted to the Commission by the District Board for District No. 7 should be granted in part, and the same is granted that the Schedule of Proposed Minimum

to the extent that the coals involved, falling within Size Groups 8 and 9, Price Classification "A," are lowered to Classification "B," Size Group 8, to take a price of 180 cents per ton, and Size Group 9 to take a price of 170 cents per ton, and to the further extent that the seam appearing in the schedule as "Pocahontas #6 Seam" be revised to read "Fire Creek Seam." In all other respects, the protest should be denied.
 That the joint protest of Pocahontas Fuel Company, Inc., The Pocahontas Corporation, and Pulaski Iron Company, against the Schedule of Proposed Minimum Prices submitted to the Commission by the District Board for District No. 7 should be granted in part, and the same is granted that the Schedule of Proposed Minimum

Item 3 on page 3 of the schedule should be revised to read:
 "All size designations herein are for round hole screens, or their equivalent, except when otherwise designated. When other types of screens are used the District Board, subject to the approval of the Commission, shall determine the actual size designation of the coal so prepared."
 Item 4 on page 4 of the schedule should be revised to read:
 "Nut.—Includes all sizes of coal having a maximum top size of 1 1/4" or less, but more than 3/4", and a minimum bottom size of 1/4" or more."
 Item 5 on page 4 of the schedule should be revised to read:
 "Pea.—Includes all sizes of pea coal having a maximum top size of 3/4", and a minimum bottom size of 35 mesh, or more."
 Item 6 on page 4 of the schedule should be revised to read:
 "Domestic mine run.—Includes all mine run coal, either straight or modified,

that has a maximum coarse coal content for Classes "A," "C," and "D" coals of 60 per cent, or less, and a maximum coarse coal content for Class "B" coals of 75 per cent, or less. If the coarse coal content is greater than these percentages, the coal shall be priced in the next higher priced size group."
 Item 7 on page 4 of the schedule should be revised to read:
 "Standard mine run.—Includes all mine run coal, either straight or modified, that has a maximum coarse coal content for Class "A," "C," and "D" coals of 40 per cent, or less, and a maximum coarse coal content for Class "B" coals of 45 per cent, or less, and also including any screenings with a top size greater than 1 1/4".
 The Schedule of Proposed Minimum Prices submitted to the Commission by the District Board for District No. 7 should be amended by incorporating therein in proper order the following additional price classifications for Size Groups 8 and 9 as to the mines therein set forth:

The Schedule of Proposed Minimum Prices submitted to the Commission by the District Board for District No. 7 should be amended by incorporating therein in proper order the following additional price classifications for Size Groups 8 and 9 as to the mines therein set forth:

Code member	Mine name	Sub-dist. No.	Seam	Price classification and size group Nos.																		
				1	2	3	4	5	6	7	8	9										
Burley Coal Co.....	Burley.....	1	Sewell																			
Douglas Adrian.....	Adrian.....	1	Sewell																			
Edmor Coal Co.....	Edmor.....	4	Fire Creek																			
Fire Creek Domestic Coal Co.....	Edmor.....	4	Fire Creek																			
Furrow Coal Co., J. J.....	Furrow.....	2	Beckley																			
Harman Mining Co.....	Bandy.....	4	Beckley																			
Hollywood Coal Co.....	Hollywood.....	2	Big Seam																			
Lester, H. K.....	Lewis.....	2	Sewell																			
Ord, John M. & Clarence.....	Ord.....	1	Beckley																			
Poteet & Bowles.....	Poteet & Bowles.....	1	Sewell																			
Price, O. O. & H. C.....	Price.....	2	Beckley																			
Russell Coal Co.....	Russell.....	1	Red Ash																			
Skaggs, Henry.....	Holiday Branch.....	2	Sewell																			
Smith Bros. & Snuffer C. Co.....	Smith Bros. & Snuffer.....	2	Beckley																			
Stanley, E. E.....	Stanley.....	2	Beckley																			
Stover Coal Co.....	Stover.....	2	Fire Creek																			
Taylor, Q. C.....	Taylor #1.....	3	Poca. 3																			
Thompson, C. J.....	Thompson.....	3	Poca. 3																			

The Schedule of Proposed Minimum Prices submitted to the Commission by the District Board for District No. 7 should be amended by deleting page 15 following:

Prices is amended by adding thereto an additional Size Group designated as Size Group No. 10 and reading as follows:

" $\frac{3}{8}$ " screenings.—Include all sizes of screenings with a maximum top size of $\frac{3}{8}$ " or less from which no elimination of any intermediate size has been made except in a process of cleaning or dedusting."

Said protest should be, and the same is, granted to the further extent that a spread between similar classes of coals with Size Group 10 be ten cents (10¢) per ton below the same classification in Size Group 9.

Said protest should be, and the same is, granted to the further extent that a uniform rate of seasonal price advance be accorded "C" classification coals the same as "A," "B," and "D" classification coals.

In all other respects said protest is denied.

That the protest of Carter Coal Company against the Schedule of Proposed Minimum Prices submitted to the Commission by the District Board for District No. 7 should be granted in part, and the same is granted to the extent that the coals from the Caretta #5 mine, War Creek Seam, given an "H" classification in Size Group 8 in the Schedule of Proposed Minimum Prices, be given a price classification of "J" with a similar change in the price classification of Size Group 8 of the Yukon Pocahontas Coal Company, Yukon Mine, War Creek Seam, and to the further extent of creating Size Group 10 for $\frac{3}{8}$ " Screenings in the manner and form as heretofore set forth in the disposition of the joint protest of Pocahontas Fuel Company, Inc., The Pocahontas Corporation and Pulaski Iron Company.

In all other respects said protest is denied.

That the District Board for District No. 7, as directed in Order No. 247 of the Commission, proposed minimum prices free on board transportation facilities at the mines for kinds, qualities and sizes of coals produced within the district, classification of coal and price variations as to mines and consuming market areas.

That the District Board for District No. 7, as directed in Order No. 247 of the Commission, submitted to the Commission a schedule of such proposed minimum prices, together with the data upon which same were computed, including, but without limitation, the factors considered in determining the price relationships.

That the minimum prices proposed by the District Board for District No. 7, as herein revised, amended and modified, reflect, as nearly as possible, the relative market value of the various kinds, qualities and sizes of coal produced within the district; are just and equitable as between producers within the district; have due regard to the interests of the consuming public; and do not permit dumping.

That the minimum prices proposed by the District Board for District No. 7 for any kind, quality or size of coal for shipment into any consuming market area, as herein revised, amended and modified, are just and equitable between producers within the district.

That the minimum prices proposed by the District Board for District No. 7, as herein revised, amended and modified, yield a return per net ton for the district of \$2.1842, which is equal as nearly as may be to the weighted average of the total costs, per net ton, of the tonnage of Minimum Price Area No. 1, the Price Area in which District No. 7 is placed under the Act.

That the schedule of proposed minimum prices submitted to the Commission by the District Board for District No. 7, as amended, corrected, modified and revised, as hereinabove set forth, conforms to Order No. 247 of the Commission and to the requirements of Section 4-II (a) of the Act, and as so amended, corrected, modified and revised, said schedule should be, and the same is hereby, approved by the Commission to serve as a basis for the coordination provided for in Section 4-II (b) of the Act. A copy of said schedule, as amended, corrected, revised and modified, appears in the Appendix for District No. 7.

APPENDIX FOR DISTRICT NO. 7

SCHEDULE OF MINIMUM PRICES AS MODIFIED AND APPROVED TO SERVE AS A BASIS FOR COORDINATION

NOTE.—The prices in this schedule are not the final prices that will be established on coal for shipment by Code Members within this district into consuming markets of this district. In the ultimate establishment of the effective minimum prices, pursuant to subsection (b) of Part II, Section 4 of the Act, the minimum prices in this schedule are subject to such increase or decrease respectively, as may be necessary to carry out the provisions of subsections (a) and (b) of Part II, Section 4 of the Act.

F. W. McCULLOUGH,
Secretary.

Issued January 12, 1939.

Price Instructions and Exceptions

1. The schedule of prices shown herein applies f. o. b. transportation facilities at mines on all coal produced by Code Members in the District shown on the title page hereof.

2. All prices are subject to the Marketing Rules and Regulations issued by the National Bituminous Coal Commission.

3. All size designations herein are for round hole screens or their equivalent, except when otherwise designated. When other types of screens are used the district boards, subject to the approval of the Commission, shall determine the actual size designation of the coal so prepared.

4. In the sale of coal to destined points outside the boundary of the United States, prices stipulated herein are for payment in U. S. funds.

5. All prices herein are per net ton of 2,000 lbs. f. o. b. transportation facilities at the mines unless otherwise designated.

6. When coal is subjected to any chemical, oil or waxing process, an additional charge of not less than 10 cents per net ton shall be made except on size groups 8, 9 and 10 which will not be subject to this provision.

7. Limitations of Coarse Coal content applicable to Domestic and Standard Mine Run, Low Volatile Coals in classifications "A," "B," "C," and "D":

	A	B	C	D
For Shipment to All Market Areas:				
Domestic Mine Run, Coarse Coal Content...	60%	75%	60%	60%
Standard Mine Run, Coarse Coal Content..	40%	45%	40%	40%

Definition of "Coarse Coal Content"

Coarse coal content is defined as such sizes of coal as would pass over a $\frac{3}{4}$ " round hole screen at the time it leaves the loading boom or chute at the tippie to enter the railroad car or truck.

Size Specifications and Base Size Groups

Sizes Included

Size Group No. 1—Lump.—Includes all lump coal having a minimum bottom size of $\frac{3}{4}$ " or more.

Size Group No. 2—Egg.—Includes all sizes of coal having a maximum top size of 8" or less, but more than 3", and a minimum bottom size of $\frac{3}{4}$ " or more.

Size Group No. 3—Stove.—Includes all sizes of coal having a maximum top size of 3" or less, but more than 1 $\frac{1}{4}$ ", and a minimum bottom size of $\frac{1}{4}$ " or more.

Size Group No. 4—Nut.—Includes all sizes of coal having a maximum top size of 1 $\frac{1}{4}$ " or less, but more than $\frac{3}{4}$ ", and a minimum bottom size of $\frac{1}{4}$ " or more.

Size Group No. 5—Pea.—Includes all sizes of pea coal having a maximum top size of $\frac{3}{4}$ " and a minimum bottom size of 35 mesh or more.

Size Group No. 6—Domestic mine run.—Includes all Mine Run coal, either straight or modified, that has a maximum coarse coal content for Classes "A," "C," and "D" coals of 60 percent or less, and a maximum coarse coal content for Class "B" coals of 75 percent or less. If the coarse coal content is greater than these percentages, the coal shall be priced in the next higher priced size group.

Size Group No. 7—Standard mine run.—Includes all Mine Run coal, either straight or modified, that has a maximum coarse coal content for Class "A," "C," and "D" coals of 40 percent or less, and a maximum coarse coal content for Class

Alphabetical List of Code Members Showing Price Classification by Sizes for AU Uses—Continued

Table with columns: Code member, Mine name, Seam, Sub-dist. No., Price classifications and size group Nos. (1-10). Lists various coal companies and their products.

NOTE a.—Any size larger than the maximum top and/or bottom size shown in a group shall be included in the next higher price group.

NOTE b.—The term "dedusting" as used hereinbefore shall mean the removal of fines passing through a screen of 35 mesh or smaller.

Identification of Subdistrict Numbers

- Subdistrict No. 1.—Greenbrier.
Subdistrict No. 2.—New River.
Subdistrict No. 3.—Pocahontas.
Subdistrict No. 4.—Tug River.
Subdistrict No. 5.—Winding Gulf.
Subdistrict No. 6.—Kanawha.

Alphabetical List of Code Members Showing Price Classification by Sizes for All Uses

Table with columns: Code member, Mine name, Seam, Sub-dist. No., Price classifications and size group Nos. (1-10). Lists various coal companies and their products.

Alphabetical List of Code Members Showing Price Classifications by Sizes for All Uses—Continued

Code member	Mine name	Sub-dist. No.	Seam	Price classifications and size group Nos.										
				1	2	3	4	5	6	7	8	9	10	
Star Coal & Coke Co.	Star	2	Sewell	A	A	A	A	A	A	A	B	B	B	B
Sterling Smokeless Coal Co.	Sterling	5	Poca. 4	C	C	C	A	A	A	A	B	B	B	B
Stewart, F. N.	Ida	5												
Stone, George T.	House Coal Co.	2	Sewell							A	A	A	A	A
Stover Coal Co.	Stover	2	Fire Creek							A	A	B	B	B
Susanna Pocahontas Coal Co.	Fire Creek	4	Fire Creek							C	A	F	F	F
Taylor, Q. C.	Taylor #1	3	Poca. 3							A	A	C	C	C
Thomas Coal Co.	Thomas	3	Poca. 3	B	B	A	A	A	A	A	D	D	D	D
Thompson, C. J.	Thompson	3	Poca. 3							A	A	C	C	C
Tilley, J. J.	Tilley	3								A	A			
Turkey Gap Coal & Coke Co.	Wenonah	3	Poca. 3	C	C	C	A	A	A	A	B	B	B	B
United Pocahontas Coal Co.	Indian Ridge	3	Poca. 3	B	B	A	A	A	A	A	C	C	C	C
U. S. Coal & Coke Co.	#2	3	Poca. 4							C				
U. S. Coal & Coke Co.	#3	3	Poca. 3							C				
U. S. Coal & Coke Co.	#4	3	Poca. 3							C				
U. S. Coal & Coke Co.	#5	3	Poca. 3							C				
U. S. Coal & Coke Co.	#6	3	Poca. 4							C				
U. S. Coal & Coke Co.	#7	3	Poca. 4							C				
U. S. Coal & Coke Co.	#8	3	Poca. 4							C				
U. S. Coal & Coke Co.	#9	3	Poca. 4							C				
U. S. Coal & Coke Co.	#10	3	Poca. 3							C				
U. S. Coal & Coke Co.	#12	3	Poca. 4							C				
Upland Coal & Coke Co.	Upland	3	Poca. 3	B	B	A	A	A	A	A	D	D	D	D
Vandy Coal Co.	Little Auger	4	Poca. 2							A	A	A	A	A
Vanover & McCoy Coal Co.	#1	4	Red Ash							A	A			
Vera Pocahontas Coal Co.	Vera #1	4	Big Eagle	*	*	*	*	*	*	*	*	*	*	*
Ward-Brant Coal Co.	Poca. Low Vein	4	Sewell							C	C			
Warrior Coal Co.	Warrior	4	War Creek	C	C	D	D	D	D	C	H	H	H	H
Weyanoke Coal & Coke Co.	Arista	3	Poca. 3	C	C	C	A	A	A	A	B	B	B	B
Weyanoke Coal & Coke Co.	Hiawatha	3	Poca. 3	C	C	C	A	A	A	A	B	B	B	B
White, John D.	White	5	Poca. 3							C				
Wilson, M. T.	Cotton Hill	2	#2 Gas							C				
Winding Gulf Coll. Co.	Louisville	3	Poca. 3	B	B	A	A	A	A	A	D	D	D	D
Winding Gulf Coll. Co.	Winding Gulf #1	5	Beckley	A	A	A	A	A	A	A	A	A	A	A
Winding Gulf Coll. Co.	Winding Gulf #2	5	Beckley	A	A	A	A	A	A	A	A	A	A	A
Yukon Pocahontas Fuel Co.	Yukon	4	War Creek	C	C	D	D	D	D	C	J	J	J	J

Geographical Description of Consuming Market Areas to Which Prices Apply

All market areas in the United States and Canada.

MINIMUM PRICE AREA No. 1—DISTRICT No. 8

PROPOSED MINIMUM PRICES

In compliance with Order No. 247 of the Commission, the District Board for District No. 8 proposed minimum prices f. o. b. transportation facilities at the mines for kinds, qualities, and sizes of coal produced by Code Members in said District. It also proposed classifications and price variations as to mines within said District, consuming market areas, and such values as to uses and seasonal demand as said Board deemed proper and within the authority conferred by the Act. A schedule of same was submitted, together with the data upon which said prices were computed, which data included the factors considered in determining the price relationship between the various kinds, qualities, and sizes of coal produced by Code Members within said District.

At a hearing before this Commission begun in Washington, D. C., on Friday, October 28, 1938, and concluded on Friday, November 4, 1938, the District Board presented its case in support of its proposed minimum price and classification schedule.

Five witnesses, having had years of experience and being severally informed concerning the coal industry in general and the various kinds, qualities, and sizes of coal produced by the Code Members within District No. 8, in particular, testified as experts concerning the manner and method of preparation and the various matters and things included in said proposed minimum price and classification schedule. Their education, experience, and expert qualifications were not challenged. Neither was the probative force of such evidence in general adversely affected by cross-examination.

Twenty-three exhibits were identified and introduced in evidence through these witnesses.

In substance, they testified as follows:

Organization and Composition of District Board No. 8

District Board No. 8 is composed of 17 members, their residences being variously distributed among practically all of the subdistricts within District No. 8. They were elected at a meeting of all Code Members within the District on June 27, 1937.

A Price and Classification Committee consisting of 8 employees of the Board acted as its technical advisers. The evidence conclusively shows that the members of the District Board and the members of its Price and Classification Committee have expert knowledge regarding the kinds, qualities, and sizes of coal produced in District No. 8. They

Prices for Shipment Into All Market Areas

Price classification	Prices in cents per net ton of 2,000 pounds and size group numbers									
	1	2	3	4	5	6	7	8	9	10
A	#275	#285	#250	225	205	φ240	215	185	175	165
B	#260	#270	#245	215	195	φ235	210	180	170	160
C	#235	#245	#240	205	185	φ230	205	175	165	155
D	#230	#235	#230	200	180	φ220	200	170	160	150
E	#225	#225	#225					165	155	145
F								160	150	140
G								155	145	135
H								150	140	130
I								145	135	125
J								140	130	120

φ May remain the same from April through August, but shall be advanced not less than 15¢ per ton for shipments from September through March, inclusive.

For all mines within District 7, size group 1 (lump), size group 2 (egg) and size group 3 (stove) prices shall be advanced not less than 10¢ for shipments in May, not less than 20¢ for shipments in June, not less than 30¢ for shipments in July, not less than 40¢ for shipments in August, and not less than 50¢ for shipments in September through March, inclusive.

The Following Prices in Cents per Net Ton of 2,000 Pounds Apply to Coal From Mines Shown on Pages 5 to 18 as Classification “*”

Company	Mine	Sub-D. No.	Seam	Price classifications and size group Nos.									
				1	2	3	4	5	6	7	8	9	10
Carter Coal Co., Inc.	Seaboard	4	Low. Seaboard	#250	#245	#225	215	205	φ220	210	145	135	125
Gauley Mt. Coal Co., The	Ansted	2	No. 2 Gas	#250	#245	#225	215	205	φ225	215	200	190	180
Gauley Mt. Coal Co., The	Rich Creek	2	Coalburg	#240	#235	#215	205	195	φ215	205	155	145	135
Hill-Anderson Coal Co.	Willis Branch	2	No. 2 Gas	#250	#245	#225	215	205	φ225	215	200	190	180
Koppers Coal Co., The	Beards Fork	2	No. 2 Gas							215			
Koppers Coal Co., The	Ingram Branch	2	Eagle							215			
Koppers Coal Co., The	Long Branch	2	Eagle	#250	#245	#225	215	205	φ225	215	200	190	180
Koppers Coal Co., The	Midvale #2	2	No. 2 Gas	#220	#215	#210	200	190	φ215	205	180	170	160
Koppers Coal Co., The	Powellton #6	6	Powellton							225			
Loup Creek Coll. Co.	Loup Cr. 1 & 2	2	Eagle	#250	#245	#225	215	205	φ220	210	200	190	180
Mill Creek Coll. Co.	No. 2	2	No. 2 Gas	#240	#235	#215	205	195	φ210	200	160	150	140
Vera Pocahontas Coal Co.	Vera #1	4	Big Eagle	#250	#245	#225	215	205	φ220	210	180	170	160

φ May remain the same from April through August, but shall be advanced not less than 15¢ per ton for shipments from September through March, inclusive.

For all mines within District 7, size group 1 (lump), size group 2 (egg) and size group 3 (stove) prices shall be advanced not less than 10¢ for shipments in May, not less than 20¢ for shipments in June, not less than 30¢ for shipments in July, not less than 40¢ for shipments in August, and not less than 50¢ for shipments in September through March, inclusive.

have expert knowledge regarding the transportation facilities existing in said District and are especially qualified by virtue of education, experience, and information to propose classifications, price variations as to mines and consuming market areas, values as to uses, and seasonal demands for such coals.

Location—General Description of Production Within District No. 8

The area in which District No. 8 is located lies south of the Ohio River. Its boundaries are embraced generally within southern West Virginia, extreme western Virginia, eastern Kentucky, central eastern Tennessee, and a small area in the center of North Carolina. The area embraced within the States of West Virginia, Virginia, Kentucky, and Tennessee is more or less contiguous, forming a generally rectangular boundary. Its greatest length, northeast and southwest, extends a distance of approximately 300 miles. Its width is approximately 80 miles. This area comprises about 24,000 square miles. That part of District No. 8 located in North Carolina is remote from the main boundaries.

There are 9 distinctive, long established and well known coal fields within this District, being known to the industry and the markets as (1) Big Sandy-Elkhorn, (2) Harlan, (3) Hazard, (4) Kanawha, (5) Logan, (6) Southern Appalachian, (7) Virginia, (8) Williamson, and (9) Buchanan County, Virginia, Low Volatile. Each of these fields has been designated by the District Board as a subdistrict within the boundary of District No. 8. The coals from these subdistricts have certain definite characteristics with established base relationships between the different seams operated.

With the exception of the low volatile coal in the Buchanan County subdistrict, all such coals can be generally classified as high rank bituminous and are definitely high volatile. They have a distribution history of about one-half for domestic purposes and one-half for other purposes. In 1937, 91,300,000 tons of coal were produced in District No. 8. This volume represents 20.6 percent of the total bituminous coal production of the United States during that year.

An exhibit entitled "Seams Operated—October, 1938" was identified and introduced into evidence as Exhibit No. 484. The exhibit shows, as to each of the 9 subdistricts, the number of mining companies, the number of producing mines, the number of the different seams of coal operated, the 1937 rail shipments in tons, and the percentage of the total tonnage shipped by each subdistrict. It appears from this exhibit that there are 354 mining companies operating 512 rail mines in District No. 8 and working 120 different seams of coal. Of the total rail shipments consisting of 88,161,007 tons of coal during 1937, the Kanawha subdistrict had the highest tonnage with 21.38 percent of the total. The remaining 8 subdistricts follow in the order of their

relative tonnages: Logan, 16.66 percent; Harlan, 15 percent; Big Sandy-Elkhorn, 11.84 percent; Williamson, 11.47 percent; Southern Appalachian, 8.26 percent; Virginia, 8.06 percent; Hazard, 5.80 percent; and Buchanan County Low Volatile, 1.53 percent.

In addition to rail facilities in this District, the Kanawha and Lenora Rivers are available as a means of transportation for coal shipment.

In 1937, coals from this District were shipped into 33 states, the District of Columbia, 65 cities in Canada, and also to Cuba and South America.

Truck and Wagon Mines

There are 1258 truck and wagon mines in District No. 8. An approximate estimate of the annual coal production for these mines is from 800,000 to 1,000,000 tons. The above mines are distributed variously throughout District No. 8. There are 206 such mines in the Big Sandy-Elkhorn subdistrict; 30 in the Harlan subdistrict; 59 in the Hazard subdistrict; 127 in the Kanawha subdistrict; 6 in the Logan subdistrict; 609 in the Southern Appalachian subdistrict; 199 in the Virginia subdistrict; and 22 in the Williamson subdistrict.

Actions of District Board Pursuant to Order No. 247

In anticipation of Order No. 247, the Classification and Price Committee of the Board in February, 1938, began a comprehensive study of the coals produced within the District with a view toward compliance with such order. These studies included examination of all data in the possession of the Board pertaining to the establishment of minimum prices. New data was collected. Critical analyses were made of past experience, under administered prices, particularly with reference to (1) prices established under the Bituminous Coal Code of the National Recovery Administration, (2) the prices originally set up by Appalachian Coals, Incorporated, and (3) the prices established by this Commission in 1937 under the present Act. Among the principal data considered by the Classification and Price Committee, other than the records of past experience under administered prices, were the analyses of District No. 8 coals as submitted by Code Members to the Board.

The Board appointed the Commercial Testing and Engineering Company to prepare additional analyses covering every shipping mine within the District with but one or two exceptions. In many cases these analyses covered a large number of the sizes produced in each mine.

The District Board also availed itself of the information contained in the files of the Southern Subdivisional Code Authority No. 2 as well as its own files relating to actions taken under the 1935 Act, and the records of the Appalachian Coals, Incorporated.

On August 22, the above committee submitted for the consideration of the Board a schedule of minimum prices and classifications for the coals of all Code Members in the District, such schedule being based upon the Committee's consideration of the above described data.

On the same date, the District Board, with all members and the Price and Classification Committee in attendance, considered the schedule. All of the essential data which the committee had used in its study was available for the use of the Board. Frequent reference was made thereto. Continuous inquiry and examination of such committee by the Board and by individual members thereof was had. There was thorough discussion of the entire recommended minimum price and classification schedule and such schedule was modified and approved. At this meeting, the Board also adopted a procedure for the receipt and consideration of protests from Code Members, and immediately thereafter the Secretary of the Board forwarded by mail a copy of the proposed minimum price and classification schedule to each Code Member within the District, together with a letter explaining the procedure for the receipt and consideration of protests. The District Board received protests based upon such schedule from 155 Code Members, out of a total of 1,612.

On September 6, 1938, the Board met in special session in order to comply with Order No. 247. At this time, the Classification and Price Committee had an opportunity to review the price schedule adopted on August 22 in the light of the protests thereof received from Code Members.

Recommendations of the Committee based upon this consideration were presented to the Board. All members of the Classification and Price Committee were present with all the basic data. The Board reconsidered the schedule in the light of the protests. It allowed 57 of such protests in full, 37 were allowed in part, and the remainder were denied.

Thereupon, a revised schedule of proposed minimum prices and classifications was formally approved, adopted and forwarded forthwith to each Code Member by transmitting a copy of all changes and corrections made to the initial schedule, and also one hundred copies thereof were filed with the Commission, and the required number thereof transmitted to each District Board.

Submission of Minimum Price and Classification Schedule

A copy of the schedule of proposed minimum prices and classifications, as approved and adopted by the District Board on September 6, 1938, was identified and introduced into evidence as Exhibit No. 485.

In submitting such schedule, the Board reasonably complied with Order No. 247, requiring the submission of all underlying data upon which the proposed mini-

imum prices are computed, including the factors considered in determining the price relationships.

A letter dated September 6, 1938, was addressed and mailed to the Secretary of the Commission, in which the data upon which the Board computed the proposed minimum prices were fully described. Such letter also described the factors considered in determining the price relationships as established in such schedule. A copy of such letter was identified, marked Exhibit No. 486, and accepted in evidence. Attached to such exhibit, as Appendix D, is a copy of the resolution of the District Board adopted at its meeting on September 6, 1938, proposing the approval of the minimum price and classification schedule submitted to the Commission.

Exhibit 486 further explains the data which the Board had available to it and which it used in computing the proposed minimum prices. These data are classified as (1) Factual Material, (2) Empirical Information, and (3) Expert Opinion. The exhibit states with reference to (1) Factual Material that "this class of data consists of (a) the questionnaires executed by practically all code members and filed with the Board in response to the letter of the Chairman dated July 31, 1937, (b) the questionnaires executed by practically all code members pursuant to the direction of Order No. 234 of the Commission, (c) the analyses of coal of a large number of code members made by Commercial Testing and Engineering Company on behalf of the Board commencing November, 1937, and continuing to the present time, and (d) the so-called 'D-1' reports required by Order No. 239 dated April 13, 1938, duplicate copies of the majority of which from code members of District No. 8 have been submitted to the Board. In addition, factual evidence obtained by way of criticism of the schedule of August 22 filed in writing by code members was used by the Board in computing prices of the proposed schedule. Lastly, the Board considered to some extent the reports of its field inspectors as to preparation and screening percentages of coal produced in the district."

It states as to (2) Empirical Information, that "this class of data encompasses (a) experience under open-market conditions; (b) experience under the Bituminous Coal Code approved by the National Recovery Administration in 1933; (c) experience under the minimum prices established by Order No. 96 of the Commission; and (d) experience under the various price lists established by Appalachian Coals, Incorporated, a marketing agency through which a large part of District No. 8 coals have from time to time since 1933 been marketed. The data of this category are represented for the most part by the acquaintance of the members and officers of the District Board with actual conditions and their participation therein;

to a less extent these data are represented by price schedules and lists."

It finally states, as to (3) Expert Opinion, that "these data are the product of the familiarity of the members, officers, and employes of the Board with the data described hereinabove in paragraphs 1 and 2 and their resultant qualification to present expert judgment as to such necessary conditions affecting the validity of minimum prices as market values and future realizations. None of this class of data has been reduced to tangible form although it includes a most important part of all the data upon which the prices of the proposed schedule are computed.

"It probably also should be added that the basic data upon which the proposed prices are computed are the figure of weighted average cost for Minimum Price Area 1 for the year 1936, adjusted as is necessary to give effect to all changes in wage rates, hours of employment, and other factors substantially affecting costs, exclusive of seasonal changes, so as to reflect as accurately as possible all changes which have been established since January 1, 1936. The Commission determined this figure to be \$2.157 per net ton by its Order entered August 10, 1938, in General Docket No. 15."

Factors Considered in Determining Price Relationships

The factors considered by the District Board in determining price relationships are set forth in Exhibit No. 486 as follows: "(1) kinds of coal; (2) qualities of coal; (3) sizes of coal; (4) uses of coal; (5) seasonal demand for coal; and (6) the market areas in which coal is sold."

These factors include certain constituent factors such as (1) approximate analyses; namely, moisture, ash, volatile matter, fixed carbon, sulfur, B. T. U.'s and ash softening temperature; (2) physical characteristics such as structure and size consist; (3) performance characteristics; and (4) consumer acceptance and market experience. The schedule as proposed by District Board No. 8 conceives of only one market area, such area being all market areas throughout the United States to which coal produced in District No. 8 ordinarily moves.

Collectively, these factors are the data upon which the prices of the proposed schedule were computed. The analyses, available to the Board, were demonstrative of the kinds and qualities of coal produced in the District by the various Code Members; the "D-1" reports were used as a basis for determining the sizes of coal produced, and also as one guide to probable realizations. The Board, in order to attain the proposed prices, considered all these factors in the light of the data available to it, according to each factor the weight the Board deemed proper. The objective of the District Board was to propose a schedule of minimum prices and classifica-

tions which would (1) yield a return per net ton for the District equal as nearly as may be to the weighted average of the total costs per net ton; (2) reflect, as nearly as possible, the relative market value of the various kinds, qualities, and sizes of coal; (3) be just and equitable as between producers within the District, and (4) have due regard to the interests of the consuming public.

The District Board called upon the experience of the Appalachian Coals, Incorporated, a marketing agency which had a membership of approximately 85 producers in 1937 producing about 30,000,000 tons of coal. Such membership is representative of the all-rail producers in District No. 8, both in respect to the size of their production and the distribution of their coals.

Appalachian Coals, Incorporated, compiles large masses of statistics as to the sale of its members' coal from invoices submitted to it by its members. Certain statistical exhibits prepared by the Controller of this marketing agency were identified and introduced into evidence. Data for the year 1937 was prepared to show the experience of this organization as applied to the size groups proposed by the District Board in its price and classification schedule. A statement was identified showing the price differential of Appalachian members on all-rail coal for the year 1937, based on the weighted average realization between the various size groups proposed by the District Board in the above schedule. This statement was introduced in evidence as Exhibit No. 487, and is entitled "Differential in Prices Based on the Weighted Average Realization on All-Rail Coal for the Year 1937 Between the Various Size Groups Proposed by District Board No. 8." The exhibit selects groups Nos. 1 and 9 as a base and shows the differential of all size groups exclusive of groups 7, and 11 to 15, inclusive, as to the price over or under the base price. The numbers in the right hand column of the exhibit reflecting the price differentials are read as cents and tenths of cents with the exception of the price differential expressed for group No. 9; the figure -1091 is read -\$1.091.

Also identified and introduced into evidence as Exhibit No. 488 was a table entitled "Seasonal Variations of Tonnage by Size Groups on 'Domestic Coal.'" It takes into consideration size groups 1 to 5, inclusive, which groups include "block and chunk," "furnace," "egg," "stove," and "nut." It is based upon the experience of Appalachian Coals, Incorporated, during the year 1937 and includes the seasonal variation of each of said size groups for each month of that year.

Exhibit No. 489, being a table entitled "Differentials in Prices—by Months—to Reflect Seasonal Price Variations on 'Domestic Coal,'" was identified and introduced into evidence. It shows the price differentials by months for the calendar year 1937 and reflects seasonal price variations in size groups 1 to 5, in-

clusive, as they appear in Exhibit 485. The month of December was used as a base and the tabulation shows variations from that base in the prices for each such size group in each month other than December.

Also identified and introduced into evidence was Exhibit No. 490 entitled "Differentials in Realization Compared with Differentials Proposed by District Board No. 8 on Certain Size Groups." The exhibit treats with Appalachian quality groups Nos. 1, 2, and 3 (the equivalent of proposed quality groups A, B, and C as contained in the minimum price schedule) of size groups Nos. 1, 3, and 9. The first column of figures as shown on the face of this exhibit directly under size group No. 1, being 3.40, 3.05 and 2.70, indicates the prices proposed by the District Board in its minimum price schedule for coals in size group 1, quality groups 1, 2, and 3. The next column on this table under size group 1 shows the base price for coals in quality group 1, size group 1, to be \$3.40, -.417 and -.762. These figures represent the differentials between the average realizations from the sale of these coals in 1937 using the realization of quality group No. 1 as a base. The fourth and fifth columns of said exhibit included under size group 3 and the sixth and seventh columns included under size group 9 indicate the District Board's present proposed prices for the three quality groups and the market realization but apply to size groups 3 and 9 instead of size group 1. This exhibit was introduced in support of the prices for these quality and size groups as proposed in Exhibit 485. By using \$3.40 as a base for quality group 1, size group 1, the District Board determined that quality 2 group coals should carry a minimum price of \$3.05. The actual market realization of the A. C. I. members during 1937 for this quality and size group was 41.7 cents less than base. By subtracting the District Board's proposal (\$3.05) from the base price (\$3.40), there is an indicated spread of 35 cents between such coals and by further subtracting this variation from the actual market differential in realization, which during 1937 was 41.7 cents less than base, it is shown that the District Board's proposed price for quality group B is 6.7 cents in excess of the 1937 market realization of such tonnage sold by Appalachian Coals, Incorporated, during this year; accordingly, the proposed minimum price for this particular quality group will realize 6.7 cents per ton more than was realized by A. C. I. members for this quality group tonnage during the year 1937.

Applying this analysis of the exhibit to quality group C of size group 1, it appears that the minimum prices proposed by the District Board will realize 6.2 cents per ton more than was realized by the A. C. I. members during 1937 for this quality size group. In size group 3, since \$2.65 is used as the base price, 4.4 cents increase will be realized for this

quality size group; 4.1 cents increase for quality group C, size group 3; three tenths of a cent decrease for quality group B, size group 9; and 2 cents decrease for quality group C, size group 9.

A table entitled "All-Rail Shipments to Producer Gas, Electric Utility, Industrial, General and Malleable Iron Plants" was identified and introduced in evidence as Exhibit No. 491. It shows the all-rail shipments during 1937 by members of the Appalachian Coals, Incorporated, to the types of users named in the title. It further shows that the A. C. I. size group Nos. 4 and 5 are comparable to size group No. 2 as proposed in District Board No. 8's minimum price and classification schedule, excluding, however, "furnace" coal with 8" top size and 2¼ to 3" bottom size, this bottom size being included by A. C. I. in their size group No. 3. The exhibit also shows that such members shipped 7.175 percent of the size group tonnage shipped from District No. 8 of this particular size group number. It further shows that A. C. I. size group No. 6 is comparable to proposed District 8 size group No. 3 and that A. C. I. members shipped 26.87 percent of the industrial coal from this District during the above year; that A. C. I. size group No. 7 is comparable to proposed District 8 size group No. 4 and that A. C. I. members shipped 57.27 percent of such tonnage during the above year; that A. C. I. size group No. 8 is comparable to District Board size group No. 5 and that A. C. I. members shipped 70.98 percent of the size group tonnage; that A. C. I. size group No. 9 is comparable to District Board size group No. 6 and that A. C. I. members shipped 16.73 percent of the size group tonnage.

Exhibits 487 to 491, inclusive, covered all the coal shipped all-rail by Appalachian Coals, Incorporated, during 1937, amounting to about 30,000,000 tons.

Chemical Analyses

Chemical analyses of the various coal produced by Code Members in this District were used by the Board in considering its proposed minimum price and classification schedule. The District Board had in its possession (1) all of the analyses made at the direction of the Southern Subdivisional Code Authority No. 2 under N. R. A., (2) all of the analyses submitted by Code Members of District No. 8 under the Act of 1935, (3) the analyses submitted to the Board by Code Members under the questionnaire submitted by the Board in August, 1937, (4) the analyses submitted by Code Members in accordance with Section 8 of the Marketing Rules and Regulations established by the Commission in the fall of 1937, and (5) approximately 750 analyses of the coals of a large number of Code Members prepared by the Commercial Testing and Engineering Company. All of these various analyses were available and were used for the purpose

of determining the analytical qualities of the coals of this District. A summary of all such analyses is entitled "Summary of Coal Analyses Bituminous Coal Producers' Board for District No. 8 as of October 12, 1938." The above summary was accepted in evidence as Exhibit No. 495 and includes approximately 6,000 analyses.

Computation of Weighted Average Realization

In connection with the preparation of Exhibit No. 485, computations were made based upon this Commission's Form No. D-1. Such executed forms were received from practically all the rail and river shippers located in District No. 8. They covered the 1937 distribution, amounting to 88,161,007 tons, or approximately 96 percent of the estimated total production of 91,300,000 tons.

The weighted average realization, to be derived from the minimum price schedules as recommended to the District Board by its Price and Classification Committee, was computed by applying the prices contained in such recommended schedule to the 1937 tonnages. Upon the proposal of the minimum price and classification schedule by the District Board on September 6, the prices in such schedule were applied to the various sizes and classifications of coal which had been produced and shipped by District No. 8 operators in 1937. As a result, it appears the prices proposed in such schedule will produce, on the basis of these 1937 tonnages, a weighted average realization of \$2.170.

Exhibit No. 492 entitled "1937 Coal Production Tonnage by Price Groups, and Realization, for District No. 8 Based on Price Proposals of 9-6-38—Summary—Part I" and "Part II," illustrates this weighted average realization.

Reduction in Realization Due to Seasonal Discounts

The effect of seasonal discounts on domestic coal was computed separately and Exhibit 493 entitled "Estimated Seasonal Discounts on Domestic Coal—All-Rail Only—Size Groups Nos. 1 to 5, Inclusive" was identified and introduced in evidence. Such exhibit represents the effect of the application of seasonal discounts as proposed by District Board No. 8 upon the weighted average realization of the District.

In discussing the methods of computation employed in preparation of Exhibit No. 493, a member of the District Board's staff stated that he considered total all-rail tonnages for the year 1937 in size groups 1, 2, 3, 4, and 5, which comprised all the domestic coals of District No. 8 to which the seasonal discounts apply. He estimated the tonnage moving in each of the months of April, May, June, July, and August, at which time the seasonal discounts proposed by the District Board are effective. Upon securing the total tonnage figure for each of these months and in each size group, he applied to such

totals the amount of the proposed seasonal discount per ton and secured the total amount of the discount which would apply. The total figures showed that in 1937 the total District No. 8 production, in size groups 1 to 5, inclusive, was 23,000,317 tons. The total tonnage marketed in the period of the five discount months was shown to be 6,376,257 tons. The total amount of discount was shown to be \$1,344,825.25. The seasonal discount per ton figured against the entire tonnage of 88,161,007 tons accordingly amounted to one and one-half cents. Based on these computations, the weighted average realization figure of \$2.170 should be reduced by the deduction therefrom of one and one-half cents, causing such weighted average realization based upon the schedule of proposed prices and classifications to be \$2.155. The data regarding the percentage of domestic tonnage moving during the five discount months, used in calculating the tonnages as expressed in Exhibit 493, were supplied by A. C. I. Such percentages were derived from figures as reported by members of that organization during 1937. Exhibit No. 488 shows these percentage figures.

Additional Reduction in Realization Due to Industrial Coal Prices

Exhibit 492 fails to consider the effect of the tonnage figures relating to the shipment of Industrial coals in the group 7 classification. In order to obtain the effect of such shipments upon the weighted average realization figure, such effect was calculated separately.

This additional reduction from the weighted average realization of \$2.170 was shown by an exhibit identified and introduced into evidence as Exhibit No. 494, entitled "Estimated Additional Reduction in District No. 8 Realization Due to Industrial Group Prices."

In the preparation of this exhibit, a member of the District Board's staff took the total 1937 tonnages reported on the D-1 Forms for size groups Nos. 2, 3, 4, 5, and 6, which are the sizes of domestic coal contemplated to be included within group 7 when sold for industrial purposes. The total of these tonnages was 11,008,393 tons. This total tonnage excluded tonnage reported from the Buchanan County Low Volatile and Red Ash seam mines in Virginia and Williamson subdistricts and the tonnage of Furnace coal with 8" top size and 2¼" to 3" bottom size in size group 2, in order that the tonnages represented should be equivalent in size groups for 1937 to that of Appalachian Coals, Incorporated. He next applied to the tonnage figures in these size groups the percentage thereof which had moved in 1937 as Industrial coal. The percentages used in this operation were taken from A. C. I. figures for 1937, this agency having kept records of the movement of such coal as distinguished from the movement of the same coal for domestic purposes. Such per-

centages are shown in Exhibit 491. By applying these percentages to the total tonnages, a tonnage of 3,074,880 tons was found to have been moved as Industrial coal within these size groups. Separating these tonnages as to base size and applying thereto the average reduction in price per ton produced, the additional decrease in realization, through the application of the group 7 sizes, figured against the entire tonnage of 88,161,007 tons, results in a reduction in realization of one-half cent per ton. Accordingly, the weighted average realization as adjusted by deducting seasonal discounts, being \$2.155, should be reduced to \$2.150.

Explanation of Minimum Price and Classification Schedule, Exhibit No. 485

The proposed minimum price and classification schedule indicates that District No. 8 has proposed 15 standard size and price groups; that 9 of these groups apply strictly to size; one applies to "Double Screened Industrial coal"; one applies to "Reject coal"; and 4 apply to "Water Gas, Retort and By-Product coal." In the schedule, each group is arranged so as to represent the general description of that group as it is known to the industry and to the consuming public. Group 1 coals may be generally described as "Block," "Lump," and "Chunks"; group 2 as "Furnace"; group 3 as "Egg"; group 4 as "Stove"; group 5 as "Nut"; group 6 as "Domestic Stoker"; group 7, "Double Screened Industrial"; group 8, "Mine Run"; group 9, "Nut-Slack"; group 10, "Slack"; group 11, "Reject coal"; group 12, "Water Gas coal"; groups 13 and 14, "Retort Gas coal"; and group 15, "By-Product coal." Primarily, groups 1 to 6, inclusive, refer to domestic classes of coal; groups 7 to 11, inclusive, refer to industrial classes of coal, and groups 12 to 15, inclusive, refer to "Water Gas, Retort, and By-Product coal."

Price Adjustments and Variations

To allow each producer a fair and competitive opportunity to market his coals, the District Board made qualifications of or exceptions to 8 of the standard size and price groups. These qualifications or exceptions are fully shown on page 6 of the proposed minimum price and classification schedule entitled "Price Adjustments from Size Group Prices in Cents Per Ton—All Market Areas." The adjustments in effect provide for variations from the prices for the standard and base price groups and indicate adjustment of minimum prices of 5 to 20 cents over or under such base prices. These variations are provided in order to protect a producer from being compelled to market the largest size in each size group at the base price for the group. If 3" by 8" and 3" by 5" Furnace coals were priced the same, custom would immediately flow away from the 3" by 5" coals to the 3" by 8" size.

Bases Underlying Price Structure in Application to Size Differentials

The bases underlying the entire price structure, as they apply to size differentials, were derived from information available to the Board principally in the form of questionnaires supplied to the Board by Code Members during the year 1937 covering shipments made during 1936, such shipments totaling approximately 66,000,000 tons. The questionnaires disclose that the weighted average screening percentages of these coals was 25 percent 5" Block; 26 percent 2" by 5" Egg; and 49 percent 2" Nut Slack. This weighted average screen percentage is applicable to the District as a whole. The preponderant tonnage for 1936 was shipped in size groups 1, 3, and 9 (i. e. 1, being Block, Lump, and Chunk; 3, being Egg; and 9, being Nut Slack—no merchantable fines removed). To preserve existing fair competitive marketing operations, the District Board established price differentials as between size groups 1, 3, and 9, in order to avoid the imposition of an improper price in one size, causing market resistance to such an extent that production would be curtailed in the other size groups.

Average Realization from Base Groups 1, 3, and 9

By the application of the weighted average cost figure ascertained for District 8, mathematical computations lead the District Board to the establishment of the following hypothetical formula of differentials; group 1, \$2.70; group 3, \$2.35; and group 9, \$1.80. Applying the weighted average screening percentages to this hypothetical formula, it appears that prices proposed on such a basis will closely approximate the weighted average cost. Group No. 1, with 25 percent screening percentage at \$2.70 will produce a weighted average realization per net ton of \$0.675; group 3, with 25 percent screening percentage at \$2.35 will produce a weighted average realization per net ton of \$0.611; group 9, with 49 percent screening percentage at \$1.80 will produce a weighted average realization per net ton of \$0.882. The sum of these average realizations is \$2.168 per net ton. This represents a realization for a ton of coal (disregarding the seasonal discounts) of \$1.286 for the block and egg sizes, which are primarily domestic, and \$882 for the nut-slack size, which is primarily industrial, or a spread of 40 cents between the two classes of coal. Such spread appears to be justified by differences in analytical qualities, consumer demand, and past marketing practice.

Application of Differentials Based on Size and Quality

Using the above bases of size values, value differentials were applied to the entire size framework according to the various size groups set out on page 6 of Exhibit 485. The dimensions of coal are

an element of value particularly when used for domestic purposes partly for reasons of convenience and cleanliness in use, and also because heat properties of coal in this District usually improve with increased size.

Size Group No. 1—Block, Lump, and Chunk

Applying these considerations to the sizes included in the general "Block" group, it appears that this grouping contains 3 principal sub-groups which the Board defines as "Block," "Lump," and "Chunks." The first sub-group, "Block," consists of all coal which will not pass in its mine run condition through a screen larger than 3". The second sub-group, "Lump," consists of all coal which will not pass in its mine run condition through a screen larger than 3/4" and not exceeding 3". The third sub-group, "Chunks," consists of all Double Screen coal which will not pass in its mine run condition through a screen larger than 3".

These above three sub-groups all bear close size relation to each other and have been distinguished in the market as bearing difference by relative values. Before attempting to relate the differences in value shown by these sub-groups cognizance was taken of the existence within the sub-groups of actual size groups which ordinarily represent their difference in market value by differences in price. This further break-down of the sizes of coal produced within District No. 8 is emphasized in the proposed schedule, by the description within the "Block" sub-group, of such coals larger than 5" and such coals larger than 3" and not exceeding 5"; within the "Lump" sub-group, of such coals larger than 2" and not exceeding 3", and such coals larger than 3/4" and not exceeding 2"; and within the "Chunk" sub-group, of such coals with 6" maximum or top size and 3/4 to 4" minimum or bottom size. Relating all of these general comparable values, on the basis of the use to which such coal is usually put, these value relations expressed in terms of price, are constant and are set forth in the proposed schedule by fixed price adjustments. Accordingly, "Block" coal larger than 5" appears in the schedule as requiring a value 10 cents higher than base for group 1, while "Block" coal larger than 3" and not exceeding 5" may be treated either as base or as requiring no adjustment. In the proposed schedule, the relative values as compared to base coals are indicated for the various other sizes.

Size Group No. 2—Furnace—Size Group No. 3—Egg

The standard size groups in group No. 2 are designated "Furnace." This size group was not used as one of the three base groups (1, 3, and 9) employed by the District Board to explain the fundamental fixing of price levels and relationships, for the reason that it is not

so important as any of the above three size groups and also because its values have a definite affinity with values of size group 3.

As in the case of group 1 coals, there are also subgroups of sizes within group 2 which represent different values among themselves and which are represented in the price structure by varying prices. These relationships are fixed without appreciable variation and the Board's proposed schedule of minimum prices fixes them in terms of price adjustment from the base price for "Furnace" coal.

The value of "Furnace" coal has a direct and interrelated dependence on the value of group 3 coal designated as "Egg" coal on page 6 of the proposed schedule. In order to determine the actual level at which "Furnace" coals should be priced, the District Board first determined the minimum level at which "Egg" coals should be priced and next determined the amount of money which would properly demonstrate the difference in value between the two coals. Assuming Egg coals to be sold generally at \$2.35 per ton as indicated by the hypothetical formula, it appears that "Furnace" coals should be sold, except in unusual cases where related values may be distorted by reason of extraordinary differences in structure existing between coals of the two groups or by its market history, at a fixed differential above \$2.35. The amount of this differential in value is 10 cents.

Size Group No. 4—Stove

Group 4 "Stove" coal is related in value and, therefore, in price to the "Egg" coal of group 3. It is sometimes described in the industry as "Junior Egg" coal. The proposed minimum price and classification schedule on page 61 indicates that coals in this size group are priced with respect to each of their 14 different quality groups at 20 cents under the same quality groups for size group No. 3, whereas page 6 of such schedule for the top size of this group indicates that there is no adjustment from base. A smaller size, being the 3" top and 1 1/2" to 7/8" bottom, is adjusted at 10 cents under base.

Size Group No. 5—Nut

Group 5 "Nut" coal is related to group 4 and in most cases, with the exception of the first grade premium coals, is represented by a 10 cent differential in value under group 4. The first grade premium coals of this size are represented by a differential of 20 cents under group 4.

Size Group No. 6—Domestic Stoker

Group 6 "Domestic Stoker" coals are related to group 5 and in most cases priced the same as group 5. In the minority of cases, in which there is a price differential between this group and group 5, such instances consist of the premium coals of this group for which the differential is from 5 cents to 15 cents above group 6 and a few standard coals within the group where the differ-

ential is 5 cents below group 5. For purposes of clarification and for convenience in comparison under coordination the size groups, sub-groups, and sizes represented within the size groups as set forth on page 6 of the proposed schedule have been revised and modified as hereinafter set forth in these findings.

The price differentials above indicated appear to represent every marked fluctuation in value of coal, on account of size, that is economically sold.

Approximate Average Screening Percentages

The approximate average screening percentages for the various sizes produced in this District, over and through the size screen indicated, are as follows:

	Percent
Over 8"-----	11
Through 8" and over 6"-----	8
Through 6" and over 5"-----	6
	<hr/>
	25
	<hr/>
Through 5" and over 4"-----	6
Through 4" and over 3"-----	9
Through 3" and over 2"-----	11
	<hr/>
	26
	<hr/>
Through 2" and over 1 1/4"-----	11
Through 1 1/4"-----	38
	<hr/>
	49

These average percentages are derived from questionnaires furnished by Code Members of District 8 in respect to coal in excess of 2" and were calculated upon the basis of research made on behalf of A. C. I.

Basic Average Price Differentials

Using the base prices indicated, and establishing proposed prices for the various sizes produced under the base price and size, including exceptions and qualifications, the proposed schedule indicates that the basic average price differential on each size of coal will be approximately as follows:

6" and over Block-----	\$2.80
5" Block-----	2.70
6" x 4" Chunks-----	2.60
3" x 5" Furnace-----	2.45
2" x 5" Egg-----	2.35
2" x 3" Stove-----	2.20
1 1/4" x 2" Nut-----	2.10
2" Nut-Slack-----	1.80

Average Realization on Screening Combinations

On the basis of these proposed prices, the average realization at any one mine, when screening any combination of 2, 3, 4, or 5 different sizes, will come within a range of \$2.157 to \$2.225 with a general increase in realization when more than three sizes of coal are screened. A table was prepared to demonstrate this fact showing various screening combinations of sizes. The table shows the percentage of the various sizes screened, the price under base for each size, and the realization for each size. It also shows the total realization which will be derived from any ton of coal screened. This statement entitled "Weighted Average

Realization Per Net Ton at Base Prices from Screening Combination of 2, 3, 4, and 5 Sizes," was marked Exhibit No. 496 and was received in evidence.

Domestic Coals

Size Groups 1-6, Inclusive

District 8 produces three base qualities of Domestic coal with many superior and inferior grades related to those bases. The three base qualities are (1) high grade premium coals, (2) standard premium coals, and (3) standard splint and gas coals. In all cases, except where there is the intervention of an abnormal factor of value, this relationship is shown by a differential in first grade premium coal of 20 cents, standard grade premium of 15 to 20 cents, and standard splint and gas of 10 to 15 cents.

First grade premium coals are those which in size group 1 are classified from A to D and priced at \$3.40 to \$3.10 per ton.

Standard grade premium coals are those which in size group 1 are classified from E to J and priced at \$3.05 to \$2.85 per ton.

Standard splint and gas coals are those which in size group 1 are classified from K to O and priced from \$2.80 to \$2.60 per ton.

The variation in price from grade to grade represents a variation in value resulting from consumer acceptance and dealer preference.

One of the expert witnesses for the District Board identified and introduced into evidence as Exhibit 497 a paper entitled "Table of Differentials Between Prices of Base Coals Proposed for District No. 8 in Size Groups 1, 3, and 9." This exhibit was then compared by the witness to Exhibit No. 490 introduced by the Controller of Appalachian Coals, Incorporated, which was entitled "Differentials In Realization Compared with Differentials Proposed by District Board 8 on Certain Size Groups." It appears through comparison of the prices contained in the two exhibits that they closely approximate each other and that the prices proposed by the District Board insofar as these size and base quality groups are concerned conform very closely to the experience of Appalachian Coals.

Inter and Intra Seam Classifications

There are certain base coals in each subdistrict upon which inter and intra seam classifications were established. In the Big Sandy-Elkhorn subdistrict, the Millers Creek and Elkhorn seams are established as the base; in the Harlan subdistrict, No. 5 and Harlan seams are the base; in the Hazard subdistrict, No. 4 and No. 7 seams; in the Kanawha subdistrict, the Dorothy and Eagle seams; in the Logan subdistrict, Island Creek and Chilton seams; in the Southern Appalachian subdistrict, PeeWee and Jellico seams; in the Virginia subdistrict, the Upper Banner and No. 5 seams; and

in the Williamson subdistrict, the Winifrede and Pond Creek seams.

Prices of Block and Egg coals of other seams have a certain relationship to these base coals in their respective subdistricts and are proposed on a level with competitive coals produced in other subdistricts. The matching of these coals of many different seams requires analysis of tangible factors, and the application of consumer demand as shown by market history and experience. In determining this market history and experience, the past five years' experience of establishing prices by Appalachian Coals, Incorporated, Code Authorities, District Boards functioning under the N. R. A., and the first Coal Control Act, were used to some extent.

Prices between mines operating in the same seam as set forth in the District Board's schedule vary within certain limits due to difference in analytical quality, structure, and other factors set forth in the Act. Such limits appear to be held as close to the base coal as is practicable under the above standards and appear to reasonably afford the producers their existing fair market opportunity.

Double Screened—Industrial

Size Group No. 7

A witness for the District Board stated with reference to the preparation of the schedule regarding this size group that industrial plants require a fixed price obtaining throughout the year in order to establish and maintain a definite and economic sales policy. Such fixed price enables industrial consumers to budget their costs and determine their cost per unit of production and in other respects leads directly to sound marketing practice. Industrial coal usually moves in equal monthly amounts, the principal exception to this rule occurring in the case of seasonal industries. For this reason, past practice has been to sell Industrial coal either currently or on contract and at an established price throughout the year.

In recognition of these considerations, the price schedule of District 8 sets up Double Screened Industrial coal as a separate principal price group. "Double Screening" is a term of common usage in the industry denoting the process of passing coal through a screen of one size and over a screen of a different size to obtain a minimum and maximum size coal.

The factors governing the establishment of differentials in coal for this use are different in many respects from those applying to the establishment of differentials upon Domestic coals. In industry, coal is used for processing or for the creation of energy, rather than for the production of heat. Accordingly, in representing relative values with reference to Industrial coal, more weight was given by the District Board to factors outside of market experience and consumer acceptance than was given to

such factors in representing the relative values of Domestic coals. The consideration of these different factors appears to account for the variation in differentials for industrial use, disclosed in the proposed price schedule, as compared with coals for other uses.

Assuming equal monthly shipments and applying the seasonal discounts proposed on page 2 of the minimum price and classification schedule, the seasonal price on "Egg" coal appears to average 6¼ cents; on "Stove and Nut" coal 3¾ cents less than the winter price or an average of 5 cents per ton less. Adopting this as a base, out of a total of 1,332 prices actually proposed in the schedule for various kinds, sizes, and qualities of coal for industrial use, 350 are at the domestic price, 158 are above the domestic price, and 824 are below the domestic price. Of the 158 prices above the domestic price, 130 are 5 cents above; of the 824 prices below the domestic price, 317 are 5 cents below and 195 are 10 cents below. The remaining 312 prices below the domestic price apply to coals that are well adapted and established for domestic use that would not move normally to industrial use. As a rule, the only time such coals of better domestic quality move to industrial use is when a surplus of the particular size is currently curtailing production because of unbilled cars blocking the mines' transportation facilities.

Mine Run Coal

Size Group No. 8

The preponderant tonnage in this size group is classified in the schedule as "D," which represents a minimum price of \$2.15 per ton. Such price closely approximates the weighted average cost of Minimum Price Area No. 1. District No. 8 ships very little mine run coal for Industrial use compared with the total shipped. Exhibit No. 492 shows that for the year 1937, only 2,224,072 tons of Mine Run coal out of a total production of 88,161,007 tons of coal were shipped for this purpose.

Mine Run and "Resultant" coal is usually sold by producers in District 8 for Railway Locomotive fuel or for By-Product use. Only 14 rail mines in the entire District load Mine Run exclusively. From Exhibit 492, it appears that the average Mine Run realization of the District in 1937 was \$2.172.

The word "Resultant" as used on page 6 of the proposed minimum price schedule is defined as "Mine Run coal from which larger sizes have been removed."

"Screened Mine Run," as that expression appears on page 6 of the schedule, is defined as "Mine Run from which the fines not in excess of ¾" have been removed."

Nut—Slack Coal

Size Group No. 9

Nut-Slack coals are embraced within Group No. 9 and are generally known as "General Purpose" coals. The prepon-

derant tonnage for this group is classified as "E" for which a price of \$1.80 per ton is proposed. This price applies to various seams and to certain mines in each of the principal subdistricts, except Hazard and Southern Appalachian. These coals are known as general purpose coals, with some exceptions, for the reason that from their analytical quality, burning characteristics, past marketing experience, and consumer acceptance it has been learned that they can ordinarily be used efficiently in almost any type of furnace. The price level of this size was determined by giving consideration to past market practice and experience.

Records of Appalachian Coals, Incorporated, as shown in Exhibit No. 487 show that the average realization obtained in this group during 1937 was \$1.091 below the average realization from group 1 coals. It appears that the prices contained in the proposed minimum price and classification schedule will realize an average of \$1.082 for this size group.

Modified Nut and Slack

Modified Nut and Slack as defined on page 1 of the proposed minimum price schedule is coal from which "(a) fines have been removed through screens with openings not larger than 10 Mesh; (b) coal from which a portion of fines has been removed, leaving not less than 10 percent of the 3/8" x 0" slack in the coal shipped."

Screening tests made for Appalachian Coals, Incorporated, have developed the fact that the size consist of 2" x 0 Nut-Slack in District 8 per 50 tons will average 32.5 tons of 2" x 3/8" or a portion equal to 65 percent, whereas the remaining 17.5 tons will consist of 3/8" x 0 or 35 percent.

The elimination of a portion of the 3/8" x 0 Slack from the 2" x 0 Nut-Slack increases the coarse coal content of the remaining portion and creates a product that will give more efficient results due to the fact that the fuel bed is more porous, enabling the utilization of a larger portion of the energy developed in the conversion process.

By such elimination, as indicated at the bottom of page 1 of the schedule, the size consist will vary as follows:

Nut-Slack Containing 5 tons in 50		
Percent	Size	Tons
90.0	2" x 3/8"	45.0
10.0	3/8" x 0	5.0
100.0	Total	50.0

Nut-Slack Containing 7.5 tons in 50		
Percent	Size	Tons
85	2" x 3/8"	42.5
15.0	3/8" x 0	7.5
100.0	Total	50.0

Nut-Slack Containing 10 tons in 50		
Percent	Size	Tons
80	2" x 3/8"	40.0
20.0	3/8" x 0	10.0
100.0	Total	50.0

Group nine 2" Nut-Slack priced at \$1.80 will realize when modified by the

elimination of part of the 3/8" by 0 Slack as follows:

When modified by the elimination of all but 5 tons of 3/8" x 0 Slack, 75 percent of the original consist will be sold at \$1.95; 25 percent will be sold at \$1.50, averaging \$1.84 for the total 2" x 0 coal; when modified by the elimination of all but 7 1/2 tons of 3/8" x 0 Slack, 80 percent of the original consist will be sold at \$1.90 and 20 percent at \$1.50, averaging \$1.82 for the total 2" x 0 coal; when eliminating all but 10 tons of 3/8" x 0 Slack, 85 percent of the original consist will be sold for \$1.85 and 15 percent for \$1.50, averaging \$1.80.

Degraded Nut-Slack

Degraded Nut and Slack is defined on page 2 of the proposed minimum price schedule as "coal from which all of the 1" to 1 1/4" top and 1/8" to 3/8" bottom coal has been removed."

The elimination of the 1 1/4" x 3/8" from 2" x 0" Nut Slack and the re-assembling of the 2" x 1 1/4" and 3/8" x 0 coal will create an unbalanced size consist that will have the same effect as segregation of fines. This unbalanced size consist will ordinarily cause any consumer attempting to use it considerable trouble and it would be difficult to get normal efficiency out of its use.

Degraded Nut and Slack is commonly made by producers who do not have sufficient trackage under the tippie to load four or five different grades of coal simultaneously, and therefore to get a better realization by selling the Double Screened Domestic coal, such producers screen it out of 2" x 0 Nut-Slack and re-assemble the larger and smaller sizes which they sell as Industrial Stoker coal.

Screen tests made by Appalachian Coals, Incorporated, indicate that 42% of the total content of 2" x 0 Nut-Slack produced in District No. 8 is 3/8" x 1 1/4"; thus Degraded Nut-Slack will contain 39.7 percent of 2" x 1 1/4" coal and 60.3 percent of 3/8" x 0 coal instead of 23 percent 2" x 1 1/4", 42 percent of 1 1/4" x 3/8", and 35 percent of 3/8" x 0. This represents an increase of 25.3 percent of 3/8" x 0 coal of the total consist.

In recognition of that fact, the proposed minimum price schedule prices this Degraded coal at 10 cents below the price of 2" x 0 Nut-Slack. The producer selling the Degraded Nut-Slack under the proposed minimum price scheduled will realize 30 cents more per ton for 42 percent and 10 cents less per ton for 58 percent of the total 2" x 0 Nut-Slack. Accordingly, the realization on this grade of coal will be \$1.868 per ton.

Modified and Degraded Nut-Slack coal has been prepared by Code Members of District No. 8 for a long period of time. Markets for such coals have been found and competition has existed. A distinct value has been established in the market. With reference to this particular type of coal in group No. 9, the mini-

um price schedule recognizes the above mentioned differentials apparently to preserve competitive opportunities heretofore existing. Failure to recognize such differentials would disturb competition.

Slack

Size Group No. 10

The screening of coal for domestic stokers creates a large tonnage of 3/8" x 0 to 1/8" x 0 Slack which of necessity has to find a market. Practically the only market for this Slack is in connection with the pulverizer units which crush coal before utilization. Before Domestic coal was extensively screened, pulverizer units had used Nut-Slack.

The base differential as established by the proposed minimum price schedule between coals of group 9 and group 10 in the case of 3/8" x 0 coal is 15 cents and in the case of 1/4" x 0 coal is 20 cents. Variations from these base differentials are due to analytical qualities, past market practice and consumer acceptance. Prices proposed for group 10 coals apply to 115 mines and range from 15 cents to 55 cents below the 2" x 0 Nut-Slack price. These differentials are computed on the basis of oil treatment of the group 10 coals. Item No. 6 on page 1 of the proposed minimum price and classification schedule fails to provide any extra charge for treating this coal as the District Board contends that the experience in District 8 indicates that producers will be compelled to resort to such treatment in order to procure any satisfactory market. The average realization obtained by members of Appalachian Coals in the sale of coals in this category during the year 1937 was 41.8 cents below that of group 9 coals.

It appears that at the prices proposed in such schedule, on the basis of the District's 1937 tonnage, the average realization from coals in this group will be 32.5 cents below that of group 9.

Reject Coal

Size Group No. 11

This type is a low grade coal that is rejected either by separation at the tippie or by separation in the mine. It is designated as group No. 11 and is included in the proposed minimum price schedule on page 6. The District Board deemed it necessary to establish a minimum price for this "off-grade" coal that would reflect its value in relation to other coals, thus enabling it to move in sufficient volume to permit the operation of the mine. Reject coal is necessarily mined with standard coal. The average realization derived by members of the Appalachian Coals, Incorporated, from this quality group for the year 1937 was 10.9 cents below that of group 9. On the basis of the prices set up in the proposed schedule, the average realization from this group will be 14.1 cents below group 9.

Water Gas, Retort Gas, and By-Product Coal

Size Groups Nos. 12, 13, 14, and 15

A description of the above size groups is contained at the bottom of page 6 of the proposed minimum price schedule.

The processes for gasifying or carbonizing coals may be divided essentially into three classes (a) where the only purpose is to make gas (water gas machines are used); (b) where the primary purpose is to make gas but with coke as an important by-product (retorts are used); (c) where the primary purpose is to make by-product coke having specific properties, with gas, tar, ammonia and light oil as by-products, (the by-product coke oven is used).

Group 12 includes the sizes usually purchased for water gas; groups 13 and 14 include the sizes usually purchased for retorts; and group 15 includes the sizes usually purchased for by-product ovens.

Factors used in establishing differentials for these uses vary from those used for Domestic and Industrial coal as used generally. Ash, sulfur, structure, ability to stand thermal stress, quality and quantity of gas and coke residue, market history and experience, all have a bearing on value for this usage. Consideration of these factors accounts for the variation in differentials for these uses as compared with other uses.

Price relationships as between coals for these uses and for other uses have been different since 1933 and the provision identified by an asterisk on page 6 of the proposed schedule of minimum prices is made necessary in order to permit producers to supply coal that will meet by-product specifications where it is necessary to ship special sizes to meet such specifications instead of Mine Run, Resultant, Nut-Slack, or Screenings. In such cases in the proposed schedule, such coal takes the Grade "A" classification.

Assuming equal monthly shipments, Domestic coal at the proposed prices will average 5 cents less per ton than the winter price. On this basis, out of the total of 1,144 prices for various kinds, sizes, and qualities of coal for Water Gas, Retort and By-Product use, 167 are at the Domestic groups 2, 3, and 4 base price and of the Industrial group 8 and group 9 base price; 478 are below and 499 are above. Of the 478 below, 141 are 5 cents below and 198 are 10 cents below; of the 499 above, 192 are 5 cents above and 101 are 10 cents above.

Exhibit 492 shows a large tonnage of coal in these groups opposite the \$2.15 price. Whenever examination of a D-1 report indicated that coals of size groups 12, 13, and 14 were being shipped for By-Product use, the price was established at \$2.15 in order to satisfy the provision appearing on page 6 of the proposed price schedule to the effect that any grade or size of coal included in size groups 12, 13, and 14 when sold for By-Product use,

may be sold in the class A price for group 15 coals.

Railway Locomotive Fuel

Item 13 on page 3 of the proposed schedule is concerned entirely with prices for railway locomotive fuel. Railroads, collectively, use more fuel than any other class of industry in the United States, consuming approximately 20 percent of the entire bituminous production. Such percentage remains constant without regard to fluctuations in the total amount of production. Other than variations in volume of traffic due to changes in the rate of industrial activity, railroads take coal throughout the year with only a relatively slight seasonal variation in tonnage. This regularity of demand does not occur to any comparable extent in connection with coal shipped for general application.

Custom has divided railroad fuel into two general classes—"on line" and "off line." "On line" fuel is that produced on the line of a coal carrying railroad and sold to that railroad. "Off line" fuel is that produced on a coal carrying railroad and sold to another railroad. The proposed schedule contemplates that sales and offers for sale of coal for railroad purposes should not be made at the minimum prices established for general application as the District Board considered it impracticable to use the same factors in classifying coal for railway locomotive fuel as are used for classifying coal for stationary steam generating plants. Forced drafts and other methods of inducing combustion for steam raising purposes in the operation of locomotives are different from those employed in stationary steam generating plants on account of the variable load factor encountered by locomotives and the limited space available for the fire box and attendant apparatus. Consequently, the spread in actual value as between high grade and low grade coals is not as great, when used for locomotive fuel purposes, as when used for general industrial purposes.

If prices established for general application were charged for the same coals when used for locomotive fuel, the natural policy for railroads to adopt in the purchase of railway fuel and the most probable result would be for them to buy cheaper coals, depriving those operators producing high grade steam coals of a substantial market. Such policy would also result in transferring a substantial tonnage not only from one group of mines to another, but also from one District to another, seriously affecting the production of one District in favor of another District and resulting in undue prejudice and preference as between such Districts.

A wider range of quality is permissible in use of coals for railway locomotive fuel without affecting efficiency than perhaps in any other classification where a considerable amount of coal is required. Because of this permissible wide range in quality, it has been the prac-

tice of coal carrying railroads buying "on line" locomotive fuel to distribute their purchases so as to give as large a number of producers as is economically possible a "back log" on assured outlet of production in their business. Railroads usually have standard specifications regarding railway locomotive fuel and the coal of any Code Member that meets the specification is acceptable to the purchasing railroad.

The District Board's proposed minimum price and classification schedule on page 4 makes provision for a price differential between railway locomotive fuel when sold to "on line" and "off line" railroads. This provision has been revised as hereinafter set forth. The Commission is of the opinion that such provision should be considered under Section 4 II (b).

The proposed average realization for all group 9 base Nut-Slack will be \$1.742. The proposed railway locomotive fuel price for 2' Nut-Slack is \$1.90 per ton for "A," "B," and "D" mines.

The proposed average realization for all group nine 2 $\frac{3}{4}$ " x 0 and under Nut-Slack is \$1.746, whereas the proposed railway locomotive fuel price for 2 $\frac{1}{2}$ " and under Nut-Slack is \$1.75 for "C" mines.

Mixed Coal

Item 7 on page 1 of Exhibit No. 485 makes provision for the pricing of mixed coal produced by a single mine from two seams of coal when the coal produced from each seam has been classified otherwise in the schedule. The provision is as follows: "7. *Mixed Coal From Two Seams*: A mine operating in two seams priced differently shall apply on mixed coal a price based on the percentage of each seam loaded, adjusted to the nearest 5 cents, and invoice shall properly identify the coal." The necessity for such provision arises out of the operation in the District of at least one and possibly a few other mines which mix their coal.

Cannel Coals

The proposed minimum prices for cannel coals as set forth in item 10 on page 2 of Exhibit No. 485 appear to be justified by virtue of the fact that cannel coal is a distinctive, dry, free-burning coal usually sold in small quantities. Its principal use is in open grates for domestic auxiliary heating purposes. It competes directly with no other bituminous coal. Accordingly, the qualities reflecting its values are independent of and separate from those applying to the remainder of the coals of the District. This coal sells uniformly in an unrestricted market at a price considerably above domestic coals.

The prices of Cannel coal as set forth in such schedule appear to reflect relative values as between and among Cannel coals, and such relative values as may exist between Cannel coals and other coals of the District.

Protests

The Commission having heard the testimony offered by each of the Protestants, and each protest filed with the Commission having been severally read and examined in connection with the briefs filed in support thereof, and the evidence adduced by the District Board having been examined and considered in connection with the brief of the said Board in reply to the contentions of each of said Protestants;

Now, therefore, in consideration of all of the evidence, both oral and documentary, and the argument of counsel offered on behalf of the District Board and by the Protestants, the Commission makes the following findings relating thereto, and denies said protest or allows the same in full or in part accordingly:

Protests denied

The following protests are hereby denied, the evidence submitted in support thereof being insufficient to overcome the proofs submitted by the District Board to the effect that the prices as proposed by such Board for such coals are in conformity with the requirements of the Act and of Order No. 247 of this Commission, as well as for the reasons hereinafter stated:

1. The Red Parrot Coal Company requests a 5 cent per ton lower classification in each of size groups 1 to 9, both inclusive, produced at its No. 4 and No. 5 Mines located in Kanawha Subdistrict, No. 5 Block Seam. No evidence whatsoever is offered relating to size groups 1 to 8, both inclusive. One analysis of the coals within size group 9 was offered by the Protestant as against two analyses on the same size group submitted by the District Board. These analyses indicate that the coals of the Protestant are classified by the District Board in the same class as other comparable coals produced in the District.

2. Majestic Collieries Company, operating the Majestic Mine, Williamson Subdistrict, Pond Creek and Eagle Seams, requests elimination of size group 15 from the proposed schedule alleging that such a size group results in protestant's Pond Creek Slack for by-product use, being priced at 5 cents per ton less than Eagle Seam Slack coals mentioned by Protestant. The effect of the elimination of this by-product use classification would be to cause Slack coals for by-product use to be priced as shown in proposed size group 10, in which size group, Pond Creek Seam Slacks are proposed at a price of 25 cents per ton less than Eagle Seam Slack coals. In evaluating coals for by-product use certain factors are considered which are not necessary elements in the evaluating of coals for general combustion uses, and under the plan proposed by District Board No. 8 the proposal of size group 15 is proper.

3. Elk Creek Coal Company operating Elk Creek No. 1 Mine, Logan Subdis-

trict, "C" Seam, requests a lower classification in size groups 2, 3, 4, 5, 6, 7, 8, and 15, and requests a classification of "C" in each of size groups 12, 13, and 14. This is a new mine but it appears that the coals produced are comparable to the coals produced by other mines in the same seam and locality, as disclosed by analyses and information gathered by the District Board.

4. Buffalo Chilton Coal Company, operating Buffalo No. 1 Mine, Logan Subdistrict, Chilton Seam, requests a lower classification in size groups 1, 2, 3, 4, 5, 6, 7, 8, 9, 12, 13, 14, and 15. The District Board classified these coals with other coals from the same seam and locality which are of similar analytical and physical qualities.

5. Guyan Eagle Coal Company, operating Guyan No. 1 Mine, Logan Subdistrict, Island Creek Seam, requests a lower classification in size groups 2, 3, 4, 5, 6, 7, 8, 9, and 11. No analytical data is submitted by Protestant to support such a change. From the analyses submitted by the District Board and from marketing history, it appears that these coals have an equal marketing opportunity to other coals within the classification as proposed by the District Board.

6. West Virginia Coal and Coke Corporation, operating six mines in the Logan Subdistrict, 5 mines in the Island Creek Seam and one mine in the Eagle Seam, requests that it be given a price of \$1.85 on 3" Resultant for railroad locomotive fuel sold to off line railways, and requests that size group 9 Nut-Slack prices be raised on Island Creek Coal Company's No. 21 Mine, Logan Subdistrict, Island Creek Seam, and on the Red Jack Coal Corporation, No. 5 Mine, Williamson Subdistrict, Tracker Seam. With respect to the request on railroad locomotive fuel there is not sufficient market history to determine if 3" Resultant has a value different than 4" Resultant when used for railroad locomotive fuel. With respect to raising the size group 9 Nut-Slack prices on Island Creek Coal Company's No. 21 Mine and Red Jacket Coal Corporation's No. 5 Mine, the claim is based on the assertion that Nut-Slack coals from these two competitive mines have been in competition with petitioner's Island Creek Seam operations, and that their market acceptance warrants the same price in group 9 as petitioner's standard Island Creek Nut-Slack, namely, Class "G-1.70," but a comparison of the analyses and the fact that petitioners state they have been, until very recently, in a position of knowing nothing about those coals and the fact that the Red Jacket No. 5 Mine has only one account on Nut-Slack and has been closed down since June, 1938, are clearly indicative that the information of the Protestants is erroneous.

7. Allburn Collieries Company, operating the Allburn Mine, Williamson Subdistrict, Alma Seam, requests a lower

classification in size groups 7, 8, and 9. No evidence is offered in support of said protest with the exception of Exhibit No. 532, being a list of competitive mines and alleged typical analyses on size groups 8 and 9. The exhibit compares the coals of the Allburn Collieries Company with these competitive mines and indicates that the petitioner's coals in size groups 8 and 9 are properly classified with competitive coals from the same seam and in the same subdistrict. The analyses of 133 cars of 2" Nut-Slack, contained in the exhibit, were taken at destination and do not properly show the quality of coal on a comparable basis with other mines where the samples were taken at the tippie.

Petitioner also requests that the differential of 35 cents per ton proposed between size groups 7 and 9 be narrowed. Weighing this contention against the evidence offered by the District Board as to the differential between the various size groups, it is apparent that for the purposes of coordination this spread of 35 cents per ton is proper.

Petitioner also requests that the number of size groups as proposed by the District Board be reduced. The Commission herein has revised the proposed size groups for reasons herein stated. Consequently further consideration of this request is unnecessary.

8. The Kemmerer Gem Coal Company, operating the Kem Gem Mine, Virginia Subdistrict, No. 5 Seam, and the Virginia Iron, Coke and Coal Company, operating the Monarch Mine, Virginia Subdistrict, No. 5 Seam jointly request lower prices in size groups 12, 13, and 14. With a single exception these two mines now have the lowest classification of any mines in District 8 in size groups 12, 13, and 14. The evidence indicates that petitioner's mines have no normal markets for Retort and Water Gas use and that a lowering of these prices would tend to shift this business to petitioners to the detriment of Code Members who now have and have had for some time these outlets in their normal consuming markets.

9. Marlowe Coal Company, operating Defiance Mine, Hazard Subdistrict, Hazard No. 4 and No. 7 Seams, requests a lower classification in size groups 1, 3, and 7. The output of this mine is loaded from the No. 4 and No. 7 Seams mixed. The coals from the Hazard No. 7 Seam are somewhat similar in characteristics, and the same sizes of coals from the Hazard No. 4 Seam are somewhat superior analytically but do not have as firm a structure as the Hazard No. 7 Seam Lump and Egg sizes. The coals from these seams are not always mixed but sometimes are sold separately. The evidence indicates that petitioner's Lump and Egg coal is priced at the same rate as competitive coals within the same producing region, and there is no persuasive evidence to the effect that the structure of petitioner's Lump and Egg is inferior to the structure of the

other coals produced from the same seams and given the price classification as petitioner's Lump and Egg.

10. Octavia Coal Mining Corporation, operating Octavia Mine, Williamson Subdistrict, Pond Creek Seam, requests a lower classification in size group 15. The coals shipped for by-product use are normally either Nut-Slack or Mine Run or 3" Resultant, and Protestant admits that any change in the price of petitioner's group 15 By-Product coal will also necessitate a change in other Pond Creek Seam Mines for this group. A comparison of the analyses of these coals and their market acceptance as compared with the other coals given a similar classification indicates that the coals have been properly classified.

Petitioner also requests that it be given a classification "H" in size group 7 and that its classification in size group 8 be lowered from "G" to "J" for its top strata coal. Petitioner separates this upper strata coal from the regular lower strata coal although producers in the same seam load both top and bottom as being the same seam of coal. It appears from the evidence that according to the quality of petitioner's top strata coal and according to the normal markets to which this coal flows that the price proposed by the District Board for this top strata coal is proper. There is not sufficient evidence in the record to warrant the Commission in approving a price for a size group 7 coal for this mine. There is no evidence to indicate that petitioner makes a double screened coal from this top strata.

11. Cedar Grove Collieries, Inc., operating Cedar Grove Mine, Kanawha Subdistrict, Cedar Grove Seam, classified by the District Board as F-175 in size group 9, requests that it be given the same classification as certain other named mines classified as "G" and "H" in the same size group. There is no evidence whatsoever to indicate that one of these mines, namely, the Kanawha and New River Barge and Rail Coal Mines, Inc., ever shipped any size coal other than Mine Run nor have any analyses been submitted for this mine in size group 9. Petitioner states that an unnamed buyer purchases coal from each of four named mines, but there is no evidence to indicate the prices paid for such coals. A comparison of the analyses and other factors indicates that the prices proposed by the District Board for each of these mines are proper.

12. High Splint Coal Company, operating Hi-Lo Mine, Harlan Subdistrict, High Splint Seam, requests a lower classification in size group 6. This request is based on the claim that although the larger coals of this mine are of the highest quality Domestic coal, the smaller sizes descend in quality. The price proposed for this stoker size for petitioner's mine is 10 cents below the top price for Group 6 coals and is the same price proposed for stoker coals from such characteristic seams as the standard grades

of Elkhorn, High Splint, Jellico, No. 5, (Harlan-Virginia), PeeWee and Taggart. From the analyses it appears that petitioner's size group 6 coal is comparable to the other size group 6 coals in the same classification. Petitioner has presented no evidence to indicate that his coals possess any characteristics that would differentiate it between the other class "E" coals in this size group.

13. Southern Mining Company, operating Amru Mine, Mason Seam, Southern Appalachian Subdistrict, requests a lower classification, in size group 8. The price given this size coal for petitioner's mine is 10 cents lower than any other Mine Run coal produced in the Mason Seam of similar analytical quality. Since these other mines of similar analytical quality appear to be of a firmer structure than petitioner's and since they are now priced at 10 cents per ton above petitioner's Mine Run, it appears that the classification given petitioner's mine is proper.

14. Cambria Coal Company, operating Royal Mine, Southern Appalachian Subdistrict, Lower Dean Seam, requests a lower classification in size group 3. This request is based on the claim that petitioner's Egg coal is of a very soft structure and very friable. Petitioner's Nut-Slack price is 35 cents per ton higher than other Nut-Slack coals in the Dean Seam indicating the general quality of petitioner's coal to be better than the other Dean Seam coals. The analyses indicate that petitioner's Egg Coals are comparable with the other Dean Seam Egg coals in the same class. There is not sufficient evidence to indicate that the difference in friability, if any there be, between petitioner's coal and other Dean Seam coals is such as would warrant a lower classification.

15. High Point Coal Company, operating No. 2 Mine, Southern Appalachian Subdistrict, Red Ash Seam, requests a lower classification in size groups 1 and 2, stating that these sizes should each be reduced 10 cents per ton from the proposed prices because of the soft irregular structure and excessive degradation of the coal when stored and because the coal is water-stained and discolored. It is claimed that the prices for these coals are not properly correlated as to the differential between petitioner's coals and those from the PeeWee Seam and Jellico Seam. Petitioner now has a 5 cent wider spread between his coals and the PeeWee Seam coals than were proposed by the District Board in 1937. The Jellico Seam coals are classified higher than petitioner's coals. In the absence of positive testimony as to the comparative friability of petitioner's coal with that of other coals produced in the District, and in the absence of testimony relating to marketability and consumer acceptance, the Commission must hold that the appraisal of petitioner's coal made by the District Board is proper.

16. Elkhorn and Jellico Coal Company, Inc., operating Wolram Mine,

Hazard Subdistrict, Hazard No. 4 and Whitesburg Seams, requests a lower classification in size group 9. This mine is a blend of the Hazard No. 4 and the Whitesburg Seams. Only one other mine operates in the Hazard No. 4 and the Whitesburg Seams, namely, the Sandlick Coal Company, Belcraft Mine. A comparison of the analyses of these two mines indicates that petitioner's mine produces a similar quality coal, and these two mines are each given the same classification in size group 9. There are no lower classifications for Hazard No. 4 nor mixtures of Hazard No. 4 and Whitesburg Seam mines. The classification given by the District Board is proper.

17. Kelley's Creek Colliery Company, operating No. 2 and No. 6 Mines, Kanawha Subdistrict, Lewiston Seam, requests a lower classification in size groups 2, 3, 4, 5, 6, and 7. Petitioner's coals which move largely for domestic purposes are classified as comparable to coals of similar nature produced in the immediate vicinity of petitioner's mine in the Kanawha Subdistrict which are competitive with petitioner. The analyses indicate that the quality of petitioner's Double Screened coal, as compared with the quality of the coal produced by petitioner's competitors, is similar and possesses similar physical characteristics.

18. The Lorado Coal Mining Company, operating Lorado No. 1 and No. 2 Mines, Logan Subdistrict, Chilton Seam, requests that the group 9 Nut-Slack price levels on coals from the Island Creek, Dorothy and Hazard Seams, be raised. No evidence was offered in support of this request, but from an examination of the entire record it appears that none of the coals from any of the seams mentioned by petitioner have any peculiar burning characteristics which might be considered distinctive for any of these individual seams and which would be either a detriment or a benefit to either one of these seams as compared to the other. There is no evidence that warrants the granting of the protest.

19. Leevale Collieries, Inc., No. 1 Mine, Kanawha Subdistrict, Dorothy Seam, requests a lower classification in size group 9. It appears from the evidence that analytically the petitioner's group 9 Nut-Slack is properly classified between the "E" and "G" classifications of other Dorothy Seam coals, and that the "F" classification is fair, reasonable and proper.

20. Dixport Coal Company, operating Star Slope Mine, Kanawha Subdistrict, Perryville Seam, requests a lower classification in size groups 12, 13, 14, and 15. Petitioner sells no coal for gas or by-product purposes even during periods of unregulated prices. The Board classified petitioner's coals as similar to and competitive with coals from the No. 2 Gas Seam in the Kanawha Subdistrict, these being Hatfield-Campbell Creek Coal

Company, No. 4 Mine, Ridgeview Coal Company, Ridgeview Mine, Koppers Coal Company, Powellton No. 4 Mine, all of which are in the "A" classification for size groups 12 to 15, inclusive. It appears that petitioner's mine is properly so classified.

21. Black Band Coal Company, operating Reynolds Mine, Kanawha Subdistrict, Black Band Seam, requests a lower classification in size groups 1 and 9. Petitioner's Block coal is priced 10 cents lower than the standard grade Winifrede Seam Block coals and 20 cents lower than the standard Dorothy Seam Block coals. It has a firm structure and a reasonably good appearance. In analytical qualities it compares favorably with Winifrede and Dorothy Seam Block coals, and consumer acceptance favors petitioner's Block above those Block coals priced lower than petitioner's and which petitioner claims to be similar. Petitioner's Nut-Slack is analytically and otherwise comparable to other group 9 Nut-Slacks given the same classification.

22. Logan County Coal Corporation, operating the Lundale and McGregor Mines, Logan Subdistrict, Chilton Seam, requests a lower classification in size groups 2, 3, 4, 5, 6, 7, 8, and 9, and requests a difference in price between 2" x 0 and 1 1/4" x 0 Nut-Slacks. With respect to size groups 2 to 7, inclusive, it appears that petitioner's coals are similar to others in Logan Subdistrict in the same classification and that such prices on double screened sizes are proper as disclosed by the evidence relating not only to the structural characteristics of the coal but also to the analytical qualities. With respect to size group 8, where petitioner asks that a price equal to the cost of production be established, we find no justification therefor.

With respect to group 9, a comparison of the analyses of petitioner's Nut-Slack coals with the other Nut-Slack coals similarly classed together with other evidence indicates that petitioner's coals from the Lundale and McGregor Mines have been properly classified.

With respect to a request for a differential in price between 0 x 2" and 0 x 1 1/4" Nut-Slacks, it appears that some plants prefer the one size while others prefer the other, but that for the general purposes of approving proposed prices for coordination purposes, it appears that the prices as proposed by the District Board are proper.

23. Amherst Coal Company, operating Mines No. 1 (Island Creek Seam), No. 2 (Eagle Seam), and No. 3 (Island Creek Seam), all in Logan Subdistrict, requests a lower classification in size groups 2 and 3 and a price on group 8 comparable to the cost of production. Lower classifications are also requested for size groups 9 and 10 for No. 1 Mine. For No. 2 Mine, lower classification is requested in each of size groups 4, 5, 6, 7, and 10, and for No. 3 Mine a lower classification is requested for size group 9. The grounds for this protest are the

same as those presented for the Logan County Coal Corporation (see above), and are disposed of in the same manner.

With respect to size groups 9 and 10 for No. 1 Mine, it appeared from the evidence that the group 9 Nut-Slack for petitioner is properly priced in the high fusion group and that any lowering of this price would not be justified. The similarity in analytical quality between the group 9 and group 10 Nut-Slacks of petitioner warrants no wider spread in the prices between these size groups than is proposed by the District Board.

With respect to size groups 4, 5, 6, and 7 for the No. 2 Mine, it appears that the structure, analytical characteristics, and general consumer acceptance justify the prices established for these softer structure Double Screened coals. As for petitioner's request for a lower price for group 10 Slack, it appears that this coal has a high fusion temperature as compared with the other coals within the same classification. If petitioner's Slack coal were reduced, as requested, to a "K" classification, he would have an advantage over other coals now in class "K," all of which have a medium to low fusion temperature with the exception of petitioner's affiliated company, Logan County Coal Corporation, Lundale Mine.

With respect to size group 9 for No. 3 Mine, analytical comparisons indicate that petitioner's group 9 Nut-Slack is analytically comparable to other mines in classification "F."

24. Ruth-Elkhorn Coals, Inc., operating Harold Mine, Big Sandy-Elkhorn Subdistrict, Elkhorn Seam, requests a lower classification in size groups 1 and 9. From the analyses submitted, it appears that petitioner's group 1 Lump is properly classified as "H." Petitioner's coal has a fair structure and has the same screening percentages as a number of other coals in the same classification and in the same general district. There is not sufficient evidence to sustain the contention that the coal from this mine has such a soft structure as would warrant a lowering of the classification proposed by the District Board.

With respect to size group 9, it appears from the analyses that petitioner's coals are a relatively high quality, high fusion Nut-Slack coal, and that market history justifies the classification by the District Board.

25. The Stearns Coal and Lumber Company presented a protest against the classification proposed by the District Board for the coals produced at its Blue Heron Mine in Size Groups 1, 2, 3, 4, 5, 6, 7, 8, 9, 13, and 14 on the grounds that said mine is in the No. 1 Seam rather than in the No. 1 1/2 Seam, as designated by the District Board, and, consequently, produces a coal of a quality inferior to the coals in the No. 1 1/2 Seam. This is a new mine, and additional evidence is required to disturb the proposals made by the District Board, which, from the evidence, appear to have been made after extensive studies by

men familiar with the producing fields in District No. 8. The protest is accordingly denied, without prejudice, to the right of the protestant to submit further evidence to the District Board for action by the Board or the Commission.

The same company requested a lower classification in size groups 1 and 8 for its Cooperative Mine, Southern Appalachian Subdistrict, No. 2 and No. 3 Seams, from an "O" classification to a "T" classification in size group 1, and from "F" classification to "L" classification in size group 8. Normally, the coal from Seams Nos. 2 and 3 are mixed but petitioner wishes to develop a market on the No. 2 Seam coal separately from the No. 3 Seam, claiming that a mixture of No. 2 coal degrades No. 3 Seam coal since the No. 2 coal is inferior in quality. Petitioner submitted analyses from its No. 1 Mine, operating exclusively in the No. 2 Seam, but has no analyses on the No. 2 Seam at the Cooperative Mine. There is not sufficient evidence presented to accurately determine the value of petitioner's No. 2 Seam coals at the Cooperative Mine, and the protest is accordingly denied, without prejudice, to the right of the Protestant to submit any further competent evidence to the District Board for later action by the Board or the Commission.

26. Glogora Coal Company, operating Blue Pennant No. 13 Mine, Kanawha Subdistrict, No. 5 Block Seam, requests a lower classification in size groups 1, 2, and 3. The Blue Pennant Lump and Egg is comparable to those sizes produced by the Princess Dorothy Coal Company and the Red Parrot Coal Company, both produced from the No. 5 Block Seam, and to coals produced from the Winifrede Seam by the Sycamore Coal Company and the Buffalo Winifrede Coal Company, all of which are classified the same as petitioner's in size groups 1, 2, and 3. Said coals are priced at 25 cents above coals in the Hazard No. 6 and No. 7 Seams. The evidence indicates that these sizes should properly remain at 25 cents above the standard Island Creek coals in the same size group, and 10 cents below the standard Dorothy Seam coal in the same size group.

27. Princess Dorothy Coal Company, operating Princess Dorothy Mine, Kanawha Subdistrict, No. 5 Seam, requests a lower classification in size groups 1, 2, 3, 4, 7, 8, and 9. Coals in size groups 1, 2, 3, 4, 7, and 8 are comparable to the coals produced by the Glogora Coal Company at their Blue Pennant Mine and others mentioned in that petition, and therefore have been properly classified by the District Board. With respect to size group 9 Nut-Slack, the analyses indicate that this coal has also been properly classified by the District Board.

28. Indiana Gas and Chemical Corporation (coal consumer), Terre Haute, Indiana, requests that the use classification for By-Product coal be eliminated and that the general price structure on

coal for by-product purposes be lowered. The factors covering the value of a By-Product coal, such as coking characteristics, gas, and tar yield, and the characteristics of the coke are quite different from the factors determining the value of a steam coal wherein thermal value, burning characteristics, nature of ash, and preparation are the prime factors. Due to the necessity that certain characteristics, not required for general steam purposes, are required for by-product use, it is apparent that coals have a value when applied to by-product use different than when applied for general steam purposes, and it being the opinion of the members of the District Board that the coals produced from District No. 8 do have a difference in value, we find nothing in the evidence to warrant us in disturbing the proposal of the District Board.

29. R. C. Tway Coal Company, operating Tway Mine, Harlan Subdistrict, Harlan and Raven Rock Seams, requests lower classifications in Size Groups 1, 2, 3, and 9. This mine is adjacent to the Blue Diamond Coal Company's Crown Mine, the Clover Fork Coal Company's Clover Fork Mine, which have the same classification as petitioner's mine in size groups 1, 2, and 3. The coal produced at this mine from the Harlan Seam and the Raven Rock Seam are mixed. The Raven Rock Seam was only recently opened by this company for the sole purpose of giving a larger production to the mine during the process of working out the final pillars in the original Harlan Seam mine. After the Harlan Seam mine is worked out, the Raven Rock Seam will likewise be abandoned. Insufficient evidence was adduced concerning the Raven Rock Seam to warrant the Commission disturbing the proposals made by the District Board. With respect to the Nut-Slack coals in size group 9, and the analyses and comparability to other adjacent Nut-Slack coals indicate that petitioner's coal is properly classified.

30. Fork Mountain Coal Company, operating Regal Mine, Southern Appalachian Subdistrict, PeeWee Seam, requests a lower classification in size groups 1, 2, 3, 4, and 5, or that the Stearns Coal and Lumber Company No. 4 Mine be raised to the level of petitioner's coals. This matter is disposed of hereinafter under the heading "Protests Allowed In Full." This company also requests a lower classification in size group 9. A comparison of this coal with other competitive coals in consuming markets and the relative analytical qualities and burning characteristics indicates that petitioner's coal in size group 9 has been properly classified.

The hereinafter named companies filed protests against the proposed classifications, but failed to appear at said hearing and offered no evidence in support of any or either of their protests. An examination of the record in this matter failed to disclose any evidence that would

warrant the Commission granting the requests sought in the several petitions. These companies are as follows: 31. Clear Fork Coal Co., Inc.; 32. Clinchmore Coal Mining Company; 33. Columbus Mining Co., Inc.; 34. The Elk Horn Coal Corporation; 35. Harvey Coal Corporation; 36. Old King Mining Company; 37. Premier Coal Company; 38. Ridgeview Coal Company; 39. Sunfire Coal Company; 40. Tennessee Jellico Coal Company.

Protests Allowed in Full

1. Clinchfield Coal Corporation, operating Mines Nos. 7 and 9, Virginia Subdistrict, Upper Banner Seam, requests a lower classification in size group 9, from "A" to "C." The evidence discloses that these coals are directly competitive with coals classified by the District Board as "C." A comparison of the chemical analysis and market experience indicates that while petitioner's coal may have certain advantages in some respects, these advantages are offset by certain other disadvantages. It appears that the District Board was in error in proposing this classification and such classification is hereinafter modified so as to place these coals in size group 9 in class "C."

2. Ajax Coal Company, operating Ajax Mine, Hazard Subdistrict, Hazard No. 4 Seam, requests a lower classification in size group 9 from a "K" classification. From the analytical evidence, it appears that petitioner's Nut-Slack is slightly inferior to the other Nut-Slack coals in classification "K," group 9. A reduction of 5 cents per ton is therefore made on this coal.

3. Fork Mountain Coal Company, operating Regal Mine, Southern Appalachian Subdistrict, PeeWee Seam, requests a lower classification in size groups 1, 2, 3, 4, and 5, or that Stearns Coal and Lumber Company No. 4 Mine be raised to level of petitioner. The coal produced by the Stearns No. 4 Mine is of high quality and of firm structure and is priced the same in the prepared sizes as the firmer structured Dean Seam coals, the softer structured Elkhorn coals, and the Hazard No. 4 coals. Petitioner's prepared sizes are priced the same as such typical coals as the standard Winifrede Seam coal, the top grade Hazard No. 4 Seam coals and the Mason Seam coals. The coals from the Regal Mine and the Stearns Coal and Lumber Company's No. 4 Mine should be classified similarly, and this level should be on the basis which the District Board has proposed for the Fork Mountain Coal Company rather than at the level which the District Board proposed for the Stearns Coal and Lumber Company's No. 4 Mine. The coals of the Stearns Coal and Lumber Company's No. 4 Mine are therefore changed to an "H" classification in size group 1, to a "G" classification in size group 2, to a "G" classification in size group 3, to a "G" classification in size group 4, and to a "G" classification in size group 5.

4. Blackwood Coal and Coke Company, Inc., operating Calvin Mine, Virginia Subdistrict, Low Splint Seam, requests a classification in size group 9 the same as the Benedict Coal Corporation's Benedict No. 7 Mine and the Virginia Iron, Coal and Coke Company's Imperial Mine. In this size group, petitioner's coal is classified "H," the Benedict Coal Corporation's Benedict No. 7 Mine is classified "H," and the Virginia Iron, Coal and Coke Company's Imperial Mine is classified as "J." Petitioner's Nut-Slack is of a relatively low quality as compared with the average of other Nut-Slack coals in the "H" classification as proposed by the District Board. A reduction in the price of petitioner's size group 9 from "H-1.65" to "J-1.60" is therefore allowed.

Protests Allowed in Part

1. The Red Parrot Coal Company, operating Red Parrot No. 1 Mine, Kanawha Subdistrict, No. 5 Block Seam, requests lower classifications in size groups 1, 2, 3, 4, 5, 6, 7, 8, and 9. This is a new mine which has begun operations only recently. The only analytical data submitted was an analysis on 2 $\frac{3}{4}$ " Nut-Slack. There being no evidence relating to size groups 1 to 8, both inclusive, other than the testimony offered by the District Board, no change in the proposals of the District Board should be made until and unless such time as market experience or other factual data is available.

From the analysis submitted on size group 9, and from the other testimony adduced, it appears that the classification given size group 9 by the District Board is in error, and the classification in this size group is therefore reduced from an "F" classification to an "H" classification.

2. Majestic Collieries Company, operating Majestic Mine, Williamson Subdistrict, Pond Creek Seam, requests that size group 10 be eliminated. The Commission has herein revised the size grouping proposed by the District Board, which revision by the Commission has the effect of allowing petitioner's protest in part.

3. Boone County Coal Corporation, operating Boone No. 2 Mine, Kanawha Subdistrict, Chilton Seam, requests a lower classification in size group 9 from "F" to "H". From all of the evidence, including a comparison of the analyses, it is apparent that the petitioner is entitled to a lower price than that proposed by the District Board. However, if this coal were reduced 10 cents per ton, as requested by petitioner, it would cause petitioner's Nut-Slack coal to be placed in the "H" classification, where a number of coals inferior to petitioner's coal have been classified. The proper classification would seem to be at a point somewhere between. Petitioner's classification in this size group 9 is therefore reduced 5 cents per ton.

4. Guyan Eagle Coal Company, operating No. 3 Mine, Logan Subdistrict, Chilton Seam, requests a lower classification in size groups 2, 3, 4, 5, 6, 7, 8, and 9. There is no evidence in the record that would warrant the Commission in changing the proposals of the District Board as to size groups 2, 3, 4, 5, 6, 7, and 8. However, a comparison of the analyses of size group 9 with the analyses of other competitive coals and in consideration of other factors of value the petitioner's classification in size group 9 is reduced 5 cents per ton from "E" to "F."

5. Elk River Coal and Lumber Company, operating Rich Run Mine, Kanawha Subdistrict, No. 5 Block Seam, requests a lower classification in size group 1 on 6" Block and 4" Block, and a lower classification in size group 9 on 2" Nut-Slack and 1 1/4" Nut-Slack. There is no evidence to warrant the Commission reducing the price proposed on petitioner's group 1 Block. Nor is there any evidence that would warrant an adjustment in the relative spread between the 6" Block, 5" Block, and 4" Block, as proposed by the District Board, which adjustment has been requested by the petitioner.

With respect to the group 9 Nut-Slack price, the analyses, together with the other evidence submitted, indicates that the Elk River Coal and Lumber Company's Nut-Slack is somewhat inferior to the other Nut-Slacks in classification "F." A proper classification, therefore, for group 9 Nut-Slack of the petitioner is "H-1.65," or 10 cents below the minimum price contained in the proposed schedule. As to petitioner's request for a different price on 2" Nut-Slack and on 1 1/4" Nut-Slack, the evidence presented throughout the record is to the effect that 1 1/4" Nut-Slack is now receiving preference over 2" Nut-Slack in the larger steam generating plants equipped with multiple retort stokers, since the 1 1/4" Nut-Slack offers a more uniform fuel bed with less opportunity of size segregation in the stoker feeding operation. There has been no evidence presented that would justify any differential in the prices of 2" Nut-Slack and 1 1/4" Nut-Slack, as requested by petitioner.

6. West Virginia Coal and Coke Corporation, operating Omar Mine No. 4, Omar Mine No. 5, Rossmore Mine and No. 19 Mine, all located in Logan Subdistrict, Island Creek Seam, and the Earling Mine, located in the Logan Subdistrict, Eagle Seam, requests a lower classification in size group 11 for Reject Run-of-Mine and for Crushed 3" Resultant Reject, and that a separate listing of petitioner's Earling Mine Reject Crushed coal be deleted. This Reject coal is more or less a waste product, and is thrown out from the normal coal. The size of the Reject, therefore, does not seem to be of any great importance and it does not appear that a different price should apply to the different sizes of Reject coal. The evidence indicates

that this Reject coal should properly be classified in group 11 as "D" with a price of \$1.55, which is comparable to group 9, class "K," Nut-Slack.

It further appears that the separate listing of the Earling Mine's Reject Crushed coal should be deleted. This reduced classification, however, is not applicable when such coals are applied to railway locomotive fuel.

This company also requests a lower classification in size groups 9 and 10 for its Earling Mine in the Logan Subdistrict, Eagle Seam, asking the same price for these size groups as established for its Omar No. 4 Mine. The analyses indicate that the Earling Mine of the Protestant is properly classified in size group 9, but that it is improperly classified in size group 10 and should be given the same classification as the Nos. 1 and 2 Mines of the Amherst Coal Company. Accordingly, the proposal made by the District Board for size group No. 9 is retained and the classification as proposed by the District Board for size group 10 is changed from "G" to "J."

7. Splash Dam Coal Corporation, operating Splash Dam Mine, Virginia Subdistrict, Splash Dam Seam, requests a lower classification in size group 9 from "C" to "F." The analyses indicate that petitioner's coal is somewhat inferior to the other Nut-Slack coals given a "C" classification. While this coal may be somewhat higher in fusion than the other coals in "C" classification, it is inferior in other respects, and should carry a lower classification. However, to place said coals in an "F" classification, as requested, would give such coals an advantage over other coals of similar quality. These factors, together with market history on petitioner's Nut-Slack as compared with competitive mines, indicate that a proper classification would be a "D" classification, which is accordingly made.

8. Banner Fuel Corporation, operating No. 1 and No. 2 Mines, Virginia Subdistrict, Upper Banner Seam, requests a lower classification for size group 8 for each of said mines, and requests that Mine No. 2 be given a higher classification in size group 9 from "F" to "C," so that this coal will be classified the same as the same size from Mine No. 1. It also requests that other mines in the same competitive district be raised accordingly. From the analyses submitted and from the past market experience and market acceptability of the various coals alleged by the petitioner to be competitive, it would seem that the mines are properly classed in size group 8, but Mine No. 2 in size group 9, in consideration of the above named factors, is raised from an "F" classification to a "C" classification.

9. Red Jacket Coal Corporation, operating Keene Mountain Mine, Buchanan Subdistrict, Cary Seam, requests nine size groupings similar to the size groupings of District No. 7 Low Volatile coal, and a separate price on 3/8" x 0" Slack.

This presents a question properly to be considered upon coordination between the Districts. The balance of this protest involves the establishment of prices for size group 10, as contained in the proposed minimum price and classification schedule, for the high volatile mines in the Williamson Subdistrict known as Mitchell Branch Mine, Cedar Grove Seam; Junior Mine, Cedar Grove and Thacker Seams; No. 5 Mine, Thacker Seam; No. 6 Mine, Alma Seam; No. 32 Top Mine, Cedar Grove Seam; No. 32 Bottom Mine, Thacker Seam. The proposed schedule fails to establish minimum prices for such size group, for such mines. In order that the petitioner may be in a position to sell his coals of this size group, it appears that minimum prices should be established. The evidence and Exhibit 492 disclose a spread of from 25 cents to 45 cents per ton between size groups 9 and 10 of mines that are competitive with those of the petitioner. The evidence further shows that the average realization from coals in size group 10 was 32 1/2 cents below that of size group 9 coals; accordingly, minimum prices for petitioner's size group 10 coals are established at 35 cents per ton below the proposed minimum prices for petitioner's size group 9 coals. The minimum prices and classifications are, therefore, established as follows:

Name of mine	Size group 10
Mitchell Branch.....	J-\$1.40
Junior.....	K- 1.35
No. 5.....	N- 1.20
No. 6.....	F- 1.55
No. 32 Top.....	M- 1.25
No. 32 Bottom.....	K- 1.35

These prices are fair to the petitioner and work no hardship upon competitors since the above differentials closely approximate the average differential established for competitive mines.

10. Mahan-Ellison Coal Corporation, operating No. 1 Mine, Harlan Subdistrict, Harlan Seam, requests a lower classification in size groups 1, 9, and 10. The analyses indicate that while these coals are similar to other coals similarly classified, nevertheless in consideration of all factors including the structure of petitioner's Block coal, it appears that such coal is entitled to a lower classification in size group 1. Accordingly, the same is reclassified from "L" to "M."

With respect to size group 9, a comparison of the analyses indicates that petitioner's 2 1/2" Nut-Slack is analytically somewhat superior to the average class "F" Harlan 2" Nut-Slack, and it appears that petitioner's group 9 price classification is proper.

With respect to size group 10, it appears that this request is based on the recommendation of the Harlan County Coal Operators' Association to the effect that 3/8" x 0" or 1/4" x 0" Slacks be priced at 50 cents per ton below size group 9 Nut-Slack. The average actual realization from representative mines in 1937 was 32 1/2 cents lower on size group 10 than on group 9, and in the schedule

proposed by the District Board, on 7 competitive mines the differential on size group 10 below group 9 is 35 cents and on 2 competitive mines the differential is 40 cents. The spread, therefore, of 35 cents between petitioner's 9 and 10 groups is proper.

11. Leevale Collieries, Inc., operating No. 2 Mine, Kanawha Subdistrict, Powellton Seam, requests lower classifications in size groups 1, 2, 3, 4, 5, 6, 7, 9, 10, 12, 13, 14, and 15, comparing petitioner's prices with other prices in the Powellton Seam. Taking typical size groups, it appears that in group 1, petitioner's minimum price is equal to the lowest and 30 cents below the highest. In group 3, petitioner is 5 cents above the lowest and 25 cents below the highest. In group 9, petitioner is 5 cents above the lowest and 15 cents below the highest. In group 15, petitioner is the lowest, and 10 cents below the highest. With the exception of size groups 2, 3, 9, and 10, there is no evidence to warrant any change in the proposed prices. It appears that petitioner's coal is not adaptable to by-product use, so there is no necessity for changing any price thereon. Size groups 1, 4, 5, 6, and 7 appear to be properly classified.

With respect to size groups 2 and 3, it appears that these coals are classified 5 cents per ton higher than three mines of the other soft-structured Powellton Seam coals. Size groups 2 and 3 of the petitioner should, therefore, be classed on the same basis as the other soft-structured coals, and accordingly a 5 cent reduction for size groups 2 and 3 is hereby made.

With respect to size groups 9 and 10, these coals have a relatively low fusion temperature of ash and their markets are restricted to some extent by reason of this characteristic. It appears that a 5 cent reduction from the proposed price of size groups 9 and 10 is necessary in order that the petitioner's Nut-Slack price may be in line with other coals of similar nature. They are hereby classified accordingly.

12. Ruth-Elkhorn Coals, Inc., operating Steinman Mine, Virginia Subdistrict, Upper Banner Seam, requests a lower classification in size group 9. The comparison of the analyses and market history indicates that petitioner's Steinman Nut-Slack is comparable to the Clinchfield and Premix Nut-Slacks, which petitioner states to be directly competitive. Petitioner's Nut-Slack, size group 9, should, therefore, be reduced from "A" to "C" in order that he may be in a fair competitive position.

13. Bardo Coal Mining Company, Inc., operating Bardo Mine, Harlan Subdistrict, Harlan Seam, requests lower classifications in size groups 9 and 10. Petitioner specifies several mines which he considers competitive on group 9 and group 10, respectively. From the analyses submitted and from market history, it appears that petitioner's group 9 price is properly related to the competitive

coals of similar nature. A lowering of petitioner's group 9 Nut-Slack price would be unfair to the competitive mines. With respect to group 10, the analyses and consumer acceptance indicate that the quality of petitioner's coal is not comparable with the other group 10 Slack coals, in the "M" classification, and that petitioner's classification should be reduced in this size group from "M" to "N."

14. A protest was received by the Upper Buchanan Smokeless Operators' Association, representing the Crystal Block Coal and Coke Company, Oakwood Smokeless Coal Corporation, and the Sycamore Coal Corporation, all operating in the Cary Seam of the Buchanan Subdistrict—Subdistrict No. 9—requesting the same nine size groupings for these low volatile mines in District No. 8 as are proposed for the low volatile mines within District No. 7. This is a matter for coordination, as page 7 of the proposed price schedule provides that, "Size grouping, classification, prices, and exceptions for mines located in Subdistrict No. 9 will be changed in coordination to correspond to such grouping, classification, prices, and exceptions for similar coals approved for District No. 7."

The Commission finds that the prices as proposed by the District Board for the kinds, qualities, and sizes of coal produced by the above named Protestants under the headings, "Protests Allowed in Full" and "Protests Allowed in Part" either do not reflect as nearly as possible the relative market value thereof or are not just and equitable as between producers within the District, or do not have due regard to the interests of the consuming public. The proposed minimum price and classification schedule is, therefore, modified and revised as hereinafter specifically set forth under the sub-heading and title, "Modifications Necessitated by Allowance of Protests."

Modifications of Proposed Minimum Price and Classification Schedule

Under the authority conferred upon this Commission by the applicable provisions of the Bituminous Coal Act of 1937, the Commission finds that said proposed minimum price and classification schedule should be, and the same is hereby, modified and revised in the following respects:

(1) Item No. 3 on page 1 of said proposed schedule is hereby modified to read as follows: "All size designations herein are for round hole screens or their equivalent, except when otherwise designated. When other types of screens are used, the District Board, subject to the approval of the Commission, shall determine the actual size designation of the coal so prepared."

(2) Item 7, page 1, of the proposed schedule is hereby modified to read as follows "Mixed Coal From More Than One Seam: Coal operations in more than one seam priced differently shall apply a price on mixed coal, based on the per-

centage of each seam loaded, adjusted to the nearest 5 cents, and invoice shall properly identify the coal."

(3) Item 8, page 1, of the proposed schedule is hereby modified by the deletion of said item as same appears on page 1 of said proposed schedule and the insertion in its stead of size groupings 21, 22, and 23 in the revised size groupings as hereinafter set forth in these findings.

(4) Item 9, page 2, of the proposed schedule is hereby modified by the deletion of said item as same appears on page 2 of said proposed schedule and the insertion in its stead of size group 25 in the revised size groupings as hereinafter set forth in these findings. "

(5) Item 11, page 2, as same appears in the proposed minimum price and classification schedule is hereby modified by the complete deletion of such item as same appears on page 2 of said proposed minimum price and classification schedule, and the following is hereby inserted in its place and stead: "On shipments of domestic coal, the following discounts shall apply in size groups 1 to 11, inclusive (cents per ton):

Group	1, 2, 3, 4	5, 6, 7	8, 9	10	11
April.....	50	25	25	10	10
May.....	40	20	20	10	10
June.....	30	15	15	10	10
July.....	20	10	10	10	10
August.....	10	5	5	5	5

"The date of shipment and not the date of sale shall govern the seasonal price applicable.

"In cases where the application of the above discounts result in a higher price for a lower size group than a larger size group, the larger size group price may be applied."

(6) Item 12, as same appears on pages 2 and 3 of the proposed minimum price and classification schedule, is hereby modified by a complete deletion thereof.

(7) Item 13, page 3, as same appears in the proposed minimum price and classification schedule, is hereby modified by a complete deletion thereof and the following is hereby inserted in its place and stead in the modified minimum price and classification schedule: "1. The following prices apply for sale to Railways for Locomotive Fuel.

"(a) Big Sandy Subdistrict—all mines except those on the L & N and C. C. & O. Railways.

"Kanawha Subdistrict—all mines.

"Logan Subdistrict—all mines.

"Virginia Subdistrict—all mines on the N. & W. Railway.

"Williamson Subdistrict—all mines.

Mine Run..... \$2.15
 2 3/4" to 5" Resultant Mine Run..... 1.95
 2" and under Nut-Slack..... 1.90

"(b) Big Sandy Subdistrict—all mines except those listed in (a).

"Harlan Subdistrict—all mines.

"Hazard Subdistrict—all mines.

"Southern Appalachian Subdistrict—all mines.

"Virginia Subdistrict—all mines except those listed in (a).

Mine Run-----	\$2.15
2 3/4" to 5" Resultant Mine Run-----	1.95
2 1/2" and under Nut-Slack-----	1.75"

(7a) Sub-item 2, page 4, of the proposed minimum price and classification schedule, together with the note concerning intra-district freight differentials, is hereby modified by the complete deletion thereof.

(7b) Sub-item 4, page 4—Low Grade Reject Coal—of the proposed minimum price and classification schedule is hereby modified by a complete deletion thereof.

(8) Item 6, page 4, of said proposed schedule, is hereby modified by a complete deletion thereof, and the following is hereby inserted in its place and stead in the modified minimum price and classification schedule: "An additional charge of not less than 15 cents per ton shall be added to the minimum established prices for locomotive fuel when coaling locomotives at mine tipples, to cover the extra costs for such service."

(9) Item 7, page 5, of the proposed minimum price and classification schedule is hereby modified by a complete deletion thereof.

(10) Item 8, page 5, of the proposed minimum price and classification schedule, is hereby modified by a complete deletion thereof.

(11) Item 15, page 5, of the proposed minimum price and classification schedule, is hereby modified by a complete deletion thereof.

(12) For purposes of clarification and convenience, and to more clearly and distinctly classify and relate the coals of District No. 8, one to the other, the size groupings contained in the minimum price and classification schedule as proposed by the District Board, are hereby modified, amended, and revised; such modification in itself, however, has no appreciable effect either upon the minimum prices as proposed or the realization. By virtue of such modification, six of the proposed size groupings have been broken down into several groupings, each size group being given a number so that the relationship among the size groupings as contained in the proposed schedule and as contained in the modified schedule is as follows:

Proposed Size Groups

Modified Size Groups

Size Group 4: Stove becomes...
 Size Group 5: Nut becomes...
 Size Group 6: Stoker becomes...
 Size Group 7: Double Screened Industrial becomes...

Size Group 8: Mine Run becomes---

Size Group 9: Nut-Slack (No merchantable fines removed) becomes-----

Size Group 10: Slack (No fines removed) becomes-----

Size Groups 12, 13, 14, and 15: Water Gas, Retort Gas, and By-Product Coal becomes-----

Size Group 10—Stove.

Size Group 11—Nut.

Size Group 12—Stoker.

Size Group 13—Double Screened Industrial.

Size Group 14—Double Screened Industrial.

Size Group 15—Double Screened Industrial.

Size Group 16—Double Screened Industrial.

Size Group 17—3/4 inch and under Screened R. O. M.

Size Group 18—Straight R. O. M.

Size Group 19—5 1/4 inches to 6 inches Resultant R. O. M.

Size Group 20—3 inches to 5 inches Resultant R. O. M.

Size Group 21—Modified Nut-Slack as described in the modified schedule.

Size Group 22—Modified Nut-Slack as described in the modified schedule.

Size Group 23—Modified Nut-Slack as described in the modified schedule.

Size Group 24—Nut-Slack larger than 1 inch not exceeding 2 inches.

Size Group 25—Nut-Slack larger than 3/8 inch not exceeding 1 inch as described in the modified schedule.

Size Group 26—Slack.

Size Group 28—Water Gas, Retort Gas, and By-Product Coal as described in the modified schedule.

Size Group 29—Water Gas, Retort Gas, and By-Product Coal as described in the modified schedule.

Size Group 30—Water Gas, Retort Gas, and By-Product Coal as described in the modified schedule.

Size Group 31—Water Gas, Retort Gas, and By-Product Coal as described in the modified schedule.

Size Groupings and Description of Sizes Included

Group No. 1. Block larger than 5".
 Group No. 2. Block larger than 3" and not exceeding 5". Chunks larger than 4" x 6".

Group No. Lump larger than 2" and not exceeding 3". Chunks 6" top and 3 1/4 to 4" bottom.

Group No. 4. Lump larger than 3/4" and not exceeding 2".

Group No. 5. Furnace 8" top and 2 1/4" to 3" bottom.

Group No. 6. Furnace 6" top and 2 1/4" to 3" bottom.

Group 7. Furnace 5" top and 2 1/4" to 3" bottom.

Group No. 8. Egg 6" top and 1" to 2" bottom.

Group No. 9. Egg 5" top and 1" to 2" bottom. Egg 4" top and 1" to 2 1/2" bottom.

Group No. 10. Stove 3" top and 1" to 2" bottom.

Group No. 11. Nut 2" top and 1/2" to 1 1/4" bottom.

Group No. 12. Stoker 1 1/2" top and 1/8" to 3/8" bottom.

Group No. 13. Double screened industrial coal.—6" top and 1 1/2" to 3" bottom.

Group No. 14. Double screened industrial coal.—5" top and 1" to 2" bottom.

Group No. 15. Double screened industrial coal.—3" top and 1" to 2" bottom.

Group No. 16. Double screened industrial coal.—3" top and 3/8" to 3/4" bottom. 2" top and 1/2" to 1 1/4" bottom. 1 1/2" top and 1/8" to 3/8" bottom.

Group No. 17. 3/4" and under Screened Run-of-Mine.

Group No. 18. Straight Run-of-Mine.

Group No. 19. 5 1/4" to 6" Resultant Run-of-Mine.

Group No. 20. 3" to 5" Resultant Run-of-Mine.

Group No. 21. Modified Nut-Slack containing 10% of 3/8" x 0. Slack (Allowable tolerance 2 1/2%).

Group No. 22. Modified Nut-Slack containing 15% of 3/8" x 0. Slack (Allowable tolerance 2 1/2%). Modified Nut-Slack containing 20% of 3/8" x 0. Slack (Allowable tolerance 2 1/2%).

Group No. 23. Modified Nut-Slack with 10 Mesh or Smaller removed. Nut-Slack larger than 2" but not exceeding 2 3/4".

Group No. 24. Nut-Slack larger than 1" but not exceeding 2".

Group No. 25. Nut-Slack larger than 3/8" but not exceeding 1". Degraded Nut-Slack—Resultant Nut-Slack coal remaining after all of the 1" to 1 1/4" top and 1/8" to 3/8" bottom has been removed.

Group No. 26. Slack 3/8" x 0 and under Screenings.

Group No. 27. Reject Coal—Low grade reject coal separated at tipple or loaded separately in the mine.

Page 6 of the proposed minimum price and classification schedule is accordingly hereby modified by a complete deletion thereof and the following is hereby inserted in its place and stead in the modified minimum price and classification schedule:

Proposed Size Groups	Modified Size Groups
Size Group 1: Block, Lump, Chunks becomes.	Size Group 1—Block.
	Size Group 2—Block—Chunks.
	Size Group 3—Lump—Chunks.
	Size Group 4—Lump.
Size Group 2: Furnace becomes---	Size Group 5—Furnace.
	Size Group 6—Furnace.
	Size Group 7—Furnace.
Size Group 3: Egg becomes-----	Size Group 8—Egg.
	Size Group 9—Egg.

modified minimum price and classification schedule on which the classifications are set forth for the various sizes and qualities of coal produced by this Protestant from its Red Parrot No. 1 Mine there should be inserted, under the column in which the figures 21, 22, 23, 24, and 25 appear, the letter "H."

(5) Boone County Coal Corporation, Boone No. 2 Mine, Kanawha Subdistrict, Chilton Seam, filed a protest to the minimum price for its size group 9 coals as proposed by the District Board at F-175. The protest is allowed in part and to the extent that such size group produced by this Protestant's above named mine is classified at G-170. Accordingly, at the page of the modified minimum price and classification schedule on which the classifications are set forth for the various sizes and qualities of coal produced by the Protestant from its Boone No. 2 Mine there should be inserted, under the column in which the figures 21, 22, 23, 24, and 25 appear, the letter "G."

(6) Guyan Eagle Coal Company, No. 3 Mine, Logan Subdistrict, Chilton Seam, filed a protest to the minimum prices for its size groups 2 to 9, inclusive, as proposed by the District Board at M-230; M-220; J-215; J-205; J-205; C-220; D-215; E-180, respectively. The protest is allowed in part and only as to size group 9 as proposed and such size group produced by this Protestant's above named mine is classified at F-175. Accordingly, at the page of the modified minimum price and classification schedule on which the classifications are set forth for the various sizes and qualities of coal produced by this Protestant from its No. 3 Mine there should be inserted, under the column in which the figures 21, 22, 23, 24, and 25 appear, the letter "F."

(7) Elk River Coal and Lumber Company, Rich Run Mine, Kanawha Subdistrict, No. 5, Block Seam, filed a protest to the minimum prices for its size groups 1 and 9 coals as proposed by the District Board, respectively, at 6" Blk. H-300; 5" Blk. H-290; 4" Blk. H-290 and for size group 9, 2" N/S-1 $\frac{1}{4}$ " N/S at F-175. The protest relative to the minimum prices established for size group No. 1 is denied, but is allowed in part and size group 9 as produced by this Protestant's above named mine is classified at H-165. Accordingly, at the page of the modified minimum price and classification schedule on which the classifications are set forth for the various sizes and qualities of coal produced by this Protestant from its Rich Run Mine there should be inserted, under the column in which the figures 21, 22, 23, 24, and 25 appear, the letter "H."

(8) West Virginia Coal and Coke Corporation, operating Omar Mine No. 4, Omar Mine No. 5, Rossmore Mine and No. 19 Mine, all located in Logan Subdistrict, Island Creek Seam, and the Earling Mine located in Logan Sub-

district, Eagle Seam, filed a protest to the minimum price for size group 11 coals produced by the above named mines as such prices were proposed by the District Board at A-170 and further protested the minimum prices for its size groups 9 and 10 coals produced by its Earling Mine as proposed by the District Board, respectively, at D-185 and G-155. The protest is allowed in part and to the extent that size group 11 produced by this Protestant's above named mines is classified at D-155, and the protest for and on behalf of the Earling Mine with reference to size groups 9 and 10 is allowed only to the extent that size group 10 produced by this Protestant's Earling Mine is classified at J-145. Accordingly, at the page of the modified minimum price and classification schedule on which the classifications are set forth for the various sizes and qualities of coals produced by this Protestant from its above named mines, there should be inserted under the column in which the figure 27 appears, the letter "D," and on the same page, after the name of the Earling Mine, and under the column in which the figure 26 appears, there should be inserted the letter "J."

(9) Splash Dam Coal Corporation, Splash Dam Mine, Virginia Subdistrict, Splash Dam Seam, filed a protest to the minimum price for its size group 9 coals as proposed by the District Board at C-190. The protest is allowed in part and to the extent that such size group produced by this Protestant's above named mine is classified at D-185. Accordingly, at the page of the modified minimum price and classification schedule on which the classifications are set forth for the various sizes and qualities of coal produced by this Protestant from its Splash Dam Mine there should be inserted, under the column in which the figures 21, 22, 23, 24, and 25 appear, the letter "D."

(10) Banner Fuel Corporation, No. 1 and No. 2 Mines, Virginia Subdistrict, Upper Banner Seam, filed a protest to the minimum prices for its size groups 8 and 9 coals as proposed by the District Board at D-215 for Mine No. 1 and D-215 for Mine No. 2, size group No. 8, and C-190 for Mine No. 1 and F-175 for Mine No. 2, size group 9. The protest is allowed in part and only to the extent that size group 9 of the No. 2 Mine is re-classified from F-175 as proposed by the District Board to C-190. Accordingly, at the page of the modified minimum price and classification schedule on which the classifications are set forth for the various sizes and qualities of coal produced by this Protestant from its No. 2 Mine there should be inserted, under the column in which the figures 21, 22, 23, 24, and 25 appear, the letter "C."

(11) Red Jacket Coal Corporation filed a protest requesting the establishment of minimum prices for the group 10 (Slack) classification for its Mitchell Branch Mine, Cedar Grove Seam; Junior

Mine, Cedar Grove Seam and Thacker Seam; No. 5 Mine, Thacker Seam; No. 6 Mine, Thacker Seam; No. 32 Top Mine, Thacker Seam; and No. 32 Bottom Mine, Thacker Seam, for which the District Board failed to propose minimum prices. Such minimum prices are hereby established and size group 10 as produced by the Protestant's Mitchell Branch Mine is classified at J-140; such size group as produced by Protestant's Junior Mine is classified at K-135; such size group as produced by Protestant's No. 5 Mine is classified at N-120; such size group as produced by Protestant's No. 6 Mine is classified at F-155; such size group as produced by Protestant's No. 32 Top Mine is classified at M-125 and such size group as produced by Protestant's No. 32 Bottom Mine is classified at K-135. Accordingly, at the page of the modified minimum price and classification schedule on which the classifications are set forth for the various sizes and qualities of coal produced by this Protestant's Mitchell Branch Mine, Junior Mine, No. 5 Mine, No. 6 Mine, No. 32 Top Mine, and No. 32 Bottom Mine, there should be inserted under the column in which the figure 26 appears, the letters "J," "K," "N," "F," "M," and "K," respectively, after the names of each mine.

(12) Mahan-Ellison Coal Corporation, No. 1 Mine, Harlan Subdistrict, Harlan Seam, filed a protest to the minimum prices for its size groups 1, 9, and 10, as proposed by the District Board, respectively, at L-275, F-175, and J-140. The protest is allowed in part and only to the extent that size group 1 produced by this Protestant's above named mine is classified at M-270. Accordingly, at the page of the modified minimum price and classification schedule on which the classifications are set forth for the various sizes and qualities of coal produced by this Protestant from its No. 1 Mine there should be inserted, under the column in which the figures 1, 2, 3, and 4 appear, the letter "M."

(13) Leevale Collieries, Incorporated, No. 2 Mine, Kanawha Subdistrict, Powellton Seam, filed a protest to the minimum prices for its size groups 1 to 7, inclusive, and size groups 9, 10, 12, 13, 14, and 15, as proposed by the District Board, respectively, at Q-250; L-235; L-225; J-215; J-205; G-215; C-220; D-185; E-160; C-235; C-225; C-215; and C-205. The protest is allowed in part and only to the extent that size groups Nos. 2, 3, 9, and 10, respectively, as produced by this Protestant's above named mine are classified at M-230; M-220; E-180; and F-155. Accordingly, at the page of the modified minimum price and classification schedule on which the classifications are set forth for the various sizes and qualities of coal produced by this Protestant from its No. 2 Mine there should be inserted, under the column in which the figures 5, 6, and 7 appear, the letter "M," and under the column in which the figures 8 and 9 appear, the letter "M," and under the

column in which the figures 21, 22, 23, 24, and 25 appear, the letter "E," and under the column in which the figure 26 appears, the letter "F."

(14) Ruth-Eikhorn Coals, Incorporated, filed a protest for its Steinman Mine, located in the Virginia Subdistrict, Upper Banner Seam, to the minimum prices for its size group 9 coals as proposed by the District Board at A-200. This phase of the protest is allowed in full, the other phase having been denied, and such size group produced by this Protestant's above named mine is classified at C-190. Accordingly, at the page of the modified minimum price and classification schedule on which the classifications as set forth for the various sizes and qualities of coal produced by this Protestant from its above named mine, there should be inserted, under the column in which the figures 21, 22, 23, 24, and 25 appear, the letter "C."

(15) Bardo Coal Mine Company, Incorporated, Bardo Mine, Harlan Subdistrict, Harlan Seam, filed a protest to the minimum price for its size groups 9 and 10 coals as proposed by the District Board, respectively, at H-165 and M-125. The protest is allowed in part and only to the extent that size group 10 as produced by this Protestant's above named mine is classified at N-120. Accordingly, at the page of the modified minimum price and classification schedule on which the classifications are set forth for the various sizes and qualities of coal produced by this Protestant from its Bardo Mine there should be inserted, under the column in which the figure 26 appears, the letter "N."

Conclusion

And now, upon consideration of all the evidence, both oral and documentary, introduced at the hearing on the submission of the minimum price and classification schedule as proposed by District Board No. 8 at Washington, D. C., on October 28, 1938, to November 4, 1938, inclusive, and in further consideration of the modifications, revisions, and amendments to said schedule as herein in this report above set forth, the Commission hereby finds:

(1) That the District Board for District No. 8, as directed by Order No. 247 of the Commission, proposed minimum prices free on board transportation facilities at the mine for the kinds, qualities, and sizes of coal produced by Code Members within the District, and classifications of coal and price variations as to mines, consuming market areas, and values as to uses.

(2) That said District Board submitted to the Commission a schedule of such proposed minimum prices and classifications, together with the data upon which the prices contained in said schedule were computed and upon which the classifications of coal were determined, including, without limitation, the factors considered in determining the price relationships.

(3) That the prices contained in said schedule, as modified, revised, and amended by the Commission, reflect as nearly as may be the relative market value of the various kinds, qualities, and sizes of coal produced by Code Members within the District; are just and equitable as between producers within the District; have due regard to the interests of the consuming public; and do not permit dumping.

(4) That the minimum prices contained in said schedule, as modified, revised, and amended by the Commission, for any kind, quality, or size of coal for shipment into any consuming market area, are just and equitable as between producers within the District.

(5) That the minimum prices contained in said schedule, as modified, revised, and amended by the Commission, for any kind, quality, or size of coal for shipment into any consuming market area, are proposed in such manner as to yield a return per net ton for the District equal as nearly as may be to the weighted average of the total cost, per net ton, of the tonnage of Minimum Price Area No. 1; the return or realization, per net ton, for said District No. 8, as found by the District Board, being \$2.150, and as found by this Commission after the modification of said schedule to be \$2.145; the weighted average of the total cost per net ton of the tonnage of Minimum Price Area No. 1 as heretofore determined by the Commission being \$2.157.

(6) That the proposed minimum price and classification schedule submitted to the Commission by District No. 8, as modified, revised, corrected, and amended, a copy of which said schedule appears as an appendix attached hereto, is in reasonable compliance and conformity with Order No. 247 of the Commission and with the requirements of Section 4-II (a) of the Bituminous Coal Act of 1937.

The Commission further hereby finds that said schedule, as so modified, revised, corrected, and amended, should be, and the same is hereby, approved by the Commission to serve as a basis for coordination, as provided in Section 4-II (b) of said Act.

APPENDIX FOR DISTRICT NO. 8

SCHEDULE OF MINIMUM PRICES AS MODIFIED AND APPROVED TO SERVE AS A BASIS FOR COORDINATION

NOTE.—The prices in this schedule are not the final prices that will be established on coal for shipment by Code Members within this district into consuming markets of this district. In the ultimate establishment of the effective minimum prices, pursuant to subsection (b) of Part II, Section 4 of the Act, the minimum prices in this schedule are subject to such increase or decrease respectively, as may be necessary to carry out the provisions of subsections (a) and (b) of Part II, Section 4 of the Act.

F. W. McCULLOUGH,
Secretary.

Issued January 16, 1939.

Price Instructions and Exceptions

1. The schedule of prices shown herein applies f. o. b. transportation facilities at mines on all coal produced by code members in the district shown on the title page hereof.

2. All prices are subject to the Marketing Rules and Regulations issued by the National Bituminous Coal Commission.

3. All size designations herein are for round hole screens or their equivalent, except when otherwise designated. When other types of screens are used, the District Board, subject to the approval of the Commission, shall determine the actual size designation of the coal so prepared.

4. In the sale of coal to destined points outside the boundary of the United States, prices stipulated herein are for payment in United States funds.

5. All prices herein are per net ton of 2,000 lbs. f. o. b. transportation facilities at the mines unless otherwise designated.

6. When coal, excepting Size Group 26, is submitted to any chemical, oil or waxing process, an additional charge of not less than 10 cents per net ton shall be made.

7. Mixed coal from more than one seam.—Coal operations in more than one seam priced differently shall apply a price on mixed coal, based on the percentage of each seam loaded, adjusted to the nearest five cents, and invoice shall properly identify the coal.

8. Cannel coal prices.—

	All districts except Logan	Logan district
Blocks, Chunks, and Lumps.	\$3.50	\$3.25
Egg.....	3.00	2.75
Chips.....	2.50	2.25
Machine Cuttings.....	1.60	1.60

9. Seasonal discounts on domestic coal.—On all shipments of domestic coal, the following discounts shall apply in Size Groups 1 to 11 inclusive (cents per net ton):

Groups	1-4, incl.	5-7, incl.	8 and 9	10	11
April.....	50	25	25	10	10
May.....	40	20	20	10	10
June.....	30	15	15	10	10
July.....	20	10	10	10	10
August.....	10	5	5	5	5

The date of shipment and not the date of sale shall govern the seasonal price applicable.

In cases where the application of the above discounts results in a higher price for a lower size group than a larger size group, the larger size group price may be applied.

10. Railway locomotive fuel prices.—1. The following prices apply for sale to Railways. Kanawha Subdistrict—all

(a) Big Sandy Subdistrict—all mines except those on the L & N and C. C. & O. Railways. Kanawha Subdistrict—all mines. Logan Subdistrict—all mines.

Alphabetical list of code members showing price classifications by sizes for all uses		Price classifications and size group numbers																						
Code member	Mine name	Subdist.	Seam	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21
Adams, William	Lower Mine	3	Elkhorn	K	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Adkins, Clifford	Adkins	1	Alma	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M
Adkins, Kenneth	Adkins	1	Alma	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M
Adkins, Lynn Boyd	Lee	1	Alma	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M
Alax Coal Company	Alax	6	Jellico	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Aldes & Clementis	Alger	3	River Gem	H	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K
Algona Block Coal Co.	Algona	3	Hazard No. 4	K	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Algona Block Coal Co.	Algona	3	Hazard No. 4	K	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Albourn Collieries Co.	Albourn	2	Alma	O	M	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Allen, Riley	Allen	2	Alma	O	M	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Alma Eagle Coal Co.	Alma	2	Eagle	L	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M
Alma Fuel Co.	Alma	6	Alma	O	M	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Altizer, W. I.	W. I. Altizer	9	Cary	G	E	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
American Eagle Colliery	No. 70	4	Eagle	K	E	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
Amerst Coal Co.	Amerst No. 1	5	Island Creek	Q	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M
Amherst Coal Co.	Amherst No. 2	5	Eagle	Q	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M
Amherst Coal Co.	Amherst No. 3	5	Island Creek	Q	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M
Amick, Tookes	Amick	4	Sewell	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M
Amick, W. O.	Amick	4	Sewell	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M
Anchor Coal Co.	Anchor Nos. 1, 3	4	Dorothy	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M
Anderson, Andy	Anderson	4	Elkhorn	E	K	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Anderson, J. M.	Anderson	6	Blue Gem	E	K	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Anderson, S. B.	Anderson	6	Blue Gem	E	K	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Anderson & Banner	Anderson & Banner	7	Upper Banner	O	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Arbaugh, J. A.	Union	4	No. 2 Gas	M	N	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J
Arco Coal Mining Corp.	Marting	4	Campbells Creek	M	N	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J
Arco Coal Mining Corp.	The	4	Campbells Creek	M	N	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J
Arnor Coal Company	Katona	8	No. 5 Block	Q	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Arwood, Melvin	Preston No. 2	1	No. 7	Q	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Atkins, Frank & Jesse	Atkins No. 1	4	Alma	Q	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Atlas Coal Co.	Capito	6	Upper Hignite	H	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Austin, Dewey	Upper Banner	7	Upper Banner	H	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Avis Eagle Coal Co.	Avis Eagle	5	Eagle	H	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Ayers Coal Co.	Ayers	6	Hignite	H	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Ayers, Alonzo & Winston	Winston Ayers	6	Jellico	H	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Ayers, Kelly & Hobert	Ayers & Gregg	6	Jellico	H	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Bailey, G. A.	Piedmont No. 2	6	Coal Creek	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
Bailey, Hiram	Jack Rock	8	Pond Creek	O	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M
Bailey, J. C.	Bone Hollow	6	Coal Creek	O	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M
Bailey, Jeff	Jeff Bailey	2	Harlan	L	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E
Baird, Leonard	Campbell	6	Jellico	L	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E
Baird, Lewis & Martin	Baird & Cummins	6	Blue Gem	A	B	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Baird, Lewis & Martin	Cummins	6	Blue Gem	A	B	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Baird Coal Co., Miller	Miller Baird	6	Rex	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
Baker, C. H.	C. H. Baker	7	Upper Banner	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Baker, Elmer	Baker	3	Hazard No. 4	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K
Baker, J. H., Estate of (C. N. Baker, Administrator)	Baker, J. H.	6	Jellico	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K
Baker, J. W. & R. C.	Baker	7	No. 5	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
Baker, Lindsay	Baker	7	Warfield	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
Baker, Samp	Samp Baker	7	No. 5	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
Baker, Taylor	Taylor Baker	7	Jellico	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
Baker, Taylor	Taylor Baker	7	Jellico	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
Ball Coal Co.	No. 1	9	Raven	O	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M
Ball, Fred	Ford Ball	9	Pond Creek	O	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M
Ball, Lester	Secool	9	Alma	O	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M
Bandy, Rex	Bandy	9	Alma	O	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M
Banks, Clarence	Banks	9	Raven	O	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M
Banner Fuel Corp.	Black Banner (#1)	7	Elkhorn	K	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Banner Fuel Corp.	Craines Nest (#2)	7	Upper Banner	K	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Bardo Coal Mining Co., Inc.	Bardo	7	Upper Banner	K	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Barker, E. F.	E. F. Barker	7	Harlan	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Barker, John	John Barker	7	Upper Banner	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Barker, Lawrence	Barker	7	Blue Gem	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Barker & Lockett	Barker & Lockett	4	No. 5	A	B	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Barker Straight Crk. C. Mng. Co.	Barker Straight Crk. C. Mng. Co.	4	Pits. No. 8	A	B	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Barnes Coal Co.	Barnes	6	Straight Creek	H	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G
Barnes Coal Co.	Dean & Red Ash Block	6	Hignite	H	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G

1 See Cannel coal prices.

Alphabetical list of code members showing price classifications by sizes for all uses				Price classifications and size group numbers																					
Code member	Mine name	Seam	Subdist.	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	
Block Coal & Coke Co.	Turley	Dean	6	P	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
Blue Diamond Coal Co.	Crown	Harian	2	J	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
Blue Diamond Coal Co.	Blue Diamond No. 1	Hazard No. 6	3	J	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
Blue Diamond Coal Co.	Eagan	Jellico	6	M	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	
Blue Diamond Coal Co.	Westbourne	No. 9 & No. 10	6	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	
Blue Diamond Coal Co.	Bonny Blue	High & Low	7	A	B	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
Blue Diamond Coal Co.	Mayflower	Splint	7	H	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	
Blue Grass Mining Co., Inc.	Blue Grass	Haz. #4 and #7	3	H	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	
Boggs, Charles	Boggs	No. 7	3	M	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	
Bolton, Tom, Hobert and Lewis	Tom Bolton	Jellico	6	M	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	
Bon Jellico Coal Co.	Bon Jellico	No. 7	6	M	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	
Bond, N. S.	Osborne	Jellico	6	H	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	
Bond, R. D.	Upper Banner	No. 7	6	H	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	
Bon White Coal Co.	Spruce Pine	Upper Banner	7	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	
Boone County Coal Corp.	Boone	Upper Banner	7	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	
Borderland Collieries Co.	Borderland No. 1	Widow Kennedy	4	K	H	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	
Bowen, A. C.	Bowen	Chilthon	8	O	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	
Bowen, R. H. & G. E.	Bowen Bros	Widow Kennedy	7	K	H	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	
Bowlin Blue Gem Coal Co.	Bowlin Blue Gem	Blue Gem	6	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	
Bowlin, F. M. & Leonard Cross	Bowlin & Cross	Blue Gem	6	A	B	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
Bowling Brothers Coal Co.	Peacock	No. 7	1	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	
Bowman, Buford	Brandenburg	Beattyville	3	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	
Boyer, Frank	Boyer's	No. 3	6	O	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
Braden Coal Company	Braden	Widow Kennedy	6	O	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J
Braden, Ed & Maynard	Andrew Ridge	Coal Creek	6	O	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J
Bradley, Clyde	Thomas	Alma	4	O	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	
Bradford Bros.	Ison	Elkhorn	1	K	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	
Branham, Doc. C.	Doc. C. Branham	Upper Banner	7	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	
Branham, J. R.	Ike Wells	No. 7	1	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	
Breashears, J. F.	Breashears, J. F.	No. 7	1	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	
Bridges, D. K.	D. K. Bridges	Blue Gem	6	A	B	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
Brimstone Coal Co., Inc.	Brimstone	Blue Gem	6	R	B	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
Brown Coal Company	Perry Brooks	Blue Gem	6	R	B	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
Brown Coal Company	Widow Kennedy	Blue Gem	6	R	B	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
Brown Coal Company	Red Ash	Widow Kennedy	7	K	H	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	
Brown, E. F.	E. F. Brown	Coal Creek	6	O	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J
Brown, E. F. & Arville	Brown	Coal Creek	6	O	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J
Braden & Vernon Coal Company	Braden & Vernon Coal Company	Widow Kennedy	7	K	H	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	
Brown, W. C.	W. C. Brown	Coal Creek	6	O	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J
Broyles-Jellico Coal Co.	Broyles-Jellico	Jellico	6	E	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
Broyles, Squire & W. O. Loy	Broyles & Loy	No. 3	6	O	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
Brush, Allison	Brush Cliff	Dean	6	B	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
Bryant, Allison	Allison Bryant	Jellico	6	O	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	
Bryant, Arthur	Arthur Bryant	Jellico	6	H	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	
Bryant, J. D.	J. D. Bryant	Blue Gem	6	A	B	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
Bryant, Sidney B.	Sidney B. Bryant	Jellico	6	A	B	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
Buchanan By-Product Coal Corp.	Buchanan By-Product Coal Corp.	Clintwood	8	O	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J
Buchanan, Claude, Joe & Odis	Buchanan Bros	Upper Banner	7	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	
Buchanan Coal Co., Inc.	Tip Top	Hindman	1	M	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
Buchanan Coal Co., Inc.	Rytip	Hazard No. 5-A	3	O	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	
Buchanan County Coal Corp.	Buchanan No. 1	Clintwood	8	O	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	
Buchanan County Coal Corp.	Buchanan No. 2	Clintwood	8	O	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	
Buchanan, G. H. & Good-man Bros.	Buchanan, G. H. & Good-man Bros.	Jellico	6	O	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	
Buchanan Smokeless Coal Co.	Buchanan Smokeless Coal Co.	Clintwood	8	O	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	
Buckles, W. M. & C. O. Compton	Buckles & Compton	Upper Banner	7	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	
Buckner, Roy G.	Buckner	No. 2 Gas	4	M	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	

Price classifications and size group numbers

Alphabetical list of code members showing price classifications by sizes for all uses

Price classifications and size group numbers

Alphabetical list of code members showing price classifications by sizes for all uses

Price classifications and size group numbers

Alphabetical list of code members showing price classifications by sizes for all uses										Price classifications and size group numbers														
Code member	Mine name	Seam	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	
Chadwell Gap Coal Co.	Chadwell Gap	No. 5	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	
Chadwin - Jones - Heaterman Coal Co.	No. 3	Chilton	Q	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M
Chambers, Venus	Chambers	No. 3	O	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Chapman, Ed	Chapman	No. 3	O	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Chapman, Walter	Chavies	Alma	O	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M
Chaves Coal Co., Inc.	Dorothy Eagle	Hazard No. 5-A	K	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
Chesapeake & Ohio Fuel Mine Op's	No. 7 White Ash	No. 7	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Childers, Sam	Ethel No. 2	Chilton	O	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M
Chilton Block Coal Co.	Draper	Alma Island	Q	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M
Chilton Eagle Coal Co.	Chloe Creek	Creek, Chilton, and Eagle	K	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Chloe Creek Coal Co.	No. 1	Elkhorn	K	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Christian Colliery Co.	No. 2	Eagle	K	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
Christian Colliery Co.	No. 3	Fowellton	K	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
Christian Colliery Co.	Christie	No. 3	K	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
Christie Coal Co.	Clark & Lester	Horse Creek	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Clark, Dewey	Mill Branch	No. 5	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Clark, Henry	Clark	No. 7	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Clark, J. R.	J. R. Clark	No. 7	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Clay, John	Widow Kennedy	Coal Creek	O	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M
Clean Eagle Coal Co.	Clean Eagle	Upper Banner	O	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M
Clear Branch Mining Co., The	Clear Branch	Eagle	O	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M
Clear Fork Coal Co., Inc.	Clear Fork	Elkhorn No. 3	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
Clear Fork Coal Co., Inc.	Cleek	Mason	P	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Cleek, Herman	Clinchfield Coal Corp.	Sterling	P	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Clinchfield Coal Corp.	Clinchfield Coal Corp.	Jellico	P	H	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Clinchfield Coal Corp.	Clinchfield Coal Corp.	Upper Banner	P	H	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Clinchfield Coal Corp.	Clinchfield Coal Corp.	No. 2	P	H	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Clinchfield Coal Corp.	Clinchfield Coal Corp.	Upper Banner	P	H	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Clinchfield Coal Corp.	Clinchfield Coal Corp.	No. 7	P	H	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Clinchfield Coal Corp.	Clinchfield Coal Corp.	Upper Banner	P	H	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Clinchfield Coal Corp.	Clinchfield Coal Corp.	No. 9	P	H	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Clinchfield Coal Corp.	Clinchfield Coal Corp.	Lower Banner	P	H	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Clinchfield Coal Corp.	Clinchfield Coal Corp.	Upper Banner	P	H	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Clinchfield Coal Corp.	Clinchfield Coal Corp.	Upper Banner	P	H	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Clinchfield Coal Corp.	Clinchfield Coal Corp.	Upper Banner	P	H	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Clinchfield Coal Corp.	Clinchfield Coal Corp.	Upper Banner	P	H	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Clinchfield Coal Corp.	Clinchfield Coal Corp.	Upper Banner	P	H	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Clinchfield Coal Corp.	Clinchfield Coal Corp.	Upper Banner	P	H	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Clinchfield Coal Corp.	Clinchfield Coal Corp.	Upper Banner	P	H	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Clinchfield Coal Corp.	Clinchfield Coal Corp.	Upper Banner	P	H	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Clinchfield Coal Corp.	Clinchfield Coal Corp.	Upper Banner	P	H	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Clinchfield Coal Corp.	Clinchfield Coal Corp.	Upper Banner	P	H	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Clinchfield Coal Corp.	Clinchfield Coal Corp.	Upper Banner	P	H	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Clinchfield Coal Corp.	Clinchfield Coal Corp.	Upper Banner	P	H	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Clinchfield Coal Corp.	Clinchfield Coal Corp.	Upper Banner	P	H	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Clinchfield Coal Corp.	Clinchfield Coal Corp.	Upper Banner	P	H	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Clinchfield Coal Corp.	Clinchfield Coal Corp.	Upper Banner	P	H	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Clinchfield Coal Corp.	Clinchfield Coal Corp.	Upper Banner	P	H	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Clinchfield Coal Corp.	Clinchfield Coal Corp.	Upper Banner	P	H	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Clinchfield Coal Corp.	Clinchfield Coal Corp.	Upper Banner	P	H	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Clinchfield Coal Corp.	Clinchfield Coal Corp.	Upper Banner	P	H	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Clinchfield Coal Corp.	Clinchfield Coal Corp.	Upper Banner	P	H	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Clinchfield Coal Corp.	Clinchfield Coal Corp.	Upper Banner	P	H	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Clinchfield Coal Corp.	Clinchfield Coal Corp.	Upper Banner	P	H	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Clinchfield Coal Corp.	Clinchfield Coal Corp.	Upper Banner	P	H	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Clinchfield Coal Corp.	Clinchfield Coal Corp.	Upper Banner	P	H	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Clinchfield Coal Corp.	Clinchfield Coal Corp.	Upper Banner	P	H	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Clinchfield Coal Corp.	Clinchfield Coal Corp.	Upper Banner	P	H	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Clinchfield Coal Corp.	Clinchfield Coal Corp.	Upper Banner	P	H	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Clinchfield Coal Corp.	Clinchfield Coal Corp.	Upper Banner	P	H	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Clinchfield Coal Corp.	Clinchfield Coal Corp.	Upper Banner	P	H	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Clinchfield Coal Corp.	Clinchfield Coal Corp.	Upper Banner	P	H	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Clinchfield Coal Corp.	Clinchfield Coal Corp.	Upper Banner	P	H	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Clinchfield Coal Corp.	Clinchfield Coal Corp.	Upper Banner	P	H	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Clinchfield Coal Corp.	Clinchfield Coal Corp.	Upper Banner	P	H	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Clinchfield Coal Corp.	Clinchfield Coal Corp.	Upper Banner	P	H	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Clinchfield Coal Corp.	Clinchfield Coal Corp.	Upper Banner	P	H	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Clinchfield Coal Corp.	Clinchfield Coal Corp.	Upper Banner	P	H	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Clinchfield Coal Corp.	Clinchfield Coal Corp.	Upper Banner	P	H	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Clinchfield Coal Corp.	Clinchfield Coal Corp.	Upper Banner	P	H	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Clinchfield Coal Corp.	Clinchfield Coal Corp.	Upper Banner	P	H	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Clinchfield Coal Corp.	Clinchfield Coal Corp.	Upper Banner																						

Alphabetical list of code members showing price classifications by sizes for all uses			Price classifications and size group numbers																					
Code member	Mine name	Seam	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	
Detroit Mining Co.	No. 1	Coalburg																						
Detroit Mining Co.	No. 2	Coalburg																						
Diamond Ashless Coal Co.	R. L. Brown	Coalburg																						
Diamond Coal Mining Co., The	Diamond No. 1	Big Mary																						
Diamond Coal Mining Co., The	Diamond No. 2	Big Mary																						
Diamond Coal Mining Co., The	Diamond No. 3	Red Ash																						
Dixie Bell Coal Co.	Dixie Bell	Coal Creek																						
Dixie Diamond Colliery, Inc.	Dixie Diamond	Coal Creek																						
Dixon, Fount	Star Slope	Hignite																						
Dixport Coal Co.	Noah Dobbs	No. 3																						
Dobbs, Noah	Domestic Coal Co.	No. 2 Gas																						
Donsol, G. C.	Spruce Gap	Sewell																						
Dorothy Glenn Coal Mining Co.	Dorothy Glenn	Coalburg and No. 5 Block																						
Doty Coal Co., Inc.	Patton	No. 7																						
Douglas, J. A.	Douglas	Blue Gem																						
Douglass, James L. & Howland	Dry Branch	Blue Gem																						
Dry Branch Coal Co.	Duncan	Coalburg																						
Duncan, E.	Duncan	Upper Banner																						
Duncan, Elmer & Lonnie	Duncan	Paint Rock																						
Duncan, Hays	Hayes	Coal Creek																						
Dye, Preston L.	Preston Dye	Upper Banner																						
Eagle Red Ash Coal Co.	Old Field Scott	Jawbone & Red Ash																						
Earlston Coal Co.	Earlston	Warfield																						
Eastern Coal Corp.	Hardy Nos. 1, 11	Pond Creek																						
Eastern Coal Corp.	McVeigh No. 7	Pond Creek																						
Eastern Coal Corp.	Stone No. 3	Pond Creek																						
Eaton, Robert	Eaton	Fellico																						
Economy Coal Co.	Economy No. 1	No. 2 Gas																						
Edgemont	Edgemont	Elkhorn Nos. 1, 2																						
Eliam, Ed	Luther Blair	No. 7																						
Elcomb Coal Co.	Keeman	Harlan & Mason																						
Electro Metallurgical Co.	Alloy	No. 2 Gas																						
Elias, John	Elias	Pittsburg No. 8																						
Elk Creek Coal Co.	Elk Creek No. 1	"C"																						
Elkhorn Coal Co., Inc.	Kona No. 2	Elkhorn																						
Elk Horn Coal Corp., The	No. 1-7	Elkhorn																						
Elk Horn Coal Corp., The	No. 2-4	Elkhorn																						
Elk Horn Coal Corp., The	No. 3-4	Elkhorn																						
Elk Horn Coal Corp., The	No. 5-6	Elkhorn																						
Elk Horn Coal Corp., The	No. 27	Elkhorn No. 1																						
Elk Horn Coal Corp., The	No. 28-32	Elkhorn No. 1																						
Elkhorn Collieries Corp., Inc., The	Wintors	Elkhorn																						
Elkhorn & Jellico Coal Co., Inc.	Wolram	Haz. #4 and Whitesbg.																						
Elkhorn Junior Coal Co.	Lorraine	Elkhorn																						
Elk River Coal & Lumber Co.	Rich Run	No. 5 Block																						
Ellis, Roe	Ellis	No. 3																						
Ellison, Claude	Claude Ellison	Jellico																						
Elswick Coal Co.	Federal No. 1	Elswick																						
Elza, Chester	Chester Elza	Horse Creek																						
Emper Coal Co.	Freemont	Freemont-Alma																						
Engine Coal Co. of Ky., Inc.	Wallsend	Straight Creek																						
Engine Coal Co. of Ky., Inc.	Fox Ridge	Straight Creek																						
Engine Coal Co. of Ky., Inc.	Hanby	Straight Creek																						
England, Tom	England, Tom	Horse Creek																						
Engle, B. F.	Farmer's Friend	No. 7																						

Price classifications and size group numbers

Alphabetical list of code members showing price classifications by sizes for all uses

Price classifications and size group numbers

Alphabetical list of code members showing price classifications by sizes for all uses

Alphabetical list of code members showing price classifications by sizes for all uses			Price classifications and size group numbers																					
Code member	Mine name	Seam	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	
Koppers Coal Co., The	Powellton No. 5	Powellton	K	L	L	L	F	F	G	G	G	G	G	B	B	A	A	A	A	A	A	A	A	A
Kranenbuhl, Eugene	Kranenbuhl	Horse Creek	M	L	L	L	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
L & W Coal Co.	L & W Coal Co.	Horse Creek	M	L	L	L	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
LaFollette Rex Coal Co., Inc.	Rex No. 2	Re...	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
Lakeside Coal Co.	Bear Wallow No. 2	Jellico	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E
Lambert, A. J.	Domestic Coal Co.	Alma	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q
Lambert, Jim	Lambert	Cary	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q
Lambert, L. E.	L. E. Lambert	No. 5	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q
Lancy, Floyd W. A.	Floyd Lancy	Upper Banner	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M
Laurel Branch Blue Gem Coal Co. (Robert Evans)	Laurel Branch	Blue Gem	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
Laurel Branch Blue Gem Coal Co. (Tom Fisher)	Laurel Br. No. 2	Jellico	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E
Lawson, Arthur A.	Wick	Jellico	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E
Lawson Coal Co.	Lawson	Upper Banner	H	M	L	L	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G
Lawson, R. C.	Lawson Blue Gem	Jellico	O	N	N	N	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K
Laxton, Arzo	Arzo Laxton	No. 3	O	N	N	N	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K
Laxton, Sherman	Sherman Laxton	No. 3	O	N	N	N	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K
Lay Coal Company, D. I.	D. I. Lay	Blue Gem	A	B	C	C	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E
Leach & Landers	Tucker No. 2	Pittsburgh No. 8	H	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q
Leach, Otlice	Leach	Jellico	H	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q
Lecky, A. J.	Freeburn	Freeburn	O	M	M	M	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J
Lee, A. H.	Andy Leedy	No. 3	F	H	G	F	G	F	G	F	G	F	G	F	G	F	G	F	G	F	G	F	G	F
Lee, Charles	C. Lee	Hignite	H	F	G	F	G	F	G	F	G	F	G	F	G	F	G	F	G	F	G	F	G	F
Lee, Willie	Elkhorn No. 1	Elkhorn	O	K	K	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J
Leevale Collieries, Inc.	Leevale No. 1	No. 5	H	F	G	F	G	F	G	F	G	F	G	F	G	F	G	F	G	F	G	F	G	F
Leevale Collieries, Inc.	Leevale No. 2	Hignite	H	F	G	F	G	F	G	F	G	F	G	F	G	F	G	F	G	F	G	F	G	F
Leinart and Alexander	Pine Mountain	Dorothy	K	L	L	L	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
LeMoyno Coal Co.	LeMoyno	Powellton	Q	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J
Lester & Lee	Lester & Lee	No. 5 Block	Q	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J
Lett, Fred	Horse Creek	Horse Creek	M	L	L	L	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
Lett, Lewis & Dan Previt	Fred Lett	Pittsburgh No. 8	Q	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J
Lett, Lige	Lett & Previt	Blue Gem	Q	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J
LeWallen Bros.	Lige Lett	Blue Gem	Q	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J
Lewis, Bates	LeWallen Bros.	Jellico	A	B	C	C	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E
Lewis, Boone	Bates Lewis	Horse Creek	H	M	L	L	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J
Lewis, E. B.	Lewis No. 1	No. 7	M	L	L	L	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J
Lewis & Gregory	Lewis No. 2	No. 2	O	N	N	N	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K
Lewis, Jesse M.	Tugle Hollow	Horse Creek	O	N	N	N	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K
Lewis, Samuel	Lewis	Hazard No. 4	H	M	L	L	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J
Lewis, W. H.	S. Lewis	Hazard No. 4	H	M	L	L	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J
Lievig, F. B. & Son	Lievig's	Harlan	K	K	K	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J
Likens, Jesse	Ord No. 2	Pittsburgh No. 8	L	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q
Linden Coal Co.	Linden	Pittsburgh No. 28	L	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q
Lindsay Coal Co.	Lindsay	Pittsburgh No. 8	L	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q
Lindsey, Joe	Lindsey	Coal Creek	Q	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J
Little Log Mountain Coal Co., Inc.	Little Log Mtn.	Blue Gem	A	B	C	C	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E
Little War Creek Coal Co.	Little War Creek	Hignite	H	M	L	L	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J
Litton & Perry Coal Co.	Litton & Perry	Big Eagle	K	F	F	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G
Lively, Odell	Odell Lively	Upper Banner	M	L	L	L	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J
Lockhart, J. T.	Lockhart	Coal Creek	O	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
Lockhart, Walter	Lockhart, Walter	Straight Creek	O	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
Logan, Ben	Ben Logan	Harlan	F	L	L	L	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J
Logan-Chilton Coal Co.	Logan-Chilton	Jellico	R	M	M	M	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J
Logan County Coal Corp.	Rita	Chilton	Q	M	M	M	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J
Logan County Coal Corp.	Logan County	Chilton	Q	M	M	M	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J
Logan County Coal Corp.	Logan County	Chilton	Q	M	M	M	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J
Logan County Coal Corp.	Logan County	Chilton	Q	M	M	M	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J
Logan Eagle Coal Co.	Logan Eagle	Chilton	Q	M	M	M	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J
London Coal Co.	London	Blue Gem	M	L	L	L	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J
London Coal Co.	London	Blue Gem	M	L	L	L	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J
London Coal Co.	London	Blue Gem	M	L	L	L	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J
Long, Patton	Long, Patton	Horse Creek	M	L	L	L	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J
Longworth, Charley	Longworth	Upper Banner	H	M	L	L	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J
Lorado Coal Mining Co., The	Lorado No. 1	Jellico	Q	M	M	M	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J
			Q	M	M	M	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J

Alphabetical list of code members showing price classifications by sizes for all uses

Price classifications and size group numbers

Alphabetical list of code members showing price classifications by sizes for all uses

Price classifications and size group numbers

Alphabetical list of code members showing price classifications by sizes for all uses

Alphabetical list of code members showing price classifications by sizes for all uses

Alphabetical list of code members showing price classifications by sizes for all uses

Code member		Mine name	Seam	Price classifications and size group numbers																				
Code member		Mine name	Seam	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21
Merrimac Coal Co.	White Star	Pond Creek	8	Q	N	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J
Merritt, E. P.	Brown City	Elkhorn No. 1	4	H	M	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Mickitt, Jennings	Milburn No. 1	Eagle	4	K	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
Milburn By-Products Coal Co.	Milburn No. 2	Powellton	4	K	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
Miller, Carl	Miller	Upper Banner	7	M	L	L	H	O	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Miller & Deal	Big Orchard	Pittsburgh #8	4	Q	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Miller, Everett & James	Miller	Horse Creek	9	M	G	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Miller, Garnett B.	Miller	Raven	6	M	G	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Miller, Harold	Reeves	Jellico	6	O	K	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Miller, J. D.	J. D. Miller	Horse Creek	6	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Miller, John	Cove Creek	No. 3	6	O	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Miller, O. C.	Hunters Branch	Alma	4	O	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Miller & Sibert	Frog Limer	Coal Creek	6	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Miller, T. E.	Blue Eagle	Coal Creek	6	O	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Millers Creek Coal Co.	Toms Creek	Millers Creek	1	O	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Mingo Mining Company	Mingo No. 1	Thacker	8	O	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Mink, Harvey	Harvey	Horse Creek	6	O	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Minton, Theodore	Theodore	Elkhorn	3	K	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Miracle & Britton	Miracle & Britton	Elkhorn	6	H	G	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Miracle & Dunn	Miracle & Dunn	Hignite	6	H	G	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Mitchell, Eugene	Eugene Mitchell	Jellico	6	H	G	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Monarch Coal Co.	Monarch	Hignite	6	H	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Mondrage, Steve	Mondrage	Upper Banner	7	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Monte, Ben	Monitor Eagle #1	Horse Creek	5	R	M	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Monitor Coal & Coke Co.	Monitor Coal & Coke Co.	Coal Creek	6	R	M	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Moore, A. M.	Moore	Dean	6	R	N	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J
Moore Coal Co.	Moore	Moore	6	R	N	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J
Moore, C. W.	Moore No. 1	No. 5 Block	4	Q	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Moore, W. R.	Moore	Horse Creek	6	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Morgan, Joe	Morgan	Blue Gem	6	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Morgan, Robert P.	Robert P. Morgan	Hazard No. 4	6	K	K	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Morris, W. H.	Morris	Jellico	6	O	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Morris & Short Coal Co.	Morris	No. 7	1	O	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Morton, A. M.	Morton	Wilson	7	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Mountain Gem Coal Co.	Mountain Gem	Jellico	6	H	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Moyers, Byrd	Moyers	Hignite	6	H	G	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Muck, George	Muck	Pittsburgh No. 8	4	Q	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Mullins, Lee	Needmore	Straight Creek	7	H	G	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Mullins, Vernon	Needmore	Upper Banner	7	O	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Mullins, W. D.	Pisgah	No. 5 Block	4	Q	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Mullins, W. E.	Mullins	Horse Creek	6	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Napier, John L.	Napier	Horse Creek	6	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Nellis Coal Corp.	Nellis	Straight Creek	4	F	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J
Nevisdale Coal Co.	Nevisdale	Campbell Creek	6	K	B	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
New Alma Coal Co.	New Alma	Blue Gem	6	A	M	M	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J
New Anchor Block Coal Co.	New Anchor	burn	8	A	M	M	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J
Newberry, Wiley	Newberry	Anchor Block	6	J	J	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G
Newby and Company	Newby	Raven	9	K	J	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G
New Century Coal Co.	New Century	Jellico	6	G	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E
New Elkhorh Coal Corp.	New Elkhorh	Thacker	8	Q	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
New Elkhorh Coal Corp.	Dorton No. 1	Elkhorn No. 2	1	K	K	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
New Elkhorh Coal Corp.	Velma	Horse Creek	6	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
New Long Ridge Coal Co., Inc.	New Long Ridge	Jellico	6	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
New Mary Frances Coal Co.	New Mary Frances	Mason	6	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
New Mary Frances Coal Co.	New Mary Frances	Pond Creek	8	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
New Morning Glow Coal Co.	New Morning Glow	Horse Creek	6	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
New Solar Coal Co.	Butterfly	Hazard No. 6	3	M	O	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Nichols, Bill	Nichols	Cary	9	G	E	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Nichols, James Harvey	Nichols	Cary	9	G	E	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Norfolk & Chesapeake Coal Co.	Wilson No. 3	Eagle	5	R	M	M	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K
North-East Coal Co.	Auxler No. 7	Millers Creek	1	A	B	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
North-East Coal Co.	Thealka No. 3	Millers Creek	1	D	F	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G

Price classifications and size group numbers

Alphabetical list of code members showing price classifications by sizes for all uses

Table with columns: Code member, Mine name, Seam, Subst., Price classifications and size group numbers. Lists various coal companies and their products.

Alphabetical list of code members showing price classifications by sizes for all uses

Table with columns: Code member, Mine name, Seam, Subst., Price classifications and size group numbers. Lists various coal companies and their products.

1 See Cannel coal prices.

Alphabetical list of code members showing price classifications by sizes for all uses			Price classifications and size group numbers										Alphabetical list of code members showing price classifications by sizes for all uses			Price classifications and size group numbers																																
Code member	Mine name	Seam	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	Code member	Mine name	Seam	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	
Webb Coal Mining Co.	Webb	Dorothy	E	F	F	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	Wood Coal Co.	Freeze Fork	Chilton	O	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M		
Webb, W. H. & L. E.	Webb	No. 7	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	Woodrum Wm.	Woodrum	No. 3	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	
Webb, W. H.	Webb	Hignite	H	G	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	Woody, Wm.	Woody	Jellico	H	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	
Welch, Fred.	Welch	No. 5	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	Woody, W. E.	Washington	Horse Creek	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Weldon, A. C.	Weldon	Jellico	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	Woodridge Blue Gem Coal Co.	Washington	Blue Gem	A	B	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
Welder	Welder	Straight Creek	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	Woodridge Blue Gem Coal Co.	Powhatan	Blue Gem	A	B	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
Wells, L. C.	Wells	Jellico	O	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	Woolum, Henry	Black Bull	Straight Creek	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
Wells, W. E.	Wells	Jellico	O	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	Woolum, W. M.	Black Bull	Straight Creek	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
Wender Blue Gem Coal Co.	Wender	Raven	G	E	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	Worley, C. W. & A. A.	Black Bull	Upper Banner	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Wender	Wender	Blue Gem	G	E	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	Wright, Otis & Bob Madon.	Black Bull	Straight Creek	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
West, Jim.	West	Coal Creek	O	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	Wyatt Coal Co.	Black Bull	Straight Creek	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
West, Thomas B. & Son.	West	Island Crk. (Can- nel)	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	Wyatt Coal Co.	Black Bull	Straight Creek	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
West Virginia Cannel Coals, Inc.	Switzer	Island Crk.	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	Wyatt Coal Co.	Black Bull	Straight Creek	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
West Virginia Coal & Coke Corp.	Micco No. 3	Island Creek	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	Wyatt Coal Co.	Black Bull	Straight Creek	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
West Virginia Coal & Coke Corp.	Earling	Eagle	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	Wyatt Coal Co.	Black Bull	Straight Creek	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
West Virginia Coal & Coke Corp.	Omar No. 4	Island Creek	O	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	Wyatt Coal Co.	Black Bull	Straight Creek	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
West Virginia Coal & Coke Corp.	Omar No. 5	Island Creek	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	Wyatt Coal Co.	Black Bull	Straight Creek	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
West Virginia Coal & Coke Corp.	Rossmore	Island Creek	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	Wyatt Coal Co.	Black Bull	Straight Creek	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
West Virginia Coal & Coke Corp.	Stirratt No. 19	Island Creek	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	Wyatt Coal Co.	Black Bull	Straight Creek	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
Whaley, I. C.	Whaley	Coal Creek	O	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	Yates & Smith	Black Bull	Straight Creek	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
Wharton, G. C.	Wharton	Dorchester	O	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	Yeaty, Tip & Roy	Black Bull	Straight Creek	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
Whitaker, Earl.	Whitaker	Horse Creek	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	Yeakum, R. A.	Black Bull	Straight Creek	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
White Coal Company	Baker	Horse Creek	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	York, William	Black Bull	Straight Creek	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
White Coal Co., J. E.	Lilly	Horse Creek	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	Young, D. W.	Black Bull	Straight Creek	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
Whited, A. W.	Whited	Raven	G	E	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	Young Bros.	Black Bull	Straight Creek	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
Whited, E. P.	Whited	Upper Banner	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	Young No. 1	Black Bull	Straight Creek	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
Whiteside, Rufus	Rufus	Upper Banner	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	Young No. 2	Black Bull	Straight Creek	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
Whitesville Mining Co.	Whitesville	Powellton	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	Young No. 2	Black Bull	Straight Creek	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
Whitt, M. L. & Sons.	Whitt	Upper Banner	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	Youngstown Mimes Corp., The	Black Bull	Straight Creek	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
Whitt, White & Whited	M. L. Whitt & Sons.	Upper Banner	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	Zecchini Blue Gem Coal Co.	Black Bull	Straight Creek	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
Whittaker, T. L.	Kennedy	Widow Kennedy	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	Zenith Coal Co.	Black Bull	Straight Creek	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
Whittaker, Walter	Whittaker	Horse Creek	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	Zitzelsberger	Black Bull	Straight Creek	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
Whittington, A. E.	Whittington	No. 2 Gas	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	Albert Addison	Black Bull	Straight Creek	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
Whittington, Carl	Whittington	No. 2 Gas	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	Adkins	Black Bull	Straight Creek	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
Whittington, L. H.	Whittington	Pittsburgh No. 8	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	Asbury, Lizzie	Black Bull	Straight Creek	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
Wilburn, Minton	Wilburn	No. 2 Gas	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	Bailey, O. V.	Black Bull	Straight Creek	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
Wilder, Bob	Wilder	Jellico	Q	E	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	Baker, J. W.	Black Bull	Straight Creek	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
Wilhoit, McKinley	Wilhoit	Blue Gem	Q	E	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	Ballou	Black Bull	Straight Creek	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
Wilkinson, Jim	Wilkinson	Blue Gem	Q	E	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	Ballou, Walter	Black Bull	Straight Creek	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
Wilkinson, John	Wilkinson	Blue Gem	Q	E	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	Bearden & Amos	Black Bull	Straight Creek	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
Williams Coal Mining Co.	Williams	Horse Creek	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	Bell, C. J.	Black Bull	Straight Creek	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
Williams, J. H.	Williams	Pittsburgh No. 8	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	Bennett, J. F.	Black Bull	Straight Creek	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
Williams, Lige	Williams	No. 7	M	L																																												

Geographical Description of Consuming Market Areas to Which Prices Apply
 All Market Areas throughout the United States to which coal produced in District Number 8 ordinarily moves.

Prices for Shipments Into All Marketing Areas

PRICES IN CENTS PER TON OF 2000 POUNDS AND SIZE GROUP NUMBERS

Price classification	Double screened industrial coal															
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
Block: Larger than 5"	350	340	330	320	315	305	295	290	285	280	275	270	265	260	255	250
Chunks: Larger than 4"x6", Block: Larger than 3" not exceeding 5"	340	330	320	310	305	295	290	285	280	275	270	265	260	255	250	245
Chunks: 6" Top-3 1/2" to 4" bottom 3"	330	320	310	300	295	285	280	275	270	265	260	255	250	245	240	235
Lump: Larger than 3" not exceeding 2"	320	310	300	290	285	275	270	265	260	255	250	245	240	235	230	225
Furnace: 8" Top and 2 1/2" to 3" bottom	315	305	295	285	280	270	265	260	255	250	245	240	235	230	225	220
Furnace: 6" Top and 2 1/2" to 3" bottom	305	295	285	275	270	260	255	250	245	240	235	230	225	220	215	210
Furnace: 5" Top and 2 1/2" to 3" bottom	295	285	275	265	260	250	245	240	235	230	225	220	215	210	205	200
Egg: 6" Top and 1" to 2" bottom	290	280	270	260	255	250	245	240	235	230	225	220	215	210	205	200
Egg: 5" Top and 1" to 2" bottom, 4" Top and 1" to 2 1/2" bottom	285	275	265	255	250	240	235	230	225	220	215	210	205	200	195	190
Sieve: 3" Top and 1" to 2" bottom	280	270	260	250	245	240	235	230	225	220	215	210	205	200	195	190
Nut: 2" Top and 1/2" to 1 1/2" bottom	275	265	255	245	240	235	230	225	220	215	210	205	200	195	190	185
Stoker: 1 1/2" Top and 1/2" to 3/4" bottom	270	260	250	240	235	230	225	220	215	210	205	200	195	190	185	180
6" Top and 1 1/2" to 3" bottom	265	255	245	235	230	225	220	215	210	205	200	195	190	185	180	175
5" Top and 1" to 2" bottom	260	250	240	230	225	220	215	210	205	200	195	190	185	180	175	170
3" Top and 1" to 2" bottom	255	245	235	225	220	215	210	205	200	195	190	185	180	175	170	165
1 1/2" Top and 1/2" to 3/4" bottom	250	240	230	220	215	210	205	200	195	190	185	180	175	170	165	160

See size group chart for description of sizes. See price instructions and exceptions.

Code member	Mine name	Subdist.	Seam	Price classifications and size group numbers																				
				1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21
Fritts, John	John Fritts	6	Coal Creek	O	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J	J
Frontier Cannel Coal Co.	Abbott Creek	1	Cannel	M	K	L	N	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Goe, Walker T. O.	Grubb	3	Beattyville	M	K	L	N	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Grubb, W. A.	Grubb	3	Beattyville	M	K	L	N	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Haley Mountain Coal Co.	Haley Mtn	1	Bon Air #2	M	K	L	N	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Harrison, Vol	Hampton	1	Bon Air #2	M	K	L	N	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Harrison, Roy	Hampton	1	Bon Air #2	M	K	L	N	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Hester, S. E.	Horse Creek	6	Horse Creek	M	K	L	N	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Hewlett, C. D.	Hewlett	1	Coal Creek	M	K	L	N	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Hogan Bros	Hogan Bros	3	Beattyville	M	K	L	N	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Holbrooks, Charles	Holbrooks	1	Beattyville	M	K	L	N	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Ilderton, Earl	Ilderton	1	Beattyville	M	K	L	N	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Ingram, Lee	Ilderton	1	Beattyville	M	K	L	N	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Jamison, Walker	Walker Jamison	2	Horse Creek	M	K	L	N	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Jarrett, Other E.	Jarrett	4	Beattyville	M	K	L	N	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Jones, H. C.	Jarrett	4	Beattyville	M	K	L	N	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Kentucky Red Ash Coal Co.	Red Ash	6	Beattyville	M	K	L	N	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Kitchen, Wm.	Kitchen	6	Hignite	M	K	L	N	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Lester, R. W.	Kitchen	6	Hignite	M	K	L	N	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Little, J. O.	J. C. Little	3	Horse Creek	M	K	L	N	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Little, J. E.	J. C. Little	3	Horse Creek	M	K	L	N	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Little, Wilson	Wilson Little	3	Beattyville	M	K	L	N	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Lowe, Amos	Wilson Little	3	Beattyville	M	K	L	N	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
McIntosh & Brandenburg	Lowe	3	Beattyville	M	K	L	N	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
McKinney, H. L.	McIntosh & Brandenburg	3	Beattyville	M	K	L	N	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
McNeal Coal Co., Lee	McKinney	6	Coal Creek	O	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Marcum, W. B.	Lee McNeal	6	Coal Creek	O	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Meadows, Grant	Marcum	1	Coal Creek	O	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Miller Vinson	Birch Lick	1	Horse Creek	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Minix & Clem	Miller	1	Horse Creek	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Mink, Roscoe	Minix & Clem	3	Hazard #4	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Morris, John B.	Mink	6	Horse Creek	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Morris & Noe	Mink, Sam B. & Son	6	Horse Creek	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Murphy & Wais	Morris, John B.	6	Horse Creek	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Owens & Owens	Good McKee	6	Horse Creek	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Parker, J. M.	Cox	4	Sewell	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Peltrey, Arthur	O'Dell, Arthur B	6	Horse Creek	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Pratt, Jasper	Owens & Owens	6	Horse Creek	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Price, W. C.	Harrison	6	Horse Creek	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Privette, Bob & Sons	Peltrey, Arthur	3	Bon Air #2	M	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Slyger, John	Jasper Pratt	3	Hazard #6	M	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Snowden, G. T.	Price, W. C.	6	Beattyville	M	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Spicer, Clarence	Price, W. C.	6	Beattyville	M	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Thompson, Bob	Privette, Bob & Sons	3	Coal Creek	M	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Thompson, George	John Slyger	3	Hazard #4	M	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Thompson, Wm.	Spicer	3	Hazard #4	M	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Vanwinkle, Virgil	Capt. Bob Thompson	6	Bon Air #2	M	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Walls, Jabe	Thompson	1	McHenry	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Webb, E. T.	Hamlin	6	McHenry	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Webb, Henry F., & Jake Brumett	Vanwinkle, Virgil	6	Horse Creek	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Webb, Herman	Walls, Jabe	6	Coal Creek	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Whitaker, H. B.	Webb, E. T.	6	Coal Creek	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Whitaker, W. F.	Webb, Henry F., & Jake Brumett	6	Coal Creek	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Whitehead Coal Co.	Webb, Herman	1	McHenry	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Williams, J. H. & Blain Nichols	Whitaker, H. B.	7	Up. Banner	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Wilson, C. H.	Whitaker, W. F.	6	Up. Banner	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Young & Hamilton	Whitehead Coal Co.	6	Coal Creek	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
	Williams, J. H. & Blain Nichols	6	Coal Creek	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
	Wilson, C. H.	6	Coal Creek	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
	Young & Hamilton	1	McHenry	M	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L

1 See Cannel coal prices.

Prices for Shipments Into All Marketing Areas—Continued.

Price classification	17		18		19		20		21		22		23		24		25		26		27		28*		29*		30*		31	
	3/4" and under Screened R. O. M.		Straight R. O. M.		5/4" to 6" Resultant R. O. M.		3" to 3" Resultant R. O. M.		Nut-slack: Modified containing 10% of 3/8" x 0 (allowable tolerance 2 1/2%)		Nut slack: Modified containing 15% of 3/8" x 0 Slack (allowable tolerance 2 1/2%)		Nut-slack: Mod. containing 20% of 3/8" x 0 Slack (allowable tolerance 2 1/2%), Mod. with 10 mesh or smaller rem. Larger than 2" but not exceed. 2 3/4"		Nut-slack: Larger than 1" not exceeding 2"		Nut-slack: Larger than 3/8" not exceeding 1", Degraded—Resultant coal remaining after all of 1" to 1 1/4" top and 3/8" to 3/8" bottom has been removed		Slack: 3/8" x 0 and under Screenings		Reject coal: Low Grade reject coal separated at tipple or loaded separately in the mine		All Lump in excess of 2" bottom size and all Chunks and Furnaces 3" and over bottom and 5" and over top size		All 2" Lump and all Egg 5" and under top size and under 3" bottom size		All lump under 2" bottom size including Screened R. O. M. and all Stove and Nut sizes 3" and under top size.		Straight R. O. M., Resultants, Nut-Slack, Screenings	
A	245	235	230	225	215	210	205	200	190	185	170	165	155	145	135	125	115	105	95	85	75	65	55	45	35	25	15	5		
B	235	225	220	215	210	205	200	195	185	180	165	160	150	140	130	120	110	100	90	80	70	60	50	40	30	20	10	0		
C	230	220	215	210	205	200	195	190	180	175	160	155	145	135	125	115	105	95	85	75	65	55	45	35	25	15	5	0		
D	225	215	210	205	200	195	190	185	175	170	155	150	140	130	120	110	100	90	80	70	60	50	40	30	20	10	0	0		
E	220	210	205	200	195	190	185	180	170	165	150	145	135	125	115	105	95	85	75	65	55	45	35	25	15	5	0	0		
F	215	205	200	195	190	185	180	175	165	160	145	140	130	120	110	100	90	80	70	60	50	40	30	20	10	0	0	0		
G	210	200	195	190	185	180	175	170	160	155	140	135	125	115	105	95	85	75	65	55	45	35	25	15	5	0	0	0		
H	205	195	190	185	180	175	170	165	155	150	135	130	120	110	100	90	80	70	60	50	40	30	20	10	0	0	0	0		
J	200	190	185	180	175	170	165	160	150	145	130	125	115	105	95	85	75	65	55	45	35	25	15	5	0	0	0	0		
K	195	185	180	175	170	165	160	155	145	140	125	120	110	100	90	80	70	60	50	40	30	20	10	0	0	0	0	0		
L	190	180	175	170	165	160	155	150	140	135	120	115	105	95	85	75	65	55	45	35	25	15	5	0	0	0	0	0		
M	185	175	170	165	160	155	150	145	135	130	115	110	100	90	80	70	60	50	40	30	20	10	0	0	0	0	0	0		
N	180	170	165	160	155	150	145	140	130	125	110	105	95	85	75	65	55	45	35	25	15	5	0	0	0	0	0	0		
O	175	165	160	155	150	145	140	135	125	120	105	100	90	80	70	60	50	40	30	20	10	0	0	0	0	0	0	0		
P	170	160	155	150	145	140	135	130	120	115	100	95	85	75	65	55	45	35	25	15	5	0	0	0	0	0	0	0		
Q																														
R																														
S																														

* When sold for by-product use, any grade or size of coal included in Size Groups 28, 29, and 30 may be sold at the Class "A" price for Group 31.
See size group chart for description of sizes.
See price instructions and exceptions.

MINIMUM PRICE AREA NO. 1—DISTRICT BOARD NO. 1
PROPOSED MARKETING RULES AND REGULATIONS

A witness for District Board No. 1, properly qualified as an expert in the marketing of coal in that District, introduced into evidence as Exhibit No. 605, the rules and regulations proposed by District Board No. 1 in compliance with Commission Order No. 248. This witness testified that these rules and regulations were properly submitted to Code Members within District No. 1 and that the District Board received protests from seven Code Members. After due notice, a hearing was held on said protests and such modifications as were approved of by the District Board were then included in a new draft of the proposed rules and regulations.

It was the opinion of the members of District Board No. 1 and also the personal opinion of the witness that the marketing rules and regulations contained in Exhibit No. 605 are reasonable, not inconsistent with the requirements of Section 4 of the Act, and in conformance with the standards of fair competition contained in the Act.

District Board No. 1 proposed the following definition of a sales agent, Exhibit No. 605, Section 1, paragraph 2:

A "sales agent" is a person who as agent, in law or in fact, sells coal for or on behalf of a Code Member.

Rule 4, Section II of Exhibit No. 605, providing for the filing with the Commis-

sion of certain data, differentiates a sales agent from a sales representative regularly employed as salesmen. It is apparent from this rule that the District Board did not intend that a sales representative regularly employed as a salesman should be included in the definition of a "sales agent". Furthermore, the witness for the Board stated that it was not his understanding that rule 3 of Section II required Code Members to evidence in writing the appointment of an ordinary salesman regularly employed at a stated salary per week, per month, or per year. We are of the opinion that the definition of a "sales agent" should be clarified so as clearly to indicate this differentiation. For the purpose of further clarification, and to prevent the granting of discounts in the form of commissions, we are of the opinion that the definition of a sales agent should clearly indicate that persons who purchase coal do not come within the scope of the definition. Accordingly, we modify the definition of a "sales agent" contained in Section I, rule 2, to read as follows:

A "sales agent" is a person who, as agent of a Code Member (and therefore without purchasing the coal), sells coal produced by such Code Member for him or on his behalf: *Provided*, that "sales agent" shall not include an individual (herein referred to as a "salesman") regularly and continuously employed by a Code Member, whose sole compensation is a stated salary per week, per month, or per year, and who regularly devotes the major portion of his time to the solicitation of purchases of coal produced by his Code Member employer.

For the purpose of clarification, we modify the definition of a "commission" contained in Section I, rule 3, to read as follows:

A "commission" is the total of all compensations and allowances received by a sales agent from a Code Member for services rendered in the sale of coal.

Definitions 4, 5, 6, 7, and 18 should be deleted from the proposed rules for the reason that they relate to the subject matter of a hearing held pursuant to Section 4 II (h) of the Act. We are of the opinion the following definition of a "registered distributor" is proper:

A "registered distributor" is a person who has been duly registered by the Coal Commission pursuant to the rules and regulations prescribed by the Commission for the administration of Section 4 II (h) of the Act.

We are of the opinion that definitions 15 to 23 contained in Section I of the composite findings hereinafter given are reasonable and desirable. The District Board did not define these terms although they appear in various rules proposed by the Board.

While the witness for the District Board stated that the Board, in proposing rule 1 under Section II, deliberately omitted any reference to the appointment of sales agents as being subject to the marketing rules and regulations, the Board, in proposing rule 3 of Section II, proposed a regulation of such appointments. Furthermore, in rules VI and VII of Section V the Board proposed rules prohibiting the payment of commissions to sales agents under certain circumstances. So that Code Members may be clearly put on notice that appointment of sales agents are subject to the marketing rules and regulations, we find that the following rule should be substituted for rule 1 of Section II:

All appointments of sales agents by Code Members or their agents or authorized representatives shall be subject to the marketing rules and regulations from time to time established by the Coal Commission.

Rule 3 of Section II requires all contracts for the appointment of sales agents by Code Members, or authorized representatives of Code Members, to be in writing and that copies of such agency contracts shall be filed with the Statistical Bureau. It is obvious that the purpose of this rule is to furnish necessary information to the Commission to enable it to determine whether or not the Code is being violated by sales agents or by Code Members through the use of sales agents. In order fully to effectuate the purpose of this rule, we are of the opinion that the rule should be modified as hereinafter set forth in rule 3 of Section II of the composite findings, so as clearly to indicate that the contract shall set forth all the terms and conditions of

the contract, including the amount or basis of the sales agents' commission, and furthermore, that all agreements modifying sales agency contracts should likewise be in writing and filed with the Statistical Bureau.

The District Board leaves a blank date for the time of filing such contracts entered into prior to the effective date of these rules and regulations. We find that a period of twenty (20) days after the establishment of the rules and regulations is a reasonable period within which to require the filing of sales agency contracts entered into on or prior to the effective date of these rules and regulations.

Rule 5 of Section II provides that the Commission should publish a list showing the names and addresses of sales agents and the Code Members for whom such agents act. In order that the Commission may properly carry out this rule and so that the lists published shall be accurate, we are of the opinion that the Code Member principal shall report to the Statistical Bureau the expiration, termination or rescission of all sales agency contracts as provided in rule 3 (c) of Section II of the composite findings hereinafter set forth. Likewise, the Code Member should file with the Coal Commission a list showing the names and addresses of his sales agents and should report any change in such list as provided in rule 5 of the attached composite findings.

It is apparent that the District Board, by rule 4, Section II, intended that each Code Member shall file monthly with the Statistical Bureau a statement showing the tonnage sold to wholesalers and the amount of discounts paid or allowed to them. We are of the opinion that this rule should be clarified so as clearly to require such filing as provided in rule 4 (c) of Section II in the composite findings hereinafter set forth.

It is apparent that the blank date in rule 7 of Section II was meant to conform to the blank date in rule 3; therefore, the period after which no Code Member shall pay any commission to a sales agent under this rule should be twenty (20) days after the effective date of these marketing rules and regulations. Furthermore, we are of the opinion that this rule should be clarified as set forth in rule 8 of Section II of the composite findings subsequently given.

Section V, rule VII, prohibits the payment of a commission to a sales agent where the coal is delivered or sold to any person who controls in whole or in part such sales agent. This rule, as it relates to sales agents, should be properly contained in Section II which is entitled "Sales Agents".

We are of the opinion that when any commissions are paid to a sales agent on a tonnage basis and there is included in the computation of such commissions any part of the tonnage of coal sold by the Code Member to the sales agent,

whether for consumption or resale, there is a violation of the Act in that the sales agent receives a discount on the coal purchased by him. So that Code Members may be put on notice that the payment of such commissions is in violation of the Act, we find that the following rule is reasonable for District No. 1:

When any commissions are paid to a sales agent on a tonnage basis, the Code Member shall not include in the computation of such commissions any part of the tonnage of coal sold by him to the sales agent, whether for consumption or resale.

Rule 11 of Section II of the attached composite findings hereinafter given is a re-statement of paragraph 13 of Section 4 II (i) of the Act.

Rule 12 of Section II of the attached composite findings puts the Code Member on notice that the amount of commission paid to a sales agent is subject to review by the Coal Commission upon complaint of violation of the unfair methods of competition.

In view of the Chairman's statement that rules relating to the registration of distributors, including farmers' cooperative organizations who may be entitled to register as such, should not be submitted at this hearing but should properly be submitted under Docket No. 12, we find that rules II, III, IV, V and VI of Section III and rules II, III, IV and V of Section IV should be deleted and rules I of Sections III and IV should be combined and modified to read as follows:

No Code Member or sales agent of a Code Member shall pay or allow any discount from minimum prices to any person unless such person has been registered by the Coal Commission as authorized to receive such discount at the time of the sale.

Rule II of Section V is deleted for the reason that it is, in substance, the same as rule VII of Section II.

Rule IV of Section V is deleted for the reason that it is, in substance, the same as rules I of Sections III and IV.

Rule III of Section V permits the payment of a discount to a wholesaler or registered farmers' cooperative organization merely upon the filing of an application for registration. We are of the opinion that this rule would defeat the purposes of requiring registration and, therefore, we delete the rule.

We delete rule V of Section V for the reason that it is a proposal of maximum discounts that may be allowed to distributors and such proposals are proper in Docket No. 12.

Rule VI of Section V prohibits payment of a commission or discount on any sale of coal for locomotive fuel purposes. We are of the opinion that this rule is beyond the power of the Commission to establish upon the basis of the evidence introduced into the record, and, accordingly, we find that it should be deleted.

Rule VIII of Section V should be amplified for the purpose of clarity to read:

Code Members or their sales agents may allow discounts from minimum prices on sales of coal to registered distributors, not in excess of the maximum discount or price allowance prescribed by the Coal Commission upon such sales. Only one such discount may be allowed on any such sale.

In so far as rule IX of Section V relates to commissions paid to sales agents, we are of the opinion that rule 9 of Section II of the attached composite findings covers the extent of our jurisdiction over this subject matter. In so far as rule IX relates to the granting of a discount, we are of the opinion that this rule could be properly effectuated only by a rule which prohibits a registered distributor from receiving a discount under the circumstances stated in the rule. Accordingly, we find that rule IX of Section V should be deleted.

The witness stated that in proposing rule 1 of Section VI the Board followed the Commission's ruling relating to the third paragraph of Section 4 II (e) which restricts contracts entered into before the establishment of prices to a thirty (30) day delivery period. The Commission contemplates the contemporaneous establishment of marketing rules and regulations and minimum prices, and therefore, a rule restricting contracts before the establishment of minimum prices is improper. From the rule as proposed for the District Board and the testimony of the witness, it is evident that the District Board desired a rule limiting contracts to a thirty (30) day period until the minimum prices have been in effect for a sufficient time to be tested by experience. We find that the following rule is reasonable for District No. 1:

Subject to further order of the Coal Commission to be made not later than thirty (30) days after the establishment of minimum prices, no Code Member or sales agent of a Code Member shall enter into any agreement or order for the sale of coal providing for delivery for a period in excess of that authorized for a spot order, and no prices shall be less than the applicable minimum prices in effect at the time of the making of the agreement or order: *Provided, however*, That contracts for periods not exceeding one (1) year may be made with agencies of the Federal Government or with agencies of State or local governments, where the contract is entered into through competitive bidding, at the following applicable minimum prices:

(a) For deliveries during the first thirty (30) days of the contract, at not less than the applicable minimum price in effect at the time of the making of the agreement;

(b) For deliveries thereafter, at not less than the applicable minimum price

in effect at the time of delivery if such price is higher than the contract price.

Provided, further, That contracts for periods not exceeding one (1) year at prices not less than the said applicable minimum prices may be made with agencies of the Federal Government or with such agencies of the State or local governments, in the absence of competitive bidding, where by virtue of an express exemption in the statute or ordinance such agencies may enter into contracts for the purchase of coal without regard to competitive bidding.

District Board No. 1 did not propose any rule limiting the effective date of quotations while rule 1 of Section VI is in effect. We are of the opinion that in order to properly effectuate the rule limiting agreements or orders to a thirty (30) day delivery period, quotations should be uniformly limited to a fourteen (14) day effective period. Accordingly, we modify rule II of Section VI to read as follows:

Quotations may be given for a period not exceeding fourteen (14) days. All quotations shall be made or confirmed in writing, and shall, without notice, become null and void immediately upon the establishment by the Coal Commission of a revised minimum price for the coal covered by the quotation, if such quotation is less than the revised minimum price.

While rule 1 of this section is in effect, no option may be given by a Code Member or a sales agent for the purchase of coal except that in connection with offers to sell to the United States Government or States or political subdivisions thereof, options may be given for a period not exceeding forty-five (45) days from the date of the offer or from the final date for the filing of offers.

We are of the opinion that the following rules are necessary in order properly to effectuate the rules proposed by the District Board:

Every quotation and option shall provide that it is made subject to the provisions of the marketing rules and regulations of the Coal Commission.

Every Code Member or his sales agent shall require of his offeree that the acceptance of a quotation or the exercise of an option be in writing.

Rule 1 of Section VII should be clarified as hereinafter set forth in rule I of Section V of the attached composite findings.

Rule 2 (a) of Section VII should be deleted for the reason that it relates to price evasion by absorption of transportation charges. This subject must be considered separately in a hearing held pursuant to Section 4 II (g) of the Act.

For the purpose of clarification, we modify rule 2 of Section VII in the manner set forth in rule II of Section V of the attached composite findings.

The District Board did not propose any rule expressly requiring the filing of spot

orders or any written confirmation thereof. However, the Board, in rule 4 of Section VII, provided that any modification of a spot order must be made in writing and filed in the same manner as an order. We are of the opinion that rule IV of Section V of the attached composite findings, which expressly requires that any modification of spot orders must be made in writing and filed with the Statistical Bureau in the same manner as an order, is desirable and reasonable.

We find that rule 3 of Section VIII should be modified as a matter of law to read as follows:

From and after the effective date of these rules and regulations, no Code Member shall enter into or perform any agreement made upon a penalty or a premium and penalty basis which will permit the sale of coal at an aggregate contract price below the applicable minimum price established by the Coal Commission for the coal sold and delivered upon such agreement subsequent to said effective date: *Provided,* that where a Code Member has entered into an agreement made upon a penalty or a premium and penalty basis, this rule shall not be considered as affecting any claim that the buyer might otherwise have had for substandard preparation or quality under Section VIII of these marketing rules and regulations.

On the basis of the testimony of the witness, we find that rule 1 of Section IX should be modified to include truck shipments.

A discrimination appears in rule 6 of Section IX in that no provision is made for the charging of interest where the due date of the account is extended pursuant to an agreement, express or implied, not evidenced by a note, trade acceptance or other form of indebtedness. We find that this rule is unreasonable in this respect and should be amended to include the charging of interest where the due date of the account is extended by agreement of the parties, express or implied.

For the purpose of clarification, we modify rule 3 of Section IX in the manner set forth in rule 2 (c) of Section VII of the attached composite findings hereinafter given.

In order to put Code Members on notice that it is a violation of the Code to accept as payment in full any amount which is less than the applicable minimum price for the quantity of the coal sold, although Code Members may enter into general creditors' compositions with other creditors of a defaulting purchaser, we are of the opinion that rule (K) of Section VII of the attached composite findings is necessary and reasonable.

While the District Board provided in Section IX, relating to terms of payment, that the price and fair trade provisions of the Act shall not be violated by the use of terms of payment and that in no instance shall the terms of payment be

more favorable than those specified in the rules, the District Board did not propose any specific rule making the agreement, express or implied, to extend credit for a period longer than that authorized by the rules a violation of the Code. We are of the opinion that such a rule, as set forth in paragraph (L) of Section VII of the attached composite findings hereinafter given is necessary and reasonable in order fully to effectuate the rules proposed by the District Board relating to the terms of payment.

For the purpose of clarification, we modify rules 1 and 2 of Section X in the manner set forth in rules 1 and 2 of Section VIII of the attached composite findings.

In order more fully to effectuate the purpose of rule 3 of Section X and so that the Commission will be informed of all relevant facts, we are of the opinion that the statement to be filed with the Statistical Bureau where coal is refused by consignee in transit should state the price at which the coal was originally sold.

With reference to rule 5 of Section X, we are likewise of the opinion that the statement to be filed with the Statistical Bureau should be of real value to the Commission and should, accordingly, contain all relevant information which is necessary to determine whether adjustments for substandard preparation or quality have been made bona fide and not with the intention of evading prices. We are of the opinion that the statement should show, in addition to the information required in the rule as proposed by the Board, the price at which the coal was sold, the tonnage delivered, the name of the mine, the Code Member, date of shipment, grade and size of coal, and the destination.

We are of the opinion that rule 6 of Section X should be modified to provide that all coal must be sold and invoiced on a price per ton basis. This modification, in our opinion, is necessary for a uniform procedure and method to govern the selling and invoicing of coal.

Rule 7 of Section X provides that coal confiscated or lost in transit shall be invoiced to the carrier at the market value of the coal, but in no event at less than the minimum price therefor established by the Coal Commission. This Commission has no jurisdiction to compel the Code Member to invoice such coal at any price above the minimum price. Accordingly, this rule should be modified in the manner set forth in rule 7 of Section VIII of the attached composite findings.

Rule 9 of Section X is of questionable legality. We approve it at this time for the purpose of coordination since the District Boards may propose a coordinated rule which is not subject to legal objection.

On the basis of all the testimony in the record relating to the proposal of District Board No. 1, contained in Exhibit No. 606, permitting Code Members under certain circumstances to grant

quantity discounts, we find that this proposal should not be approved.

Upon the basis of all the testimony in the record relating to the rules proposed by District No. 1, we find that the following rules and regulations incidental to the sale and distribution of coal by Code Members in District No. 1 are reasonable, not inconsistent with the requirements of Section 4 of the Act and in conformance with the standards of fair competition established in the Act:

MARKETING RULES AND REGULATIONS INCIDENTAL TO THE SALE AND DISTRIBUTION OF COAL BY CODE MEMBERS WITHIN DISTRICT NO. 1 AS PROPOSED BY DISTRICT BOARD NO. 1 AND AS APPROVED, DISAPPROVED, OR MODIFIED FOR THE PURPOSE OF COORDINATION

Section I—Definitions

1. The term "person" as used herein, includes individuals, firms, associations, partnerships, corporations, trusts, trustees, cooperatives, receivers and trustees in bankruptcy and in other legal proceedings, and any other recognized forms of business organizations.

2. A "sales agent" is a person who, as agent of a code member (and therefore without purchasing the coal), sells coal produced by such code member for him or on his behalf: *Provided*, That "sales agent" shall not include an individual (herein referred to as a "salesman") regularly and continuously employed by a code member, whose sole compensation is a stated salary per week, per month, or per year, and who regularly devotes the major portion of his time to the solicitation of purchases of coal produced by his code member employer.

3. A "commission" is the total of all compensations and allowances received by a sales agent from a code member for services rendered in the sale of coal.

4. A "registered distributor" is a person who has been duly registered by the Coal Commission pursuant to the rules and regulations prescribed by the Commission for the administration of Section 4 II (h) of the Act.

5. A "spot order" is a legal obligation for the sale and purchase of coal, the delivery of which is stipulated to be made within not more than thirty (30) days from the effective date of the order, such effective date to be not more than fifteen (15) days from the date upon which the order was accepted.

6. A "contract" is a legal obligation for the sale and purchase of coal, the deliveries of which are stipulated to be made during a period longer than the maximum period specified for a spot order.

7. A "quotation" is an offer to sell coal which the offerer may withdraw prior to its being acted upon by the offeree.

8. An "option" is an offer to sell coal acceptable within a time certain, during which time the offerer may not withdraw the offer without the consent of the offeree.

9. "Coal Commission" as used herein, shall mean the National Bituminous Coal which time the offerer may not withdraw the offer without the consent of the 1937.

10. "Act" as used herein shall mean the Bituminous Coal Act of 1937.

11. "District Board" as used herein, shall mean any District Board established under the provisions of Section 4, Part I (a) of the Act.

12. "Statistical Bureau" shall mean, unless otherwise specifically stated, the Statistical Bureau of the Commission for the District in which the coal involved in any transaction is produced, or the District in which is located a mine of a code member affected by any order or regulation.

13. "Minimum Price" shall mean a minimum price established and made effective by the Coal Commission.

14. "Maximum Price" shall mean a maximum price established and made effective by the Coal Commission.

15. The term "producer" includes all individuals, firms, associations, corporations, trustees, and receivers engaged in the business of mining coal.

16. The terms "reconsignment" and "diversion" as used herein shall mean the change in the original consignee or in the destination or route.

17. The term "transportation facilities" means railroad cars, ships, barges, trucks, or any other facilities used or useful in the transportation of coal.

18. A "code member" means a producer who has accepted and holds membership in the Bituminous Coal Code promulgated under the Bituminous Coal Act of 1937.

19. "Cargo shipment" is a quantity of coal loaded in a vessel, boat or barge for transportation via water.

20. "Bunker coal" or "vessel fuel" is that coal used aboard a boat or vessel for consumption thereon.

21. "Coal" as used herein shall mean bituminous coal.

22. The term "bituminous coal" includes all bituminous, semi-bituminous and sub-bituminous coal and shall exclude lignite, which is defined as a lignitic coal having calorific value in British thermal units of less than seven thousand six hundred per pound and having a natural moisture content in place in the mine of 30 per centum or more.

23. The term "control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

Section II—Sales Agents

1. All appointments of Sales Agents by Code Members or their agents or authorized representatives shall be subject to the Marketing Rules and Regulations from time to time established by the Coal Commission.

2. Each code member shall be responsible for the compliance by all his sales agents and agents and employees of sales agents with the provisions of the Bituminous Coal Code and of all rules and regulations, promulgations and determinations of the Coal Commission.

3. (A) Every contract for the appointment of a sales agent by Code Members or by agents or authorized representatives of Code Members, or any modification thereof, shall be in writing, and shall fully set forth therein all the terms and conditions of such contract, including the amount or basis of the sales agent's commission. Certified copies of all such agency contracts entered into on or prior to the effective date of the establishment of these rules and regulations and in effect on such date, shall be filed by the Code Member with the Statistical Bureau, or Bureaus, within twenty (20) business days after such date.

(B) Certified copies of all contracts appointing sales agents or of agreements modifying any sales agency contract, entered into subsequent to the effective date of these rules and regulations, shall be similarly filed by the Code Member on or before the tenth (10th) day of the month following the month in which such contracts or agreements have been entered into.

(C) Upon the expiration, termination, or rescission of any sales agency contract, the Code Member principal shall make a report thereof to the Statistical Bureau, or Bureaus, on or before the tenth (10th) day of the month following the month in which such expiration, termination, or rescission was executed.

4. (A) As to all coal sold by a Code Member otherwise than through a sales agent or through an employee regularly employed as a salesman by the Code Member, such Code Member shall, not later than the tenth (10th) day of each month, file with the Statistical Bureau, or Bureaus, a list of all persons through whom, directly or indirectly, any such coal was sold during the preceding calendar month, with a statement of the duration and character of their employment, the tonnage sold by, and the rate and amount of compensation paid to, each of them.

(B) Not later than the tenth (10th) day of each month, each Code Member shall also file with the Statistical Bureau, or Bureaus, similar information obtained from his sales agents concerning sales of coal made during the preceding calendar month, by the sales agents' representatives and employees other than salesmen regularly employed.

(C) Not later than the tenth (10th) day of each month, each Code Member shall also file with the Statistical Bureau, or Bureaus, a statement showing the names and addresses of distributors to whom the Code Member or his sales agents sold coal during the preceding calendar month, the tonnage sold, and

the amount of discount allowed to such distributor.

5. Within twenty (20) business days after the effective date of these rules and regulations, each Code Member shall file with the Coal Commission a list showing the names and addresses of all his sales agents. Upon any change in said list, the Code Member shall notify the Coal Commission within ten (10) business days after such change takes place.

6. A list showing the names and addresses of sales agents and the Code Members for whom such agents act shall be published monthly by the Coal Commission.

7. All agency contracts and other information filed by Code Members in conformity with the foregoing regulations, other than the names and addresses of sales agents, shall be held by the Coal Commission as the confidential records of said parties and shall not be made public without the consent of the Code Member from whom the same shall have been obtained, except where such disclosure is required in any proceeding before the Coal Commission by way of enforcement of the Act or upon the order of any court of competent jurisdiction.

8. From and after twenty (20) business days following the effective date of these Marketing Rules and Regulations no Code Member or sales agent of a Code Member shall allow or pay, directly or indirectly, any commission or compensation to any sales agent.

(a) Unless the contract of agency shall have been filed with the Coal Commission, as hereinbefore required, and

(b) Unless the sales agent shall have agreed, in writing, with the Code Member to conform to and observe the minimum and maximum prices and Marketing Rules and Regulations established by the Coal Commission and the Fair Trade Practice Provisions of the Act, as well as all proper Orders of the Commission, and

(c) Unless the sales agent shall have in good faith complied with the agreement as in paragraph (b) above provided.

9. No commission shall be paid to a sales agent by a Code Member where the coal is delivered or sold to any person who owns such sales agent or who, financially or otherwise, controls such agent.

10. When any commissions are paid to a sales agent on a tonnage basis, the Code Member shall not include in the computation of such commissions any part of the tonnage of coal sold by him to the sales agent, whether for consumption or resale.

11. No Code Member shall employ any person or appoint any sales agent at a compensation obviously disproportionate to the ordinary value of the service or services rendered and whose employment or appointment is made with the primary intention and purpose of securing a preferment with a purchaser or purchasers of coal.

12. Subject to further order of the Coal Commission, the amount of com-

mission to be paid by a Code Member to his sales agent shall be fixed by agreement of the parties, subject, however, that upon complaint of violation of the unfair methods of competition, as provided in the Act, the amount of such commission shall be subject to review by the Coal Commission.

Section III—Discounts

1. No Code Member or sales agent of a Code Member shall pay or allow any discount from minimum prices to any person unless such person has been registered by the Coal Commission as authorized to receive such discount at the time of the sale.

2. Code Members or their sales agents may allow discount from minimum prices or sales of coal to registered distributors, not in excess of the maximum discount or price allowance prescribed by the Coal Commission upon such sales. Only one such discount may be allowed on any such sale.

Section IV—Limitation of Orders, Agreements, Options and Quotations

1. Subject to further order of the Coal Commission to be made not later than thirty (30) days after the establishment of minimum prices, no Code Member or sales agent of a Code Member shall enter into any agreement or order for the sale of coal providing for delivery for a period in excess of that authorized for a spot order, and no prices shall be less than the applicable minimum prices in effect at the time of the making of the agreement or order: *Provided*, however, that contracts for periods not exceeding one (1) year may be made with agencies of the Federal Government or with agencies of State or local governments, where the contract is entered into through competitive bidding, at the following applicable minimum prices:

(a) For deliveries during the first thirty (30) days of the contract, at not less than the applicable minimum price in effect at the time of the making of the agreement;

(b) For deliveries thereafter, at not less than the applicable minimum price in effect at the time of delivery if such price is higher than the contract price.

Provided, further, That contracts for periods not exceeding one (1) year at prices not less than the said applicable minimum prices may be made with agencies of the Federal Government or with such agencies of the State or local governments, in the absence of competitive bidding, where by virtue of an express exemption in the statute or ordinance such agencies may enter into contracts for the purchase of coal without regard to competitive bidding.

2. All quotations shall be made or confirmed in writing, and shall, without notice, become null and void immediately upon the establishment by the Coal Commission of a revised minimum price for the coal covered by the quotation, if such

quotation is less than the revised minimum price.

3. While rule 1 of this section is in effect, no option may be given by a Code Member or his sales agent for the purchase of coal; except that in connection with offers to sell to the United States Government, or States or political subdivisions thereof, options may be given for a period not exceeding forty-five (45) days from the date of the offer or from the final date for the filing of offers.

4. Every quotation and option shall provide that it is made subject to the provisions of the Marketing Rules and Regulations of the Coal Commission.

5. Every Code Member, or his sales agent, shall require of his offeree that the acceptance of a quotation or the exercise of an option be in writing.

Section V—Spot Orders

1. A spot order shall be in writing or confirmed in writing within five (5) business days from the date of the making thereof.

2. Each spot order shall be subject to the following conditions which shall either be endorsed upon the form of the order or upon the written confirmation thereof by the Code Member or his sales agent, the meaning and effect of which shall not be changed or altered by any other provision of the order:

(a) "No shipment consigned to any destination may be reconsigned or diverted without the consent of the seller to be confirmed in writing. In case of any reconsignment or diversion, the seller shall charge and the buyer shall pay not less than the applicable minimum price for such coal at the time of the reconsignment or diversion for delivery to the destination to which such shipment is actually delivered and for the use to which it is actually applied."

(b) "The coal shipped pursuant to this order is sold and purchased upon the following conditions:

"(1) If the coal is sold for consumption, it shall be used in the plant or plants named herein and for the use stated herein;

"(2) In case of diversion by the buyer to a use other than that stated herein, the buyer shall notify the seller in writing and the seller shall charge and the buyer shall pay not less than the applicable minimum price for such coal at the time of diversion for the use to which it is actually applied."

(c) "If shipments called for by this order are not completed within thirty (30) days from the effective date of this order, the unfilled portion of the order shall not be delivered."

3. In any case where a sale is made by a sales agent of a Code Member, such sales agent shall not exercise the rights of the seller as defined in Item 2 (a) of this section without first securing the consent of his Code Member principal to be confirmed in writing.

4. All the terms and conditions of a sale of coal must be fully and expressly set forth either in the order or in the written confirmation thereof and such order or written confirmation thereof shall specifically contain all the terms required by Rule 1 of Section VI of these Marketing Rules and Regulations. Within ten (10) business days after the date of the making of the spot order or date of the written confirmation thereof, the Code Member or his sales agent shall file with the Statistical Bureau or Bureau a copy of such spot order or confirmation. Any modification of a spot order must also be made in writing and filed with the Statistical Bureau or Bureau in the same manner.

Section VI—Use of Coal Analyses

1. No analysis of coal shall be utilized by a Code Member or his sales agent, in selling or offering for sale any coal produced by the Code Member, unless such Code Member shall have previously filed with the Statistical Bureau of the Coal Commission and the District Board for the District in which the coal is produced, copies of such analysis, together with a certificate setting forth the time and manner of obtaining the sample analyzed, the name and address of the person or firm making the analysis and stating that such analysis is truly representative of the grade and size of coal as regularly produced by the code member. Each such analysis shall be not less than a proximate analysis showing ash, volatile matter, fixed carbon, sulphur and British thermal units. Each analysis shall further show whether made on an "as received" or moisture "free" basis and if on an "as received" basis, the analysis shall include moisture content.

2. All analyses so filed shall be subject to inspection at the office of the Statistical Bureau at any time during office hours by any interested person, and may be used by the District Board and the Coal Commission in determining from time to time proper classifications of the coals produced by the code member.

3. Any analysis of the coal of a Code Member made by or on behalf of a consumer and accepted by the Code Member as the basis for an adjustment of price under any contract or order, shall be filed by the Code Member with the proper Statistical Bureau and District Board, by the tenth (10th) day of the month following the month in which the adjustment is made.

4. From and after the effective date of these Rules and Regulations, no Code Member shall enter into or perform any agreement made upon a penalty or a premium and penalty basis which will permit the sale of coal at an aggregate contract price below the applicable minimum price established by the Coal Commission for the coal sold and delivered upon such agreement subsequent to said effective date: Provided, that where a Code Member has entered into an agree-

ment made upon a penalty or a premium and penalty basis, this rule shall not be considered as affecting any claim that the buyer might otherwise have had for sub-standard preparation or quality under Section VIII of these Marketing Rules and Regulations.

Section VII—Terms of Payment

1. The price and fair trade practice provisions of the Act shall not be evaded or violated by a Code Member, or his sales agent, through the use of terms of payment, and in no instance shall terms of payment be more favorable than the following:

(A) On rail, river, ex-river, or truck shipments, the date of payment of invoices for coal sold shall be on or before the twentieth day of the month following the month in which shipment was made.

(B) On tidewater cargo shipments the date of payment shall be not more than thirty (30) days from date of vessel bill of lading, and where coal is sold f. o. b. mines for tidewater cargo shipment, on or before the twentieth day of the month following the month in which the coal is dumped.

(C) Payment for all tidewater Bunker coal supplied for foreign vessels shall be by cash on delivery or by master's draft on owners in United States currency at not exceeding fifteen (15) days' sight at supplier's option. When drafts are accepted in payment, all bank charges for collection, exchange, etc., shall be for owner's account. Payment for tidewater bunker coal, supplied for American vessels shall be made on or before the twentieth day of the month following delivery.

Payment for coal shipped for vessel fuel, and delivered into vessels at ports on the Great Lakes or tributary waters thereof, shall be made on or before the twentieth (20th) day of the month following such delivery.

(D) On lake cargo shipments, the date of payment shall be not more than sixty (60) days from date of vessel bill of lading, and where coal is sold f. o. b. mines for lake cargo shipments, on or before the twentieth (20th) of the second month following the month in which dumped.

(E) On all coal sold to railroads, the date of payment shall be on or before the twenty-fifth (25th) day of the month following the date of shipment.

(F) Payment shall be made in full and on a net cash basis.

(G) No portion of the sale price may be withheld by agreement between the buyer and the seller based upon any unadjusted claim of the buyer.

(H) No sale, delivery, or offer for sale of coal shall be made upon any condition, express or implied, that any portion of the sale price may be withheld by the buyer, or deposited in escrow, pending or based upon a determination of the constitutionality of any provision of the Act, of the jurisdiction of the Coal Commission, or

the validity or applicability of any order of the Coal Commission.

(I) Where the due date of the account is extended by agreement of the parties, express or implied, or where payment is made by note, trade acceptance or other form of indebtedness, the seller shall charge and the buyer shall pay interest of not less than five (5) per cent per annum.

(J) Freight on all-rail or ex-river shipments shall not be paid by a Code Member, or his sales agent, except to prepay stations as published in current railway tariffs or on shipments to the United States Government, States or political subdivisions thereof. Where freight is thus prepaid, the amount thereof shall immediately upon receipt of freight bill or notice of sight draft payment, be invoiced to the buyer for immediate payment.

(K) No Code Member shall accept as payment in full for any account for the sale of coal any amount which is less than the applicable minimum price for the quantity of coal involved. Provided, however, that a Code Member may enter into a bona fide general creditors' composition with other creditors of a defaulting purchaser. A copy of such creditors' composition shall be filed with the Statistical Bureau within ten (10) business days from the date of making such composition.

(L) The agreement by a Code Member, expressed or implied, to extend credit for a period longer than that authorized by these rules and regulations, with the effect of violating the price provisions or the unfair methods of competition of the Act, shall constitute a violation of the Code.

Section VIII—Miscellaneous

1. No deduction or allowance from invoice prices shall be granted by any code member or his sales agent to any purchaser for advertising.

2. Code members (or their agents or representatives) either individually or collectively, with or without financial participation by retailers of coal, may conduct advertising campaigns seeking to increase the use of coal. The amount of expenditures incurred by a code member, his agent or representative for advertising shall be subject to review by the Coal Commission as to the good faith of the transaction.

3. Where coal is refused by a consignee in transit or at destination, the Code Member may sell the same at the best obtainable price: Provided, that in each case the code member shall file with the Statistical Bureau, within five (5) days from the date of such resale a statement giving the name and address of the consignee and the reasons for the refusal, the price at which the coal was originally sold, the name and address of the purchaser upon resale and the price received by the seller upon resale, a copy of the carrier's notice of refusal or notice of reconsignment and such other pertinent facts as may be offered in proof of the

necessity of such resale, and that in making such resale the provisions of the Code and the Marketing Rules and Regulations of the Coal Commission other than as to price have not been violated or evaded.

4. All Code Members shall promptly furnish to the Statistical Bureau of the Coal Commission for the District in which the coal originated, full reports of all reconsignments and shall authorize the carrier making such reconsignments to furnish complete information thereon to such Statistical Bureau.

5. Where any allowance is requested by a buyer of coal on any shipment claimed to be substandard in preparation or quality, the Code Member or the sales agent, with the prior approval of the Code Member, may on or before the maturity date of the invoice, make settlement and agree with the buyer upon any amount reasonably to be deducted for such inferior coal and accept payment therefor at less than the minimum prices; provided, however, that in each such case the Code Member shall within five (5) days after granting such allowance file with the Statistical Bureau of the Coal Commission in the District in which the coal originates, a verified statement giving the following information:

(a) The name and address of the consignee and the reason for the request for the allowance.

(b) The price at which the coal was sold, the tonnage delivered, the name of the mine, the Code Member, the date of shipment, the grade and size of coal, the destination, and the amount of allowance or adjustment made.

(c) Such other pertinent information and facts as may be offered in proof of the necessity for such reduction or allowance.

(d) A statement that the adjustment has not been made with the purpose or intent of evading the price provisions of the Act.

The Code Member shall also file, together with the statement a written claim duly executed by or on behalf of the buyer and verified by affidavit, setting forth the amount claimed by way of deduction and the reasons for the complaint.

6. All such adjustments and allowances shall be subject to review by the Coal Commission.

7. The screening of mine run or re-screening of other grades of coal sold and billed as such for the buyer's account for the purpose of keeping the resultant products separate in the shipment thereof is prohibited. All coal must be sold and invoiced on a price per ton basis and under the designation shown therefor in the price schedule published by the Coal Commission.

8. All coal confiscated or lost in transit shall be invoiced to the carrier at not less than the minimum price established for such coal for shipment to the destination and use to which the coal was sold or the established price for sale to

the carrier at the place of confiscation or loss, whichever may be the higher.

9. *Substitution.*—(a) No substitution of grades or sizes of coal carrying a higher code price may be made on spot orders or contracts, unless authorized by the District Board or by a committee thereof duly created for that purpose. Requests for permission to make substitutions shall be submitted to the District Board in writing and shall be approved only upon satisfactory evidence that such substitution is necessary as a temporary and emergency measure and will not result in unfair advantage to either the Code member or the Buyer. Upon approval of a request for substitution, the District Board will issue a permit to the Code member in each instance, which permit shall be limited to a maximum number of tons for shipment during a period not to exceed thirty (30) days. The issuance of such permits will be restricted for applications to spot orders or contracts filed with the Commission. All permits issued hereunder shall be consecutively numbered.

(b) The District Board shall publish to the Code members within its jurisdiction, at least once in each week, a list of the permits for substitution issued by the District Board during the preceding week. Such publication shall show the name of the Code member to whom the permit is issued, the permit number, the tonnage and grade or sizes involved in the substitution, the reason therefor, whether for application upon spot order or contract, and the period of time for which the permit is granted.

10. Failure to file information required by the within Marketing Rules and Regulations or the filing of false information, wilfully made, will subject the party failing to file the information required, or the party so filing, to the penalties of the Act and other penalties imposed by law.

11. These Marketing Rules and Regulations are subject to revision and amendment by further order of the Coal Commission.

Section IX—Unfair Methods of Competition

As provided in Section 4, Part II (1) of the Act, the following practices with respect to coal shall be unfair methods of competition and shall constitute violations of the code:

1. The consignment of unordered coal, or the forwarding of coal which has not actually been sold, consigned to the producer or his agent: Provided, however, that coal which has not actually been sold may be forwarded, consigned to the producer or his agent at rail or track yards, tidewater ports, river ports, or lake ports, or docks beyond such ports, when for application to any of the following classes: Bunker coal, coal applicable against existing contracts, coal for storage (other than in railroad cars) by

the producer or his agent in rail or track yards or on docks, wharves, or other yards for resale by the producer or his agent.

2. The adjustment of claims with purchasers of coal in such manner as to grant secret allowances, secret rebates, or secret concessions, or other price discrimination.

3. The prepayment of freight charges with intent to or having the effect of granting a discriminatory credit allowance.

4. The granting in any form of adjustments, allowances, discounts, credits, or refunds to purchasers or sellers of coal, for the purposes or with the effect of altering retroactively a price previously agreed upon, in such manner as to create price discrimination.

5. The predating or postdating of any invoice or contract for the purchase or sale of coal, except to conform to a bona fide agreement for the purchase or sale entered into on the predate.

6. The payment or allowance in any form or by any device of rebates, refunds, credits, or unearned discounts, or the extension to certain purchasers of services or privileges not extended to all purchasers under like terms and conditions, or under similar circumstances.

7. The attempt to purchase business, or to obtain information concerning a competitor's business by concession, gifts, or bribes.

8. The intentional misrepresentation of any analysis or of analyses, or of sizes, or the intentional making, causing, or permitting to be made, or publishing, of any false, untrue, misleading, or deceptive statement by way of advertising, invoicing, or otherwise concerning the size, quality, character, nature, preparation, or origin of any coal bought, sold, or consigned.

9. The unauthorized use, whether in written or oral form, of trade-marks, trade names, slogans, or advertising matter already adopted by a competitor, or any deceptive approximation thereof.

10. Inducing or attempting to induce, by any means or device whatsoever, a breach of contract between a competitor and his customer during the term of such contract.

11. Splitting or dividing commissions, brokers' fees, or brokerage discounts, or otherwise in any manner directly or indirectly using brokerage commissions or jobbers' arrangements or sales agencies for making discounts, allowances, or rebates, or prices other than those determined under this Act, to any industrial consumer or to any retailers, or to others, whether of a like or different class.

12. Selling to, or through, any broker, jobber, commission account, or sales agency, which is in fact or in effect an agency or an instrumentality of a retailer or an industrial consumer or of any organization of retailers or industrial consumers, whereby they or any of them secure either directly or indirectly

a discount, dividend, allowance, or rebates, or a price other than that determined in the manner prescribed by this Act.

13. Employing any person or appointing any sales agent, at a compensation obviously disproportionate to the ordinary value of the service or services rendered, and whose employment or appointment is made with the primary intention and purpose of securing preferment with a purchaser or purchasers of coal.

UNFAIR METHODS OF COMPETITION

In accordance with the provisions of Section 4 II (i) of the Act, the following practices with respect to coal are unfair methods of competition and shall constitute violations of the Code:

1. The consignment of unordered coal, or the forwarding of coal which has not actually been sold, consigned to the producer or his agent: Provided, however, that coal which has not actually been sold may be forwarded, consigned to the producer or his agent at rail or track yards, tidewater ports, river ports, or lake ports, or docks beyond such ports, when for application to any of the following classes: Bunker coal, coal applicable against existing contracts, coal for storage (other than in railroad cars) by the producer or his agent in rail or track yards or on docks, wharves, or other yards for resale by the producer or his agent.

2. The adjustment of claims with purchasers of coal in such manner as to grant secret allowances, secret rebates, or secret concessions, or other price discrimination.

3. The prepayment of freight charges with intent to or having the effect of granting a discriminatory credit allowance.

4. The granting in any form of adjustments, allowances, discounts, credits, or refunds to purchasers or sellers of coal, for the purposes or with the effect of altering retroactively a price previously agreed upon, in such manner as to create price discrimination.

5. The predating or postdating of any invoice or contract for the purchase or sale of coal, except to conform to a bona-fide agreement for the purchase or sale entered into on the predate.

6. The payment or allowance in any form or by any device of rebates, refunds, credits, or unearned discounts, or the extension to certain purchasers of services or privileges not extended to all purchasers under like terms and conditions, or under similar circumstances.

7. The attempt to purchase business, or to obtain information concerning a competitor's business by concession, gifts, or bribes.

8. The intentional misrepresentation of any analysis or of analyses, or of sizes, or the intentional making, causing, or permitting to be made, or publishing, of any false, untrue, misleading, or deceptive statement by way of advertising, in-

voicing, or otherwise concerning the size, quality, character, nature, preparation, or origin of any coal bought, sold, or consigned.

9. The unauthorized use, whether in written or oral form, of trade-marks, trade names, slogans, or advertising matter already adopted by a competitor, or any deceptive approximation thereof.

10. Inducing or attempting to induce, by any means or device whatsoever, a breach of contract between a competitor and his customer during the term of such contract.

11. Splitting or dividing commissions, brokers' fees, or brokerage discounts, or otherwise in any manner directly or indirectly using brokerage commissions or jobbers' arrangements or sales agencies for making discounts, allowances, or rebates, or prices other than those determined under this Act, to any industrial consumer or to any retailers, or to others, whether of a like or different class.

12. Selling to, or through, any broker, jobber, commission account, or sales agency, which is in fact or in effect an agency or an instrumentality of a retailer or an industrial consumer or of an organization of retailers or industrial consumers, whereby they are* any of them secure either directly or indirectly a discount, dividend, allowance, or rebates, or a price other than that determined in the manner prescribed by this Act.

13. Employing any person or appointing any sales agent, at a compensation obviously disproportionate to the ordinary value of the service or services rendered, and whose employment or appointment is made with the primary intention and purpose of securing preferment with a purchaser or purchasers of coal.

PENALTIES

Section 5 (b) of Bituminous Coal Act:

The membership of any such coal producer in such code and his right to an exemption from the taxes imposed by section 3 (b) of this Act, may be revoked by the Commission upon written complaint by any code member or district board, or any State or political subdivision of a State, or the consumers' counsel, after a hearing, with thirty days' written notice to the member, upon proof that such member has wilfully violated any provision of the code or any regulation made thereunder; and in such a hearing any code member or district board, or any State or political subdivision of a State, or the consumers' counsel, or any consumer or employee, and the Commissioner of Internal Revenue, shall be entitled to present evidence and be heard: Provided, that the Commission, in its discretion, may in such case make an order directing the code member to cease and desist from violations of the code and regulations made thereunder and upon failure of the code member to comply with such order the Commission may apply to a circuit court of appeals to enforce such order in accordance with the provisions of subsection (c) of section 6 or may reopen the case upon ten days' notice to the code member affected and proceed in the hearing thereof as above provided.

*So in original.

Section 5 (c) of Bituminous Coal Act:

Any producer whose membership in the code and whose right to an exemption from the tax imposed by section 3 (b) of this Act shall have been revoked and canceled may apply to the Commission and shall have the right to have his membership in the code restored upon payment by him to the United States of double the amount of the tax provided in Section 3 (b) upon the sales price at the mine, or the market value at the mine if disposed of otherwise than by sale at the mine, or if sold otherwise than through an arms' length transaction of the coal sold or disposed of by the code member in violation of the code or regulations thereunder (but in no case shall such sales price or market value be taken to be less than the minimum price established by the Commission for such coal and in effect at the time of such sale or other disposal), as found by the Commission under subsection (b) hereof. The Commission shall thereupon certify to the Commissioner of Internal Revenue and to the collector of internal revenue for the internal revenue collection district in which the producer resides the amount of the required payment as found under clause (5) of subsection (b), and upon payment of such amount to the Commissioner or the collector such officer shall notify the Commission thereof.

Section 10 (c) of Bituminous Coal Act:

If any producer required by this Act or the code or regulation made thereunder to file a report shall fail to do so within the time fixed for filing the same, and such failure shall continue for fifteen days after notice of such default, the producer shall forfeit to the United States the sum of \$50 for each and every day of the continuance of such failure, which forfeiture shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States, brought in the district where the producer has his principal office or in any district in which he shall do business. It shall be the duty of the various district attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of forfeiture.

Section 35 of the Criminal Code as amended by the Act of June 18, 1934, 587, 48 Stat. 996 (U. S. C., Title 18, sec. 80):

Whoever shall make or cause to be made or present or cause to be presented, for payment or approval, to or by any person or officer in the civil, military, or naval service of the United States, or any department thereof, or any corporation in which the United States of America is a stockholder, any claim upon or against the Government of the United States, or any department or officer thereof, or any corporation in which the United States of America is a stockholder, knowing such claim to be false, fictitious, or fraudulent; or whoever shall knowingly and wilfully falsify or conceal or cover up by any trick, scheme, or device a material fact, or make or cause to be made any false or fraudulent statements or representations, or make or use or cause to be made or used any false bill, receipt, voucher, roll, account, claim, certificate, affidavit, or deposition, knowing the same to contain any fraudulent or fictitious statement or entry, in any matter within the jurisdiction of any department or agency of the United States or of any corporation in which the United States of America is a stockholder shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

Section 37 of the Criminal Code (U. S. C. 88):

If two or more persons conspire either to commit any offense against the United States, or to defraud the United States in any manner or for any purpose, and one or more of such parties do any act to effect the object of the conspiracy, each of the parties to such

conspiracy shall be fined not more than \$10,000, or imprisoned not more than two years, or both. (R. S. § 5440; May 17, 1879, c. 8, 21 Stat. 4; Mar. 4, 1909, c. 321, § 37, 35 Stat. 1086.)

MINIMUM PRICE AREA NO. 1—DISTRICT BOARD NO. 3

PROPOSED MARKETING RULES AND REGULATIONS

The witness for District Board No. 3, properly qualified as an expert in the marketing of coal in that District, introduced into evidence as Exhibit No. 621 the rules and regulations proposed by District Board No. 3 in compliance with Commission Order No. 248. The witness testified that these rules and regulations were properly submitted to Code Members within said District on August 19, 1938, and that four (4) protests were filed with the District Board. The District Board, after hearing such protests, revised some of the rules and regulations covered by the protests and submitted such revised rules and regulations to the Commission on September 6, 1938.

In light of the witness' testimony that it is important that there be a uniform time limitation for quotations and options and that fourteen (14) days constitutes a reasonable limitation, we approve rule 1 of Section VI providing that quotations and options for the sale of coal may be given for a period not exceeding fourteen (14) days.

The witness stated that it would be reasonable to provide in the marketing rules and regulations that where any written offer for the sale of coal is made on the basis of an analysis, the Code Member should state in such offer that the analysis has been filed with the Statistical Bureau. Accordingly, we find that the following rule is reasonable for District No. 3:

Every analysis used in a written offer for the sale of any particular kind, quality, or size of coal shall be accompanied by a statement to the effect that such analysis has been properly filed with the Statistical Bureau and the District Board.

In light of the witness' specific testimony that such rule should be deleted, we find that rules 3 and 4 of Section V and rule 2 (b) of Section VII of the rules proposed by the District Board should be deleted from the approved marketing rules and regulations.

In view of the witness' specific testimony that such rule would work an unnecessary hardship if applied to governmental business, we find that rule 3 of Section VIII should be modified to read as follows:

Contracts may also be made either (a) calling for a buyer's entire requirements or a stated percentage of his requirements, showing the maximum tonnage to be shipped thereunder, or (b)

covering a buyer's requirements and stating the estimated tonnage to be shipped with an allowable overshipment of not exceeding ten (10) per cent of such estimated tonnage.

The provisions of the rule stated in the foregoing paragraph relating to quantity shall not apply to contracts made with agencies of the Federal, State or local governments in case the terms required to be submitted in a bid or offer for such contract are in conflict with such provisions.

We disapprove rule 6 of Section IX of the rules proposed by District Board No. 3 in so far as it provides that Code Members may allow a cash discount not to exceed one-half of one per cent of the f. o. b. mine price for payment in full within ten (10) days from the date of shipment.

The witness stated that the District Board proposed a rule relating to the crushing of coal on page 15, item 9, of its proposed price schedule, Exhibit No. 25. While the witness expressed the opinion that the rule was possibly included in the price schedule by mistake, we are of the opinion that it was properly incorporated therein and, accordingly, such rule is considered in the findings relative to the price schedule proposed by District No. 3.

The witness stated that he heard the testimony given by Mr. J. O. Smith, the witness for District No. 2, on cross-examination by the Commission's counsel, and that in his opinion the rules testified to by Mr. Smith and believed by him to be reasonable for District No. 2, were likewise reasonable for District No. 3 except in so far as the opinions expressed by Mr. Smith were in conflict with the opinions expressed by the witness. The witness for District No. 2 stated that in his opinion a wage clause should be required to be inserted in contracts. District Board No. 2 did not propose any such wage clause. Although rules 5 (a) and (b) of Section VIII of District Board No. 3's proposals relating to such a wage clause, are of questionable legality, we approve such rules for the purpose of coordination since the District Boards may propose a coordinated rule on the subject which is not open to legal objection.

In light of the witness' testimony that such definitions are reasonable, we find that the definitions of the terms "reconsignment and diversion," "transportation facilities," "cargo shipment" and "bunker coal or vessel fuel," contained in the attached composite findings, are reasonable and proper.

The witness for District Board No. 3 stated that the rules testified to by the witness for District Board No. 2 as being reasonable for District No. 2, were likewise reasonable for District No. 3 except where the opinions of the witness for District Board No. 2 were in conflict with the opinions of the witness for District

Board No. 3. Accordingly, we find that the rules proposed by District Board No. 3 should be modified to conform to the approved rules for District Board No. 2 except where the rules proposed by District Board No. 3, as testified to by the witness for District Board No. 3, are in conflict with the rules proposed by District Board No. 2 and as approved for District No. 2. Accordingly, we find that the following rules and regulations reflecting all modifications, clarifications, deletions and additions, are reasonable, not inconsistent with the provisions of Section 4 of the Act and in conformance with the standards of fair competition established in the Act:

MARKETING RULES AND REGULATIONS INCIDENTAL TO THE SALE AND DISTRIBUTION OF COAL BY CODE MEMBERS WITHIN DISTRICT NO. 3 AS PROPOSED BY DISTRICT BOARD NO. 3 AND AS APPROVED, DISAPPROVED, OR MODIFIED FOR THE PURPOSE OF COORDINATION

Section I—Definitions

1. The term "person" as used herein, includes individuals, firms, associations, partnerships, corporations, trusts, trustees, cooperatives, receivers and trustees in bankruptcy and in other legal proceedings, and any other recognized forms of business organizations.

2. A "sales agent" is a person who, as agent of a code member (and therefore without purchasing the coal), sells coal produced by such code member for him or on his behalf: *Provided*, That "sales agent" shall not include an individual (herein referred to as a "salesman") regularly and continuously employed by a code member, whose sole compensation is a stated salary per week, per month, or per year, and who regularly devotes the major portion of his time to the solicitation of purchases of coal produced by his code member employer.

3. A "commission" is the total of all compensations and allowances received by a sales agent from a code member for services rendered in the sale of coal.

4. A "registered distributor" is a person who has been duly registered by the Coal Commission pursuant to the rules and regulations prescribed by the Commission for the administration of Section 4 II (h) of the Act.

5. A "spot order" is a legal obligation for the sale and purchase of coal, the delivery of which is stipulated to be made within not more than thirty (30) days from the date upon which the order was accepted.

6. A "contract" is a legal obligation for the sale and purchase of coal, the deliveries of which are stipulated to be made during a period longer than the maximum period specified for a spot order.

7. A "quotation" is an offer to sell coal which the offerer may withdraw prior to its being acted upon by the offeree.

8. An "option" is an offer to sell coal acceptable within a time certain, during

which time the offerer may not withdraw the offer without the consent of the offeree.

9. A "commitment" is the status of a contract between the time a quotation is accepted or an option is exercised and the time the contract is formally reduced to writing.

10. "Coal Commission" as used herein, shall mean the National Bituminous Coal Commission established under the provisions of the Bituminous Coal Act of 1937.

11. "Act" as used herein shall mean the Bituminous Coal Act of 1937.

12. "District Board" as used herein, shall mean any District Board established under the provisions of Section 4, Part I (a) of the Act.

13. "Statistical Bureau" shall mean, unless otherwise specifically stated, the Statistical Bureau of the Commission for the District in which the coal involved in any transaction is produced, or the District in which is located a mine of a code member affected by any order or regulation.

14. "Minimum Price" shall mean a minimum price established and made effective by the Coal Commission.

15. "Maximum Price" shall mean a maximum price established and made effective by the Coal Commission.

16. The term "producer" includes all individuals, firms, associations, corporations, trustees, and receivers engaged in the business of mining coal.

17. The terms "reconsignment" and "diversion" as used herein shall mean the change in the original consignee or in the destination or route.

18. The term "transportation facilities" means railroad cars, ships, barges, trucks, or any other facilities used or useful in the transportation of coal.

19. A "code member" means a producer who has accepted and holds membership in the Bituminous Coal Code promulgated under the Bituminous Coal Act of 1937.

20. The term "domestic market" shall include all points within the continental United States and Canada, and car-ferry shipments to the Island of Cuba. Bunker coal delivered to steamships for consumption thereon shall be regarded as shipped within the domestic market.

21. "Cargo shipment" is a quantity of coal loaded in a vessel, boat or barge for transportation via water.

22. "Bunker coal" or "vessel fuel" is that coal used aboard a boat or vessel for consumption thereon.

23. "Coal" as used herein shall mean bituminous coal.

24. The term "bituminous coal" includes all bituminous, semi-bituminous and sub-bituminous coal and shall exclude lignite, which is defined as a lignitic coal having calorific value in British thermal units of less than seven thousand six hundred per pound and having a natural moisture content in place in the mine of 30 per centum or more.

25. The term "control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

Section II.—Sales Agents

1. All appointments of Sales Agents by Code Members or their agents or authorized representatives, and the terms and conditions of such appointments, shall be subject to the Marketing Rules and Regulations from time to time established by the Coal Commission.

2. Each Code Member shall be responsible for the compliance by all his Sales Agents and agents and employees of Sales Agents and agents with the provisions of the Bituminous Coal Code and of all rules and regulations, promulgations and determinations of the Coal Commission.

3. Each Code Member shall require all his sales agents clearly to set forth upon any form of solicitation, contract, spot order, invoice, and statement of account covering coal sold or to be sold, the name of such Code Member principal, and the name of the mine or mines from which shipment was made or is to be made. If the name of the sales agent also appears in the transaction, then the above mentioned forms shall also disclose the fact of agency relationship with the Code Member principal.

4. (A) Every contract for the appointment of a sales agent by Code Members or by agents or authorized representatives of Code Members, or any modification thereof, shall be in writing, and shall fully set forth therein all the terms and conditions of such contract, including the amount or basis of the sales agent's commission. Certified copies of all such agency contracts entered into on or prior to the effective date of the establishment of these rules and regulations and in effect on such date, shall be filed by the Code Member with the Statistical Bureau, or Bureaus, within twenty (20) business days after such date.

(B) Certified copies of all contracts appointing sales agents or of agreements modifying any sales agency contract, entered into subsequent to the effective date of these rules and regulations, shall be similarly filed by the Code Member within ten (10) business days after the date upon which such contracts or agreements have been entered into.

(C) Upon the expiration, termination, or rescission of any sales agency contract, the Code Member principal shall make a report thereof to the Statistical Bureau, or Bureaus, within ten (10) business days after the date of such expiration, termination, or rescission.

5. (A) As to all coal sold by a Code Member otherwise than through a sales agent or through an employee regularly employed as a salesman by the Code Member at his principal place of busi-

ness or at a regularly established sales office, such Code Member shall, not later than the tenth day of each month, file with the Statistical Bureau, or Bureaus, a list of all persons through whom, directly or indirectly, any such coal was sold during the preceding calendar month, with a statement of the duration and character of their employment, the tonnage sold by, and the rate and amount of compensation paid to, each of them.

(B) Not later than the tenth day of each month, each Code Member shall also file with the Statistical Bureau, or Bureaus, similar information obtained from his sales agents concerning sales of coal made during the preceding calendar month, by the sales agents, representatives and employees other than salesmen employed at the principal place of business or a regularly established sales office of the sales agent.

(C) Not later than the tenth day of each month, each Code Member shall also file with the Statistical Bureau or Bureaus a statement showing the names and addresses of distributors to whom the Code Member or his sales agents sold coal during the preceding calendar month, the tonnage sold, and the amount of discount allowed to each such distributor.

6. Within twenty (20) business days after the effective date of these rules and regulations, each Code Member shall file with the Coal Commission a list showing the names and addresses of all his sales agents. Upon any change in said list, the Code Member shall notify the Coal Commission within ten (10) business days after such change takes place.

7. A list showing the names and addresses of sales agents and the Code Members for whom such agents act shall be published monthly by the Coal Commission.

8. All agency contracts and other information filed by Code Members in conformity with the foregoing regulations, other than the names and addresses of sales agents, shall be held by the Coal Commission as the confidential records of said parties and shall not be made public without the consent of the Code Member from whom the same shall have been obtained, except where such disclosure is required in any proceeding against the Code Member by way of enforcement of the Act.

9. From and after twenty (20) business days following the effective date of these Marketing Rules and Regulations no Code Member or sales agent of a Code Member shall allow or pay, directly or indirectly, any commission or compensation to any sales agent,

(a) Unless the contract of agency shall have been filed with the Coal Commission, as hereinbefore required, and

(b) Unless the sales agent shall have agreed, in writing, with the Code Member to conform to and observe the minimum and maximum prices and Market-

ing Rules and Regulations established by the Coal Commission and the Fair Trade Practice Provisions of the Act, as well as all proper Orders of the Commission, and

(c) Unless the sales agent shall have in good faith complied with the agreement as in paragraph (b) above provided.

10. No commission shall be paid to a sales agent by a Code Member where the coal is delivered or sold to any person who owns such sales agent or who financially or otherwise controls such agent.

11. When any commissions are paid to a sales agent on a tonnage basis, the Code Member shall not include in the computation of such commissions any part of the tonnage of coal sold by him to the sales agent, whether for consumption or resale.

12. No Code Member shall employ any person or appoint any sales agent at a compensation obviously disproportionate to the ordinary value of the service or services rendered and whose employment or appointment is made with the primary intention and purpose of securing a preferment with a purchaser or purchasers of coal.

13. Subject to further order of the Coal Commission, the amount of commission to be paid by a Code Member to his sales agent shall be fixed by agreement of the parties, subject, however, that upon complaint of violation of the unfair methods of competition, as provided in the Act, the amount of such commission shall be subject to review by the Coal Commission.

Section III—Discounts

1. No Code Member or sales agent of a Code Member shall pay or allow any discount from minimum prices to any person unless such person has been registered by the Coal Commission as authorized to receive such discount at the time of the sale.

2. Code Members or their sales agents may allow discounts from minimum prices on sales of coal to registered distributors, not in excess of the maximum discount or price allowance prescribed by the Coal Commission upon such sales. Only one such discount may be allowed on any such sale.

Section IV—Limitation of Orders, Agreements, Options and Quotations

1. Subject to further order of the Coal Commission no Code Member or sales agent of a Code Member shall enter into any agreement or order for the sale of coal providing for delivery for a period in excess of that authorized for a spot order, and no prices shall be less than the applicable minimum prices in effect at the time of the making of the agreement or order: *Provided, however,* That contracts for periods not exceeding one (1) year may be made with agencies of the Federal Government or with agencies of State or local governments, where the

contract is entered into through competitive bidding, at the following applicable minimum prices:

(a) For deliveries during the first thirty (30) days of the contract, at not less than the applicable minimum price in effect at the time of the making of the agreement;

(b) For deliveries thereafter, at not less than the applicable minimum price in effect at the time of delivery if such price is higher than the contract price.

Provided, further, That contracts for periods not exceeding one (1) year at prices not less than the said applicable minimum prices may be made with agencies of the Federal Government or with such agencies of the State or local governments, in the absence of competitive bidding, where by virtue of an express exemption in the statute or ordinance such agencies may enter into contracts for the purchase of coal without regard to competitive bidding.

2. While the preceding rule is in effect, no option may be given by a Code Member or sales agent for the purchase of coal. When the above rule is suspended or revoked by the Coal Commission, options for the sale of coal may be given for a period not exceeding fourteen (14) days. No options may be given at a price less than the applicable minimum price in effect at the time of the giving of the option. If the applicable minimum price is increased beyond the quoted price within such fourteen (14) days and the option shall not have been exercised at that time, the option thereupon shall become null and void: *Provided, however,* That in connection with offers to sell to the United States Government, or States or political subdivisions thereof, options may be given for a period not exceeding forty-five (45) days from the date of the offer or from the final date for the filing of offers.

3. Quotations may also be given for a period of not exceeding fourteen (14) days. If the applicable minimum price is increased beyond the quoted price within such fourteen (14) days and the quotation shall not have been accepted at that time, the quotation thereupon shall become null and void.

4. Every quotation and option shall provide that it is made subject to the provisions of the Marketing Rules and Regulations of the Coal Commission.

5. All quotations and options must be made or confirmed in writing. Every Code Member, or his sales agent, shall require of his offeree that the acceptance of a quotation or the exercise of an option be in writing.

Section V—Spot Orders

1. A spot order shall be in writing or confirmed in writing within five (5) business days from the date of the making thereof.

2. Each spot order shall be subject to the following conditions which shall either be endorsed upon the form of the order or upon the written confirma-

tion thereof by the Code Member or his sales agent, the meaning and effect of which shall not be changed or altered by any other provision of the order.

(a) No shipment consigned to any destination may be diverted or reconsign without the consent of the seller confirmed in writing. In case of any reconsignment or diversion, the seller shall charge and the buyer shall pay not less than the minimum price prescribed for such coal for delivery to the destination to which such shipment is actually delivered and for the use to which it is actually applied: *Provided,* however, that this provision does not apply to railroad locomotive fuel sold at prices f. o. b. mine.

(b) The coal shipped pursuant to this order is sold and purchased upon the following conditions:

"(1) If the coal is sold for consumption, it shall be used in the plant or plants named herein and for the use stated herein;

"(2) In case of diversion by the buyer to a use other than that stated herein, the buyer shall notify the seller in writing and the seller shall charge and the buyer shall pay not less than the applicable minimum price for such coal at the time of diversion for the use to which it is actually applied.

"(c) If shipments called for by this order are not completed within thirty (30) days from the effective date of this order, the unfilled portion of the order shall not be delivered."

3. In any case where a sale is made by a sales agent of a Code Member, such sales agent shall not exercise the rights of the seller as defined in Item 2 (a) of this section without first securing the consent of his Code Member principal to be confirmed in writing.

4. All the terms and conditions of a sale of coal must be fully and expressly set forth either in the order or in the written confirmation thereof and such order or written confirmation thereof shall specifically contain all the terms required by Rule 1 of Section VI of these Marketing Rules and Regulations. Within ten (10) business days after the date of the making of the spot order or date of the written confirmation thereof, the Code Member or his sales agent shall file with the Statistical Bureau or Bureaus a copy of such spot order or confirmation. Any modification of a spot order must also be made in writing and filed with the Statistical Bureau or Bureaus in the same manner.

Section VI—Contracts

Upon the revocation or suspension of rule 1 of Section IV of these Marketing Rules and Regulations, Code Members or sales agents of Code Members may thereafter enter into contracts for the sale and delivery of coal upon the following terms and conditions:

1. Every contract shall be in writing and shall express the entire agreement

between the parties. The contract shall clearly state the date of execution, the effective date, the expiration date, the price agreed upon, the terms of payment, the size and grade of coal, the number of cars or tonnage to be shipped, the name of the Code Member and the name of the originating mine, and, where the coal is purchased for consumption, the use to which the coal is to be applied. Contracts may also be made either (a) calling for a buyer's entire requirements or a stated percentage of his requirements, showing the maximum tonnage to be shipped thereunder, or (b) covering a buyer's requirements and stating the estimated tonnage to be shipped with an allowable overshipment of not exceeding ten (10) per cent of such estimated tonnage.

The provisions of the rule stated in the foregoing paragraph relating to quantity shall not apply to contracts made with agencies of the Federal, State or local governments in case the terms required to be submitted in a bid or offer for such contract are in conflict with such provisions.

2. No contract for the sale of coal shall provide for deliveries to commence at a date later than ninety (90) days from the date upon which such contract is entered into.

3. No contract shall be made at a price below the applicable minimum price as established by the Coal Commission at the time of the making of the contract for the coal to be sold thereunder, and no coal may be delivered upon a contract at a price below such applicable minimum price.

4. No contract shall provide for delivery over a period in excess of twelve (12) months except by special permission and approval of the Coal Commission, upon a showing of the necessity of meeting the long term contract competition of oil, gas, or other fuels or forms of power, or for such other reasons as the Commission may deem appropriate in order to further the effectual administration of the Act.

5. Any change in the terms of a contract, not in violation of these Rules and Regulations, shall be evidenced by a written agreement and shall conform to all the requirements set forth in these Rules and Regulations.

6. A report of every commitment shall be filed by the Code Member or his sales agent with the Statistical Bureau or Bureaus, within fifteen (15) business days from the date of the making of the agreement. Such report shall set forth all the terms and conditions of the commitment. A true copy of every contract and of any agreement for modification thereof shall be filed with the Statistical Bureau within fifteen (15) business days from the date of execution of such contract or agreement for modification: Provided, however, that a report of the commitment need not be filed if a copy of the contract is filed within fifteen (15) business days.

7. Each contract shall contain the following provisions, the meaning and effect of which shall not be changed or altered by any other provision of the contract:

"(a) This contract and the performance of all provisions thereof are expressly subject to the Bituminous Coal Act of 1937, and the proper orders and regulations issued thereunder by the National Bituminous Coal Commission.

"(b) No shipment consigned to any destination point may be reconsigned or diverted without the consent of the seller to be confirmed in writing. In case of any reconsignment or diversion, the seller shall charge and the buyer shall pay not less than the applicable minimum price for such coal at the time of the reconsignment or diversion for delivery to the destination to which such shipment is actually delivered and for the use to which it is actually applied: Provided, however, that this provision does not apply to railroad locomotive fuel sold at prices f. o. b. mines.

"(c) The coal shipped pursuant to this contract is sold and purchased upon the following conditions:

"(1) If the coal is sold for consumption, it shall be used in the plant or plants named herein and for the use stated herein;

"(2) In case of diversion by the buyer to a use other than that stated herein, the buyer shall notify the seller in writing and the seller shall charge and the buyer shall pay not less than the applicable minimum price for such coal at the time of diversion for the use to which it is actually applied."

"(d) (1) It is agreed that the purchasing price for all shipments made after an increase or decrease in either wage rates or in hours per day or in hours per week, shall be increased or decreased proportionately in the exact amount determined by the National Bituminous Coal Commission after full consideration of the various cost factors involved, provided, that the price specified herein shall not be so varied unless the increase or decrease in wage rates or in hours of work is a part of a general increase or decrease in wage rates or in hours of work occurring in the District in which the mine producing the coal is located; likewise, any increase or decrease in the cost of production, caused by the imposition or collection, or revocation, by State or Federal Statutes, of a direct tax on coal, or on the sale or on the mining thereof, or on payrolls or wages, and by the amount of any and all sales taxes levied or imposed with respect to sales or deliveries of coal made by the seller hereunder which the seller may be required to pay pursuant to any present or future Federal, state or municipal law, or by subsequent changes in the rate of such tax, or taxes, or by any other regulations, State or Federal, increasing or decreasing the cost of production, shall correspondingly

increase or decrease said price of coal on any tonnage thereafter shipped thereunder."

"(2) After the effective date of any such general increase or decrease, a Code Member shall increase or decrease all invoices by the amount determined by the Coal Commission and with respect to any coal shipped subsequent to said effective date and already invoiced at the price previously in effect, a Code Member shall promptly issue a debit or credit memorandum, as the case may be, for the amount of any such increase or decrease."

8. In any case where a contract is made by a sales agent of a Code Member, such sales agent shall not exercise the rights of the seller as defined in item 7 (b) of this section without first securing the consent of the Code Member producing such coal to be confirmed in writing.

9. The making of a contract for the sale of coal at a price below the minimum or above the maximum therefor established by the Commission at the time of the making of the contract shall constitute a violation of the Code and such contract shall be invalid and unenforceable.

10. No contract shall be made for the sale of coal for delivery after the expiration date of the Act at a price below the minimum or above the maximum therefor established by the Coal Commission and in effect at the time of making the contract.

Section VII—Terms of Payment

1. The price and fair trade practice provisions of the Act shall not be evaded or violated by a Code Member, or his sales agent, through the use of terms of payment, and in no instance shall terms of payment be more favorable than the following:

(A) On rail, river, ex-river, or truck shipments, the date of payment of invoices for coal sold shall be on or before the twentieth (20th) day of the month following the month in which shipment was made.

(B) On tidewater cargo shipments the date of payment shall be not more than thirty (30) days from date of vessel bill of lading, and where coal is sold f. o. b. mines for tidewater cargo shipment, on or before the twentieth (20th) day of the month following the month in which the coal is dumped.

(C) Payment for all tidewater Bunker coal supplied for foreign vessels shall be by cash on delivery or by master's draft on owners in United States currency at not exceeding fifteen (15) days' sight at supplier's option. When drafts are accepted in payment, all bank charges for collection, exchange, etc., shall be for owner's account. Payment for tidewater bunker coal supplied for American vessels shall be made on or before the twentieth (20th) day of the month following delivery.

Payment for coal shipped for vessel fuel, and delivered into vessels at ports on the Great Lakes or tributary waters thereof, shall be made on or before the twentieth (20th) day of the month following such delivery.

(D) On lake cargo shipments, the date of payment shall be not more than sixty (60) days from date of vessel bill of lading, and where coal is sold f. o. b. mines for lake cargo shipments, on or before the twentieth (20th) of the second month following the month in which dumped.

(E) On railroad locomotive fuel, the date of payment shall be on or before the twenty-fifth (25th) day of the month following the date of shipment.

(F) Terms, net cash.

(G) No portion of the sale price may be withheld by agreement between the buyer and the seller based upon any unadjusted claim of the buyer.

(H) No sale, delivery, or offer for sale of coal shall be made upon any condition, express or implied, that any portion of the sale price may be withheld by the buyer, or deposited in escrow, pending or based upon a determination of the constitutionality of any provision of the Act, of the jurisdiction of the Coal Commission, or the validity or applicability of any order of the Coal Commission.

(I) Where the due date of the account is extended by agreement of the parties, express or implied, or where payment is made by note, trade acceptance or other form of indebtedness, the seller shall charge and the buyer shall pay interest from and after the due date of the account at the current rate in the locality to which the coal is shipped to the vendee.

(J) Freight on all-rail or ex-river shipments shall not be paid by a Code Member, or his sales agent, except to prepay stations as published in current railway tariffs or on shipments to the United States Government, States or political subdivisions thereof. Where freight is thus prepaid, the amount thereof shall immediately upon receipt of freight bill or notice of sight draft payment, be invoiced to the buyer for immediate payment.

(K) No Code Member shall accept as payment in full for any account for the sale of coal any amount which is less than the applicable minimum price for the quantity of coal involved. Provided, however, that a Code Member may enter into a bona fide general creditors' composition with other creditors of a defaulting purchaser. A copy of such creditors' composition shall be filed with the Statistical Bureau within ten (10) business days from the date of making such composition.

(L) The agreement by a Code Member, expressed or implied, to extend the credit for a period longer than that authorized by these rules and regulations, with the effect of violating the price

provisions or the unfair methods of competition of the Act, shall constitute a violation of the Code.

Section VIII—Use of Coal Analyses

1. Analyses of coal shall not be utilized by a Code Member, or his sales agent, in selling or offering for sale any coal produced by the Code Member, whether or not the analysis is a term in the offer or sale, unless such Code Member shall have filed with the Statistical Bureau and the District Board for the District in which the coal is produced, a report of the analysis or analyses as used or proposed to be used by him. Such report shall show the following:

(a) The name of the Code Member Producer.

(b) The name of the mine.

(c) The name or geological number of the seam or seams from which the coal is produced.

(d) The name of the size, and, if screened, the dimension or dimensions of the screen or screens over and/or through which the coal is prepared.

(e) Whether the analysis is representative of the entire production of such size of coal, or whether it represents only a portion of such production segregated by selective mining, selective preparation, actual analyses made at the mine, or in any other manner.

(f) That such analysis is representative of the grade and size of the coal as regularly produced by the Code Member and as loaded directly into transportation facilities for shipment to market and that the Code Member is prepared to make deliveries of coal of substantially the quality and character as shown by the analysis.

(g) That each such analysis is not less than a proximate analysis showing moisture content, ash, volatile matter, fixed carbon, sulphur and British thermal units and ash softening temperature.

2. All reports of analyses so filed shall be subject to inspection at the office of the Statistical Bureau at any time during office hours by any interested person, and may be considered by the District Board and the Coal Commission in determining from time to time proper classifications of the coals produced by the Code Member.

3. A copy of any analysis of the coal of a Code Member made by or on behalf of a consumer and accepted by the Code Member as the basis for an adjustment of price under any contract or spot order shall be filed by the Code Member with the Statistical Bureau, the Coal Commission and the District Board, within five (5) business days after such adjustment is made.

4. Every analysis used in a written offer for the sale of any particular kind, quality, or size of coal shall be accompanied by a statement to the effect that

such analysis has been properly filed with the Statistical Bureau and the District Board.

5. From and after the effective date of these Rules and Regulations, no Code Member shall enter into or perform any agreement made upon a penalty or a premium and penalty basis which will permit the sale of coal at an aggregate contract price below the applicable minimum price established by the Coal Commission for the coal sold and delivered upon such agreement subsequent to said effective date: Provided, that where a Code Member has entered into an agreement made upon a penalty or a premium and penalty basis, this rule shall not be considered as affecting any claim that the buyer might otherwise have had for substandard preparation or quality under Section X of these Marketing Rules and Regulations.

Section IX—Resale of Coal Refused in Transit or at Destination

1. Where coal is refused by a consignee in transit or at destination, the Code Member may sell the same at the best obtainable price, provided that in each case the Code Member shall file with the Statistical Bureau, and the District Board for the District in which the coal was produced, within five (5) business days from the date of such resale, a statement giving the following information:

(a) Name of consignee.

(b) Address of the consignee.

(c) Original destination of the coal.

(d) Name of Code Member.

(e) Originating mine.

(f) The grade and size of coal shipped.

(g) Price at which coal sold.

(h) Reasons for the refusal.

(i) Facts resulting from the investigation of the complaint.

(j) Name of ultimate purchaser upon resale.

(k) Address of purchaser upon resale.

(l) Ultimate destination of the coal.

(m) Price received by the seller upon resale.

(n) Amount of commission, if any, paid upon the resale.

(o) A copy of the carrier's notice of refusal or a notice of reconsignment and such other pertinent information and facts as may be offered in proof of the necessity for such resale.

(p) A signed and verified statement that the provisions of the Code and the Marketing Rules and Regulations of the Coal Commission other than as to price have not been violated or evaded.

2. All Code Members shall properly furnish to the District Board and to the Statistical Bureau of the Coal Commission for the District in which the coal originated, full reports of all reconsignments, and shall authorize the carrier making such reconsignments to furnish complete information thereof to such Statistical Bureau.

Section X—Substandard Preparation or Quality

1. Where any allowance is requested by a buyer of coal on any shipment claimed to be substandard in preparation or quality, the Code Member or the sales agent, with the prior approval of the Code Member, may on or before the maturity date of the invoice, make settlement and agree with the buyer upon any amount reasonably to be deducted for such inferior coal and accept payment therefor at less than the minimum prices: Provided, however, that in each such case the Code Member shall within five (5) days after granting such allowance file with the Statistical Bureau of the Coal Commission in the District in which the coal originates, a verified statement giving the following information:

(a) The name and address of the consignee and the reason for the request for the allowance

(b) The price at which the coal was sold, the tonnage delivered, the name of the mine, the Code Member, the date of shipment, the grade and size of coal, the destination, and the amount of allowance or adjustment made

(c) Such other pertinent information and facts as may be offered in proof of the necessity for such reduction or allowance

(d) A statement that the adjustment has not been made with the purpose or intent of evading the price provisions of the Act.

The Code Member shall also file, together with the statement, a written claim duly executed by or on behalf of the buyer and verified by affidavit, setting forth the amount claimed by way of deduction and the reasons for the complaint.

2. All such adjustments and allowances shall be subject to review by the Coal Commission.

Section XI—Substitutions

1. No substitution of grades or sizes of coal carrying a higher code price may be made on spot orders or contracts, unless authorized by the District Board or by a committee thereof duly created for that purpose. Requests for permission to make substitutions shall be submitted to the District Board in writing and shall be approved only upon satisfactory evidence that such substitution is necessary as a temporary and emergency measure and will not result in unfair advantage to either the Code member or the Buyer. Upon approval of a request for substitution the District Board will issue a permit to the Code member in each instance which permit shall be limited to a maximum number of tons for shipment during a period not to exceed thirty (30) days. No permit for substitution shall be issued in connection with the shipment of coal sold to a retail dealer. The issuance of such permits will be restricted for application

to spot orders or contracts filed with the District Board, or with such agency as may be prescribed by the Commission. All permits issued hereunder shall be consecutively numbered.

2. The District Board shall publish to the Code members within its jurisdiction, at least once in each week, a list of the permits for substitution issued by the District Board during the preceding week. Such publication shall show the name of the Code member to whom the permit is issued, the permit number, the tonnage and grade or sizes involved in the substitution, the reason therefor, whether for application upon spot order or contract, and the period of time for which the permit is granted.

Section XII—Miscellaneous

General

1. The minimum prices established by the Commission shall not apply to coal sold and shipped outside the domestic market as defined in the Act and in these Marketing Rules and Regulations.

2. Maximum prices established by the Commission shall not apply to coal sold and shipped outside the continental United States.

3. No coal shall be sold or delivered or offered for sale at a price below the minimum or above the maximum therefor established by the Commission, and the sale or delivery or offer for sale of coal at a price below such minimum or above such maximum shall constitute a violation of the Code: Provided, that the provisions of this paragraph shall not apply to a lawful and bona fide written contract entered into prior to June 16, 1933, which has been filed with the Coal Commission.

4. If, in converting a net or gross ton price, freight rate or freight rate differential, the calculation extends to more than 3 decimals, and the 4th decimal is .0005 or more, it shall be added as .001, and if under .0005 it shall be eliminated.

5. All coal shall be sold and invoiced on a price per ton basis, and all coal must be sold and invoiced under the size, price classification and other designation therefor in the price schedule published by the Coal Commission.

6. Failure to file information required by these Marketing Rules and Regulations or the filing of false information, willfully made, will subject the party failing to file the information required, or the party so filing, to the penalties of the Act and other penalties imposed by law.

Advertising

1. No deduction or allowance from invoice prices shall be granted by any Code Member or his sales agent to any purchaser for advertising.

2. Code Members (or their agents or representatives) either individually or collectively, with or without financial participation by retailers of coal, may conduct advertising campaigns seeking

to increase the use of coal. The amount of expenditures incurred by a Code Member, his agent or representative for advertising shall be subject to review by the Coal Commission as to the good faith of the transaction.

Screening for Buyer's Account

1. The screening of mine run or re-screening of other grades of coal, sold and billed as such, for the buyer's account for the purpose of keeping the resultant products separate in the shipment thereof is prohibited.

Coal Confiscated or Lost in Transit

1. All coal confiscated or lost in transit shall be invoiced to the carrier at not less than the minimum price established for such coal for shipment to the destination and use to which the coal was sold or the established price for sale to the carrier at the place of confiscation or loss, whichever may be the higher.

Revision of Marketing Rules and Regulations

1. These Marketing Rules and Regulations are subject to revision and amendment by further order of the Coal Commission.

Unfair Methods of Competition

See page 350.

Penalties

See page 350.

MINIMUM PRICE AREA NO. 1—DISTRICT BOARD NO. 7

PROPOSED MARKETING RULES AND REGULATIONS

The witness for District Board No. 7, properly qualified as an expert in the marketing of coal in that District, introduced into evidence as Exhibit No. 623 the rules and regulations as proposed by District Board No. 7, in compliance with Commission Order No. 248.

The rules proposed by District Board No. 7 were, in substance, proposed by District Board No. 2. The witness for District Board No. 7 stated that he agreed with the testimony given by the witness for District Board No. 2 on cross-examination by Commission's counsel, except in so far as he specifically testified to the contrary or where the rules proposed by District Board No. 7 were in conflict with the testimony of the witness for District Board No. 2.

We find that the rules proposed by District No. 7, which are similar to the rules proposed by District No. 2, should be modified in the same manner and for the same reasons as stated in the findings for District No. 2. We further find, on the basis of the testimony introduced into the record, that the additional rules approved for District No. 2 in the findings for District No. 2 should likewise be approved for District No. 7. In view of the witness' testimony that such a modification would be reasonable, we find that definition 7 of Section I

of the rules proposed by District Board No. 7 should be modified to read as follows:

A "spot order" is a legal obligation for the sale and purchase of coal, the delivery of which is stipulated to be made within not more than thirty (30) days from the effective date of the order, such effective date to be not more than fifteen (15) days from the date upon which the order was accepted.

On the basis of the testimony introduced into the record relating to the rules proposed by District No. 7, we find that the following rules and regulations reflecting such deletions, modifications, clarifications and additions to the rules proposed by District No. 7 are reasonable, not inconsistent with the requirements of Section 4 of the Act and in conformance with the standards of fair competition established in the Act:

MARKETING RULES AND REGULATIONS INCIDENTAL TO THE SALE AND DISTRIBUTION OF COAL BY CODE MEMBERS WITHIN DISTRICT NO. 7 AS PROPOSED BY DISTRICT BOARD NO. 7 AND AS APPROVED, DISAPPROVED, OR MODIFIED FOR THE PURPOSE OF COORDINATION

Section I—Definitions

1. The term "person" as used herein, includes individuals, firms, associations, partnerships, corporations, trusts, trustees, cooperatives, receivers and trustees in bankruptcy and in other legal proceedings, and any other recognized forms of business organization.

2. A "sales agent" is a person who, as agent of a code member (and therefore without purchasing the coal), sells coal produced by such code member for him or on his behalf: *Provided*, That "sales agent" shall not include an individual (herein referred to as a "salesman") regularly and continuously employed by a code member, whose sole compensation is a stated salary per week, per month, or per year, and who regularly devotes the major portion of his time to the solicitation of purchases of coal produced by his code member employer.

3. A "commission" is the total of all compensations and allowances received by a sales agent from a code member for services rendered in the sale of coal.

4. A "registered distributor" is a person who has been duly registered by the Coal Commission pursuant to the rules and regulations prescribed by the Commission for the administration of Section 4 II (h) of the Act.

5. A "spot order" is a legal obligation for the sale and purchase of coal, the delivery of which is stipulated to be made within not more than thirty (30) days from the effective date of the order, such effective date to be not more than fifteen (15) days from the date upon which the order was accepted.

6. A "contract" is a legal obligation for the sale and purchase of coal, the deliveries of which are stipulated to be

made during a period longer than the maximum period specified for a spot order.

7. A "quotation" is an offer to sell coal which the offerer may withdraw prior to its being acted upon by the offeree.

8. An "option" is an offer to sell coal acceptable within a time certain, during which time the offerer may not withdraw the offer without the consent of the offeree.

9. A "commitment" is the status of a contract between the time a quotation is accepted or an option is exercised and the time the contract is formally reduced to writing.

10. "Coal Commission" as used herein, shall mean the National Bituminous Coal Commission established under the provisions of the Bituminous Coal Act of 1937.

11. "Act" as used herein shall mean the Bituminous Coal Act of 1937.

12. "District Board" as used herein, shall mean any District Board established under the provisions of Section 4, Part I (a) of the Act.

13. "Statistical Bureau" shall mean, unless otherwise specifically stated, the Statistical Bureau of the Commission for the District in which the coal involved in any transaction is produced, or the District in which is located a mine of a code member affected by any order or regulation.

14. "Minimum Price" shall mean a minimum price established and made effective by the Coal Commission.

15. "Maximum Price" shall mean a maximum price established and made effective by the Coal Commission.

16. The term "producer" includes all individuals, firms, associations, corporations, trustees, and receivers engaged in the business of mining coal.

17. The terms "reconsignment" and "diversion" as used herein shall mean the change in the original consignee or in the destination or route.

18. The term "transportation facilities" means railroad cars, ships, barges, trucks, or any other facilities used or useful in the transportation of coal.

19. A "code member" means a producer who has accepted and holds membership in the Bituminous Coal Code promulgated under the Bituminous Coal Act of 1937.

20. The term "domestic market" shall include all points within the continental United States and Canada, and car-ferry shipments to the Island of Cuba. Bunker coal delivered to steamships for consumption thereon shall be regarded as shipped within the domestic market.

21. "Cargo shipment" is a quantity of coal loaded in a vessel, boat or barge for transportation via water.

22. "Bunker coal" or "vessel fuel" is that coal used aboard a boat or vessel for consumption thereon.

23. "Coal" as used herein shall mean bituminous coal.

24. The term "bituminous coal" includes all bituminous, semi-bituminous and sub-bituminous coal and shall exclude lignite, which is defined as a lignitic coal having calorific value in British thermal units of less than seven thousand six hundred per pound and having a natural moisture content in place in the mine of 30 per centum or more.

25. The term "control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

Section II—Sales Agents

1. All appointments of Sales Agents by Code Members or their agents or authorized representatives shall be subject to the Marketing Rules and Regulation from time to time established by the Coal Commission.

2. Each Code Member shall be responsible for the compliance by all his Sales Agents and agents and employees of Sales Agents and agents with the provisions of the Bituminous Coal Code and of all rules and regulations, promulgations and determinations of the Coal Commission.

3. Each Code Member shall require all his sales agents clearly to set forth upon any form of solicitation, contract, spot order, invoice, and statement of account covering coal sold or to be sold, the name of such Code Member principal, and the name of the mine or mines from which shipment was made or is to be made. If the name of the sales agent also appears in the transaction, then the above mentioned forms shall also disclose the fact of agency relationship with the Code Member principal.

4. (A) Every contract for the appointment of a sales agent by Code Members or by agents or authorized representatives of Code Members, or any modification thereof, shall be in writing, and shall fully set forth therein all the terms and conditions of such contract, including the amount or basis of the sales agent's commission. Certified copies of all such agency contracts entered into on or prior to the effective date of the establishment of these rules and regulations and in effect on such date, shall be filed by the Code Member with the Statistical Bureau, or Bureaus, within twenty (20) business days after such date.

(B) Certified copies of all contracts appointing sales agents or of agreements modifying any sales agency contract, entered into subsequent to the effective date of these rules and regulations, shall be similarly filed by the Code Member within ten (10) business days after the date upon which such contracts or agreements have been entered into.

(C) Upon the expiration, termination, or rescission of any sales agency contract, the Code Member principal shall making a report thereof to the Statistical Bureau, or Bureaus, within ten (10)

business days after the date of such expiration, termination, or rescission.

5. (A) As to all coal sold by a Code Member otherwise than through a sales agent or through an employee regularly employed as a salesman by the Code Member at his principal place of business or at a regularly established sales office, such Code Member shall, not later than the tenth day of each month, file with the Statistical Bureau, or Bureaus, a list of all persons through whom, directly or indirectly, any such coal was sold during the preceding calendar month, with a statement of the duration and character of their employment, the tonnage sold by, and the rate and amount of compensation paid to, each of them.

(B) Not later than the tenth day of each month, each Code Member shall also file with the Statistical Bureau, or Bureaus, similar information obtained from his sales agents concerning sales of coal made during the preceding calendar month, by the sales agents' representatives and employees other than salesmen employed at the principal place of business or a regularly established sales office of the sales agent.

(C) Not later than the tenth day of each month, each Code Member shall also file with the Statistical Bureau or Bureaus a statement showing the names and addresses of distributors to whom the Code Member or his sales agents sold coal during the preceding calendar month, the tonnage sold, and the amount of discount allowed to each such distributor.

6. Within twenty (20) business days after the effective date of these rules and regulations, each Code Member shall file with the Coal Commission a list showing the names and addresses of all his sales agents. Upon any change in said list, the Code Member shall notify the Coal Commission within ten (10) business days after such change takes place.

7. A list showing the names and addresses of sales agents and the Code Members for whom such agents act shall be published monthly by the Coal Commission.

8. All agency contracts and other information filed by Code Members in conformity with the foregoing regulations, other than the names and addresses of sales agents, shall be held by the Coal Commission as the confidential records of said parties and shall not be made public without the consent of the Code Member from whom the same shall have been obtained, except where such disclosure is required in any proceeding against the Code Member by way of enforcement of the Act.

9. From and after twenty (20) business days following the effective date of these Marketing Rules and Regulations no Code Member or sales agent of a Code Member shall allow or pay, directly or indirectly, any commission or compensation to any sales agent,

(a) Unless the contract of agency shall have been filed with the Coal Commission, as hereinbefore required, and

(b) Unless the sales agent shall have agreed, in writing, with the Code Member to conform to and observe the minimum and maximum prices and Marketing Rules and Regulations established by the Coal Commission and the Fair Trade Practice Provisions of the Act, as well as all proper Orders of the Commission, and

(c) Unless the sales agent shall have in good faith complied with the agreement as in paragraph (b) above provided.

10. No commission shall be paid to a sales agent by a Code Member where the coal is delivered or sold to any person who owns such sales agent or who financially or otherwise controls such agent.

11. When any commissions are paid to a sales agent on a tonnage basis, the Code Member shall not include in the computation of such commissions any part of the tonnage of coal sold by him to the sales agent, whether for consumption or resale.

12. No Code Member shall employ any person or appoint any sales agent at a compensation obviously disproportionate to the ordinary value of the service or services rendered and whose employment or appointment is made with the primary intention and purpose of securing a preferment with a purchaser or purchasers of coal.

13. Subject to further order of the Coal Commission, the amount of commission to be paid by a Code Member to his sales agent shall be fixed by agreement of the parties, subject, however, that upon complaint of violation of the unfair methods of competition, as provided in the Act, the amount of such commission shall be subject to review by the Coal Commission.

Section III—Discounts

1. No Code Member or sales agent of a Code Member shall pay or allow any discount from minimum prices to any person unless such person has been registered by the Coal Commission as authorized to receive such discount at the time of the sale.

2. Code Members or their sales agents may allow discounts from minimum prices on sales of coal to registered distributors, not in excess of the maximum discount or price allowance prescribed by the Coal Commission upon such sales. Only one such discount may be allowed on any such sale.

Section IV—Limitation of Orders, Agreements, Options and Quotations

1. Subject to further order of the Coal Commission no Code Member or sales agent of a Code Member shall enter into any agreement or order for the sale of coal providing for delivery for a period in excess of that authorized for a spot order, and no prices shall be less than the applicable minimum prices in effect at

the time of the making of the agreement or order: *Provided, however,* That contracts for periods not exceeding one (1) year may be made with agencies of the Federal Government or with agencies of State or local governments, where the contract is entered into through competitive bidding, at the following applicable minimum prices:

(a) For deliveries during the first thirty (30) days of the contract, at not less than the applicable minimum price in effect at the time of the making of the agreement

(b) For deliveries thereafter, at not less than the applicable minimum price in effect at the time of delivery if such price is higher than the contract price.

Provided, further, That contracts for periods not exceeding one (1) year at prices not less than the said applicable minimum prices may be made with agencies of the Federal Government or with such agencies of the State or local governments, in the absence of competitive bidding, where by virtue of an express exemption in the statute or ordinance such agencies may enter into contracts for the purchase of coal without regard to competitive bidding.

2. While the preceding rule is in effect, no option may be given by a Code Member or sales agent for the purchase of coal. When the above rule is suspended or revoked by the Coal Commission, options for the sale of coal may be given for a period not exceeding fourteen (14) days. No options may be given at a price less than the applicable minimum price in effect at the time of the giving of the option. If the applicable minimum price is increased beyond the quoted price within such fourteen (14) days and the option shall not have been exercised at that time, the option thereupon shall become null and void: *Provided, however,* That in connection with offers to sell to the United States Government, or States or political subdivisions thereof, options may be given for a period not exceeding forty-five (45) days from the date of the offer or from the final date for the filing of offers.

3. Quotations may also be given for a period of not exceeding fourteen (14) days. If the applicable minimum price is increased beyond the quoted price within such fourteen (14) days and the quotation shall not have been accepted at that time, the quotation thereupon shall become null and void.

4. Every quotation and option shall provide that it is made subject to the provisions of the Marketing Rules and Regulations of the Coal Commission.

5. All quotations and options must be made or confirmed in writing. Every Code Member, or his sales agent, shall require of his offeree that the acceptance of a quotation or the exercise of an option be in writing.

Section V—Spot Orders

1. A spot order shall be in writing or confirmed in writing within five (5) busi-

ness days from the date of the making thereof.

2. Each spot order shall be subject to the following conditions which shall either be endorsed upon the form of the order or upon the written confirmation thereof by the Code Member or his sales agent, the meaning and effect of which shall not be changed or altered by any other provision of the order.

"(a) No shipment consigned to any destination may be diverted or reconsigned without the consent of the seller confirmed in writing. In case of any reconsignment or diversion, the seller shall charge and the buyer shall pay not less than the minimum price prescribed for such coal for delivery to the destination to which such shipment is actually delivered and for the use to which it is actually applied: Provided, however, that this provision does not apply to railroad locomotive fuel sold at prices f. o. b. mine."

"(b) The coal shipped pursuant to this order is sold and purchased upon the following conditions:

"(1) If the coal is sold for consumption, it shall be used in the plant or plants named herein, and for the use stated herein;

"(2) In case of diversion by the buyer to a use other than that stated herein, the buyer shall notify the seller in writing and the seller shall charge and the buyer shall pay not less than the applicable minimum price for such coal at the time of diversion for the use to which it is actually applied.

"(c) If shipments called for by this order are not completed within thirty (30) days from the effective date of this order, the unfilled portion of the order shall not be delivered."

3. In any case where a sale is made by a sales agent of a Code Member, such sales agent shall not exercise the rights of the seller as defined in Item 2 (a) of this section without first securing the consent of his Code Member principal to be confirmed in writing.

4. All the terms and conditions of a sale of coal must be fully and expressly set forth either in the order or in the written confirmation thereof and such order or written confirmation thereof shall specifically contain all the terms required by Rule 1 of Section VI of these Marketing Rules and Regulations. Within ten (10) business days after the date of the making of the spot order or date of the written confirmation thereof, the Code Member or his sales agent shall file with the Statistical Bureau or Bureaus a copy of such spot order or confirmation. Any modification of a spot order must also be made in writing and filed with the Statistical Bureau or Bureaus in the same manner.

Section VI—Contracts

Upon the revocation or suspension of rule 1 of Section IV of these Marketing

No. 12—12

Rules and Regulations, Code Members or sales agents of Code Members may thereafter enter into contracts for the sale and delivery of coal upon the following terms and conditions:

1. Every contract shall be in writing and shall express the entire agreement between the parties. The contract shall clearly state the date of execution, the effective date, the expiration date, the price agreed upon, the terms of payment, the size and grade of coal, the number of cars or tonnage to be shipped, the name of the Code Member and the name of the originating mine, and, where the coal is purchased for consumption, the use to which the coal is to be applied. Contracts may also be made either (a) calling for a buyer's entire requirements or a stated percentage of his requirements, showing the maximum tonnage to be shipped thereunder, or (b) covering a buyer's requirements and stating the estimated tonnage to be shipped with an allowable over-shipment of not exceeding ten (10) per cent of such estimated tonnage.

2. No contract for the sale of coal shall provide for deliveries to commence at a date later than ninety (90) days from the date upon which such contract is entered into.

3. No contract shall be made at a price below the applicable minimum price as established by the Coal Commission at the time of the making of the contract for the coal to be sold thereunder, and no coal may be delivered upon a contract at a price below such applicable minimum price.

4. No contract shall provide for delivery over a period in excess of twelve (12) months except by special permission and approval of the Coal Commission, upon a showing of the necessity of meeting the long term contract competition of oil, gas, or other fuels or forms of power, or for such other reasons as the Commission may deem appropriate in order to further the effectual administration of the Act.

5. Any change in the terms of a contract, not in violation of these Rules and Regulations, shall be evidenced by a written agreement and shall conform to all the requirements set forth in these Rules and Regulations.

6. A report of every commitment shall be filed by the Code Member or his sales agent with the Statistical Bureau or Bureaus, within fifteen (15) business days from the date of the making of the agreement. Such report shall set forth all the terms and conditions of the commitment. A true copy of every contract and of any agreement for modification thereof shall be filed with the Statistical Bureau within fifteen (15) business days from the date of execution of such contract or agreement for modification: Provided, however, that a report of the commitment need not be filed if a copy of the contract is filed within fifteen (15) business days.

7. Each contract shall contain the following provisions, the meaning and effect of which shall not be changed or altered by any other provision of the contract:

"(a) This contract and the performance of all provisions thereof are expressly subject to the Bituminous Coal Act of 1937, and the proper orders and regulations issued thereunder by the National Bituminous Coal Commission.

"(b) No shipment consigned to any destination point may be reconsigned or diverted without the consent of the seller to be confirmed in writing. In case of any reconsignment or diversion, the seller shall charge and the buyer shall pay not less than the applicable minimum price for such coal at the time of the reconsignment or diversion for delivery to the destination to which such shipment is actually delivered and for the use to which it is actually applied: Provided, however, that this provision does not apply to railroad locomotive fuel sold at prices f. o. b. mines.

"(c) The coal shipped pursuant to this contract is sold and purchased upon the following conditions:

"(1) If the coal is sold for consumption, it shall be used in the plant or plants named herein and for the use stated herein;

"(2) In case of diversion by the buyer to a use other than that stated herein, the buyer shall notify the seller in writing and the seller shall charge and the buyer shall pay not less than the applicable minimum price for such coal at the time of diversion for the use to which it is actually applied."

8. In any case where a contract is made by a sales agent of a Code Member, such sales agent shall not exercise the rights of the seller as defined in item 7 (b) of this section without first securing the consent of the Code Member producing such coal to be confirmed in writing.

9. The making of a contract for the sale of coal at a price below the minimum or above the maximum therefor established by the Commission at the time of the making of the contract shall constitute a violation of the Code and such contract shall be invalid and unenforceable.

10. No contract shall be made for the sale of coal for delivery after the expiration date of the Act at a price below the minimum or above the maximum therefor established by the Coal Commission and in effect at the time of making the contract.

Section VII—Terms of Payment

1. The price and fair trade practice provisions of the Act shall not be evaded or violated by a Code Member, or his sales agent, through the use of terms of payment, and in no instance shall terms of payment be more favorable than the following:

(A) On rail, river, ex-river, or truck shipments, the date of payment of invoices for coal sold shall be on or before the twentieth (20th) day of the month following the month in which shipment was made.

(B) On tidewater cargo shipments the date of payment shall be not more than thirty (30) days from date of vessel bill of lading, and where coal is sold f. o. b. mines for tidewater cargo shipment, on or before the twentieth (20th) day of the month following the month in which the coal is dumped.

(C) Payment for all tidewater Bunker coal supplied for foreign vessels shall be by cash on delivery or by master's draft on owners in United States currency at not exceeding thirty (30) days' sight at supplier's option. When drafts are accepted in payment, all bank charges for collection, exchange, etc., shall be for owner's account. Payment for tidewater bunker coal supplied for American vessels shall be made on or before the twentieth (20th) day of the month following delivery.

Payment for coal shipped for vessel fuel, and delivered into vessels at ports on the Great Lakes or tributary waters thereof, shall be made on or before the twentieth (20th) day of the month following such delivery.

(D) On lake cargo shipments, the date of payment shall be not more than sixty (60) days from date of vessel bill of lading, and where coal is sold f. o. b. mines for lake cargo shipments, on or before the twentieth (20th) of the second month following the month in which dumped.

(E) On railroad locomotive fuel, the date of payment shall be on or before the twenty-fifth (25th) day of the month following the date of shipment.

(F) Invoices shall be paid in full in United States currency, or funds equivalent thereto, not later than the due date.

(G) No portion of the sale price may be withheld by agreement between the buyer and the seller based upon any unadjusted claim of the buyer.

(H) No sale, delivery, or offer for sale of coal shall be made upon any condition, express or implied, that any portion of the sale price may be withheld by the buyer, pending or based upon a determination of the constitutionality of any provision of the Act, of the jurisdiction of the Coal Commission, or the validity or applicability of any order of the Coal Commission.

(I) Where the due date of the account is extended by agreement of the parties, express or implied, or where payment is made by note, trade acceptance or other form of indebtedness, the seller shall charge and the buyer shall pay interest from and after the due date of the account at the current rate in the locality to which the coal is shipped to the vendee.

(J) Freight on all-rail or ex-river shipments shall not be paid by a Code

Member, or his sales agent, except to prepay stations as published in current railway tariffs or on shipments to the United States Government, States or political subdivisions thereof. Where freight is thus prepaid, the amount thereof shall immediately upon receipt of freight bill or notice of sight draft payment, be invoiced to the buyer for immediate payment.

(K) No Code Member shall accept as payment in full for any account for the sale of coal any amount which is less than the applicable minimum price for the quantity of coal involved. Provided, however, that a Code Member may enter into a bona fide general creditors' composition with other creditors of a defaulting purchaser. A copy of such creditors' composition shall be filed with the Statistical Bureau within ten (10) business days from the date of making such composition.

(L) The agreement by a Code Member, express or implied, to extend the credit for a period longer than that authorized by these rules and regulations, with the effect of violating the price provisions or the unfair methods of competition of the Act, shall constitute a violation of the Code.

Section VIII—Use of Coal Analyses

1. Analyses of coal shall not be utilized by a Code Member, or his sales agent, in selling or offering for sale any coal produced by the Code Member, whether or not the analysis is a term in the offer or sale, unless such Code Member shall have filed with the Statistical Bureau, the District Board for the District in which the coal is produced and the Coal Commission, a report of the analysis or analyses as used or proposed to be used by him. Such report shall show the following:

(a) The name of the Code Member Producer.

(b) The name of the mine.

(c) The name or geological number of the seam or seams from which the coal is produced.

(d) The name of the size, and, if screened, the dimension or dimensions of the screen or screens over and/or through which the coal is prepared.

(e) Whether the analysis is representative of the entire production of such size of coal, or whether it represents only a portion of such production segregated by selective mining, selective preparation, actual analyses made at the mine, or in any other manner.

(f) That such analysis is representative of the grade and size of the coal as regularly produced by the Code Member and as loaded directly into transportation facilities for shipment to market and that the Code Member is prepared to make deliveries of coal of substantially the quality and character as shown by the analysis.

(g) That each such analysis is not less than a proximate analysis showing moisture content, ash, volatile matter,

fixed carbon, sulphur and British thermal units and ash softening temperature.

2. All reports of analyses so filed shall be subject to inspection at the office of the Statistical Bureau and at the office of the Coal Commission at Washington, D. C. at any time during office hours by any interested person, and may be considered by the District Board and the Coal Commission in determining from time to time proper classifications of the coals produced by the Code Member.

3. A copy of any analysis of the coal of a Code Member made by or on behalf of a consumer and accepted by the Code Member as the basis for an adjustment of price under any contract or spot order shall be filed by the Code Member with the Statistical Bureau, the Coal Commission and the District Board, within five (5) business days after such adjustment is made.

4. From and after the effective date of these Rules and Regulations, no Code Member shall enter into or perform any agreement made upon a penalty or a premium and penalty basis which will permit the sale of coal at an aggregate contract price below the applicable minimum price established by the Coal Commission for the coal sold and delivered upon such agreement subsequent to said effective date: *Provided*, That where a Code Member has entered into an agreement made upon a penalty or a premium and penalty basis, this rule shall not be considered as affecting any claim that the buyer might otherwise have had for substandard preparation or quality under Section X of these Marketing Rules and Regulations.

Section IX—Resale of Coal Refused in Transit or at Destination

1. Where coal is refused by a consignee in transit or at destination, the Code Member may sell the same at the best obtainable price, provided that in each case the Code Member shall file with the Statistical Bureau, and the District Board for the District in which the coal was produced, within ten (10) business days from the date of such resale, a statement giving the following information:

(a) Name of consignee.

(b) Address of the consignee.

(c) Original destination of the coal.

(d) Name of Code Member.

(e) Originating mine.

(f) The grade and size of coal shipped.

(g) Price at which coal sold.

(h) Reasons for the refusal.

(i) Facts resulting from the investigation of the complaint.

(j) Name of ultimate purchaser upon resale.

(k) Address of purchaser upon resale.

(l) Ultimate destination of the coal.

(m) Price received by the seller upon resale.

(n) Amount of commission, if any, paid upon the resale.

(o) A copy of the carrier's notice of refusal or a notice of reconsignment and such other pertinent information and facts as may be offered in proof of the necessity for such resale.

(p) A signed and verified statement that the provisions of the Code and the Marketing Rules and Regulations of the Coal Commission other than as to price have not been violated or evaded.

2. All Code Members shall properly furnish to the District Board and to the Statistical Bureau of the Coal Commission for the District in which the coal originated, full reports of all reconsignments, and shall authorize the carrier making such reconsignments to furnish complete information thereon to such Statistical Bureau.

Section X—Substandard Preparation or Quality

1. Where any allowance is requested by a buyer of coal on any shipment claimed to be substandard in preparation or quality, the Code Member or the sales agent, with the prior approval of the Code Member, may on or before the maturity date of the invoice, make settlement and agree with the buyer upon any amount reasonably to be deducted for such inferior coal and accept payment therefor at less than the minimum prices; provided, however, that in each such case the Code Member shall within ten (10) days after granting such allowance file with the Statistical Bureau of the Coal Commission in the District in which the coal originates, a verified statement giving the following information:

(a) The name and address of the consignee and the reason for the request for the allowance.

(b) The price at which the coal was sold, the tonnage delivered, the name of the mine, the Code Member, the date of shipment, the grade and size of coal, the destination, and the amount of allowance or adjustment made.

(c) Such other pertinent information and facts as may be offered in proof of the necessity for such reduction or allowance.

(d) A statement that the adjustment has not been made with the purpose or intent of evading the price provisions of the Act.

The Code Member shall also file, together with the statement, a written claim duly executed by or on behalf of the buyer and verified by affidavit, setting forth the amount claimed by way of deduction and the reasons for the complaint.

2. All such adjustments and allowances shall be subject to review by the Coal Commission.

Section XI—Miscellaneous

General

1. The minimum prices established by the Commission shall not apply to coal

sold and shipped outside the domestic market as defined in the Act and in these marketing Rules and Regulations.

2. Maximum prices established by the Commission shall not apply to coal sold and shipped outside the continental United States.

3. No coal shall be sold or delivered or offered for sale at a price below the minimum or above the maximum therefor established by the Commission, and the sale or delivery or offer for sale of coal at a price below such minimum or above such maximum shall constitute a violation of the Code: Provided, that the provisions of this paragraph shall not apply to a lawful and bona fide written contract entered into prior to June 16, 1933, which has been filed with the Coal Commission.

4. If, in converting a net or gross ton price, freight rate or freight rate differential, the calculation extends to more than 3 decimals, and the 4th decimal is .0005 or more, it shall be added as .001, and if under .0005 it shall be eliminated.

5. All coal shall be sold and invoiced on a price per ton basis, and all coal must be sold and invoiced under the size, price classification and other designation therefor in the price schedule published by the Coal Commission.

6. Failure to file information required by these Marketing Rules and Regulations or the filing of false information, wilfully made, will subject the party failing to file the information required, or the party so filing, to the penalties of the Act and other penalties imposed by law.

Advertising

1. No deduction or allowance from invoice prices shall be granted by any Code Member or his sales agent to any purchaser for advertising.

2. Code Members (or their agents or representatives) either individually or collectively, with or without financial participation by retailers of coal, may conduct advertising campaigns seeking to increase the use of coal. The amount of expenditures incurred by a Code Member, his agent or representative for advertising shall be subject to review by the Coal Commission as to the good faith of the transaction.

Screening for Buyer's Account

1. The screening of mine run or re-screening of other grades of coal, sold and billed as such, for the buyer's account for the purpose of keeping the resultant products separate in the shipment thereof is prohibited.

Coal Confiscated or Lost in Transit

1. All coal confiscated or lost in transit shall be invoiced to the carrier at not less than the minimum price established for such coal for shipment to the destination and use to which the coal was sold or the established price for sale to the carrier at the place of confiscation or loss, whichever may be the higher.

Revision of Marketing Rules and Regulations

1. These Marketing Rules and Regulations are subject to revision and amendment by further order of the Coal Commission.

Unfair Methods of Competition

See page 350.

Penalties

See page 350.

MINIMUM PRICE AREA No. 1—DISTRICT BOARD No. 8

PROPOSED MARKETING RULES AND REGULATIONS

A witness for District Board No. 8, properly qualified as an expert in the marketing of coal in that District, introduced into evidence as Exhibit No. 624 the rules and regulations proposed by District Board No. 8 in compliance with Commission Order No. 248. The witness testified that the rules and regulations were properly submitted to Code Members within said District on August 22, 1938, and that four protests against such rules and regulations were filed with the Board. The Board, at a meeting held on September 6, 1938, revised the marketing rules and regulations submitted to Code Members in light of the protests filed. Such revisions are reflected in Exhibit No. 624.

Most of the rules proposed by District No. 8 contained in Exhibit No. 624 have, in substance, been proposed by District No. 2. The witness for District Board No. 8 stated that the District Board proposed such rules for substantially the same reasons as those testified to by the witness for District No. 2 in support of the rules proposed by District No. 2. The witness further testified to specific differences in the rules proposed by District No. 8 and the rules proposed by District No. 2 and testified why, in his opinion, the rules proposed by District No. 8 reflecting such differences are reasonable.

The witness for District Board No. 8 stated that in his opinion the following clause of rule 7 of Section II of Exhibit 596, which contains substantially similar rules proposed by Districts 2, 4, 5, 6, 7, 8, and 13, should be deleted—"and shall have conformed to the fair trade practice provisions of the Code, as well as these marketing rules and regulations, and all other orders of the Coal Commission." Rule 6 of Section II of the rules proposed by District Board No. 8 is the same as rule 7 of Section II of Exhibit No. 596 except that it does not contain the above quoted words. The witness stated that in his opinion the clause previously quoted is not desirable because it places upon the Code Member the absolute duty of determining compliance with the Act on the part of his sales agent even though such fact may not conclusively be shown until after formal hearing or trial and even though

the agent's non-compliance may have arisen in his transactions with a different Code Member. We are of the opinion that rule 6 of Section II should be modified and clarified in the manner set forth in rule 9 of Section II of the attached composite findings. This modified rule makes clear that the only duty imposed upon a Code Member is that of determining whether the sales agent shall have, in good faith, complied with his agreement with the Code Member. We are of the opinion that this rule does not make it a violation of the Code for a Code Member to pay a commission to a sales agent where a Code Member does not know that his sales agent has violated the agreement entered into between them.

Certain of the rules proposed by District Board No. 8, as, for example, rule 2 of Section II, regulate the appointment of sales agents. So that Code Members may be put on notice of this fact, we are of the opinion that the following rule is reasonable for District No. 8:

All appointments of sales agents by Code Members or their agents or authorized representatives shall be subject to the marketing rules and regulations from time to time established by the Coal Commission.

We are of the opinion that the following rule proposed by all the District Boards of Price Area No. 1, except District Board No. 8, is essential to prevent evasion of minimum prices:

The screening of mine run or re-screening of other grades of coal, sold and billed as such, for the buyer's account for the purpose of keeping the resultant products separate in the shipment thereof is prohibited.

The witness for District Board No. 8 stated that in his opinion the rules testified to by the witness for District Board No. 2 on cross-examination as being reasonable for District No. 2 are likewise reasonable for District No. 8. On the basis of the testimony relating to the rules proposed by District No. 8 which are similar to the rules proposed by District No. 2, we find that such rules should be modified in the same manner and for the same reasons as stated in the findings for District No. 2. We further find that the additional rules approved for District No. 2 in the findings for District No. 2 should likewise be approved for District No. 8.

Accordingly, we find that the following rules and regulations reflecting such deletions, modifications, clarifications and additions to the rules proposed by District No. 8 are reasonable, not inconsistent with the requirements of Section 4 of the Act, and in conformance with the standards of fair competition established in the Act:

MARKETING RULES AND REGULATIONS INCIDENTAL TO THE SALE AND DISTRIBUTION OF COAL BY CODE MEMBERS WITHIN DISTRICT NO. 8 AS PROPOSED BY DISTRICT BOARD NO. 8 AND AS APPROVED, DISAPPROVED, OR MODIFIED FOR THE PURPOSE OF COORDINATION

Section I—Definitions

1. The term "person" as used herein, includes individuals, firms, associations, partnerships, corporations, trusts, trustees, cooperatives, receivers and trustees in bankruptcy and in other legal proceedings, and any other recognized forms of business organizations.

2. A "sales agent" is a person who, as agent of a code member (and therefore without purchasing the coal), sells coal produced by such code member for him or on his behalf: *Provided*, That "sales agent" shall not include an individual (herein referred to as a "salesman") regularly and continuously employed by a code member, whose sole compensation is a stated salary per week, per month, or per year, and who regularly devotes the major portion of his time to the solicitation of purchases of coal produced by his code member employer.

3. A "commission" is the total of all compensations and allowances received by a sales agent from a code member for services rendered in the sale of coal.

4. A "registered distributor" is a person who has been duly registered by the Coal Commission pursuant to the rules and regulations prescribed by the Commission for the administration of Section 4 II (h) of the Act.

5. A "spot order" is a legal obligation for the sale and purchase of coal, the delivery of which is stipulated to be made within not more than thirty (30) days from the date upon which the order was accepted.

6. A "contract" is a legal obligation for the sale and purchase of coal, the deliveries of which are stipulated to be made during a period longer than the maximum period specified for a spot order.

7. A "quotation" is an offer to sell coal which the offerer may withdraw prior to its being acted upon by the offeree.

8. An "option" is an offer to sell coal acceptable within a time certain, during which time the offerer may not withdraw the offer without the consent of the offeree.

9. A "commitment" is the status of a contract between the time a quotation is accepted or an option is exercised and the time the contract is formally reduced to writing.

10. "Coal Commission" as used herein, shall mean the National Bituminous Coal Commission established under the provisions of the Bituminous Coal Act of 1937.

11. "Act" as used herein shall mean the Bituminous Coal Act of 1937.

12. "District Board" as used herein, shall mean any District Board established under the provisions of Section 4, Part I (a) of the Act.

13. "Statistical Bureau" shall mean, unless otherwise specifically stated, the Statistical Bureau of the Commission for the District in which the coal involved in any transaction is produced, or the District in which is located a mine of a code member affected by any order or regulation.

14. "Minimum Price" shall mean a minimum price established and made effective by the Coal Commission.

15. "Maximum Price" shall mean a maximum price established and made effective by the Coal Commission.

16. The term "producer" includes all individuals, firms, associations, corporations, trustees, and receivers engaged in the business of mining coal.

17. The terms "reconsignment" and "diversion" as used herein shall mean the change in the original consignee or in the destination or route.

18. The term "transportation facilities" means railroad cars, ships, barges, trucks, or any other facilities used or useful in the transportation of coal.

19. A "code member" means a producer who has accepted and holds membership in the Bituminous Coal Code promulgated under the Bituminous Coal Act of 1937.

20. The term "domestic market" shall include all points within the continental United States and Canada, and car-ferry shipments to the Island of Cuba. Bunker coal delivered to steamships for consumption thereon shall be regarded as shipped within the domestic market.

21. "Cargo shipment" is a quantity of coal loaded in a vessel, boat or barge for transportation via water.

22. "Bunker coal" or "vessel fuel" is that coal used aboard a boat or vessel for consumption thereon.

23. "Coal" as used herein shall mean bituminous coal.

24. The term "bituminous coal" includes all bituminous, semi-bituminous and sub-bituminous coal and shall exclude lignite, which is defined as a lignitic coal having calorific value in British thermal units of less than seven thousand six hundred per pound and having a natural moisture content in place in the mine of 30 per centum or more.

25. The term "control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

Section II—Sales Agents

1. All appointments of Sales Agents by Code Members or their agents or authorized representatives shall be subject to the Marketing Rules and Regulations

from time to time established by the Coal Commission.

2. Each Code Member shall be responsible for the doing of any act which is forbidden or the failure to do any act which is required by the provisions of the Code or of any rule, regulation, promulgation, or determination of the Coal Commission on the part of his sales agents within the scope of their general authority as such agents.

3. Each Code Member shall require all his sales agents clearly to set forth upon any form of solicitation, contract, spot order, invoice, and statement of account covering coal sold or to be sold, the name of such Code Member principal, and the name of the mine or mines from which shipment was made or is to be made. If the name of the sales agent also appears in the transaction, then the above mentioned forms shall also disclose the fact of agency relationship with the Code Member principal.

4. (A) Every contract for the appointment of a sales agent by Code Members or by agents or authorized representatives of Code Members, or any modification thereof, shall be in writing, and shall fully set forth therein all the terms and conditions of such contract, including the amount or basis of the sales agent's commission. Certified copies of all such agency contracts entered into on or prior to the effective date of the establishment of these rules and regulations and in effect on such date, shall be filed by the Code Member with the Statistical Bureau, or Bureaus, within twenty (20) business days after such date.

(B) Certified copies of all contracts appointing sales agents or of agreements modifying any sales agency contract, entered into subsequent to the effective date of these rules and regulations, shall be similarly filed by the Code Member within ten (10) business days after the date upon which such contracts or agreements have been entered into.

(C) Upon the expiration, termination, or rescission of any sales agency contract, the Code Member principal shall make a report thereof to the Statistical Bureau, or Bureaus, within ten (10) business days after the date of such expiration, termination, or rescission.

(D) Certified copies of agency contracts heretofore filed by Code Members pursuant to rule 3 of Section II of the Marketing Rules and Regulations established for District No. 8 by Order of the Commission, dated November 30, 1937, shall be deemed to have been filed as required by this rule 4 without refile hereunder.

5. (A) As to all coal sold by a Code Member otherwise than through a sales agent or through an employee regularly employed as a salesman by the Code Member at his principal place of business or at a regularly established sales office, such Code Member shall, not later than the twentieth (20th) day of

each month, file with the Statistical Bureau, or Bureaus, a list of all persons through whom, directly or indirectly, any such coal was sold during the preceding calendar month, with a statement of the duration and character of their employment, the tonnage sold by, and the rate and amount of compensation paid to, each of them.

(B) Not later than the twentieth (20th) day of each month, each Code Member shall also file with the Statistical Bureau, or Bureaus, similar information obtained from his sales agents concerning sales of coal made during the preceding calendar month, by the sales agents' representatives and employees other than salesmen employed at the principal place of business or a regularly established sales office of the sales agent.

(C) Not later than the twentieth (20th) day of each month, each Code Member shall also file with the Statistical Bureau, or Bureaus, a statement showing the names and addresses of distributors to whom the Code Member or his sales agents sold coal during the preceding calendar month, the tonnage sold, and the amount of discount allowed to each such distributor.

6. Within twenty (20) business days after the effective date of these rules and regulations, each Code Member shall file with the Coal Commission a list showing the names and addresses of all his sales agents. Upon any change in said list, the Code Member shall notify the Coal Commission within ten (10) business days after such change takes place.

7. A list showing the names and addresses of sales agents and the Code Members for whom such agents act shall be published monthly by the Coal Commission.

8. All agency contracts and other information filed by Code Members in conformity with the foregoing regulations, other than the names and addresses of sales agents, shall be held by the Coal Commission as the confidential records of said parties and shall not be made public without the consent of the Code Member from whom the same shall have been obtained, except where such disclosure is required in any proceeding against the Code Member by way of enforcement of the Act.

9. From and after twenty (20) business days following the effective date of these Marketing Rules and Regulations no Code Member or sales agent of Code Member shall allow or pay, directly or indirectly, any commission or compensation to any sales agent.

(a) Unless the contract of agency shall have been filed with the Coal Commission, as hereinbefore required, and

(b) Unless the sales agent shall have agreed, in writing, with the Code Member to conform to and observe the minimum and maximum prices and Marketing Rules and Regulations established by the

Coal Commission and the Fair Trade Practice Provisions of the Act, as well as all proper orders of the Commission, and

(c) Unless the sales agent shall have in good faith complied with the agreement as in paragraph (b) above provided.

10. No commission shall be paid to a sales agent by a Code Member where the coal is delivered or sold to any person who owns such sales agent or who financially or otherwise controls such agent.

11. When any commissions are paid to a sales agent on a tonnage basis, the Code Member shall not include in the computation of such commissions any part of the tonnage of coal sold by him to the sales agent, whether for consumption or resale.

12. No Code Member shall employ any person or appoint any sales agent at a compensation obviously disproportionate to the ordinary value of the service or services rendered and whose employment or appointment is made with the primary intention and purpose of securing a preferment with a purchaser or purchasers of coal.

13. Subject to further order of the Coal Commission, the amount of commission to be paid by a Code Member to his sales agent shall be fixed by agreement of the parties, subject, however, that upon complaint of violation of the unfair methods of competition, as provided in the Act, the amount of such commission shall be subject to review by the Coal Commission.

Section III—Discounts

1. No Code Member or sales agent of a Code Member shall pay or allow any discount from minimum prices to any person unless such person has been registered by the Coal Commission as authorized to receive such discount at the time of the sale.

2. Code Members or their sales agents may allow discounts from minimum prices on sales of coal to registered distributors, not in excess of the maximum discount or price allowance prescribed by the Coal Commission upon such sales. Only one such discount may be allowed on any such sale.

Section IV—Limitation of Orders, Agreements, Options and Quotations

1. Subject to further order of the Coal Commission no Code Member or sales agent of a Code Member shall enter into any agreement or order for the sale of coal providing for delivery for a period in excess of that authorized for a spot order, and no prices shall be less than the applicable minimum prices in effect at the time of the making of the agreement or order: *Provided, however,* That contracts for periods not exceeding one (1) year may be made with agencies of the Federal Government or with agencies of State or local governments, where the contract is entered into through competitive bidding, at the following applicable minimum prices:

(a) For deliveries during the first thirty (30) days of the contract, at not less than the applicable minimum price in effect at the time of the making of the agreement;

(b) For deliveries thereafter, at not less than the applicable minimum price in effect at the time of delivery if such price is higher than the contract price.

Provided, further, That contracts for periods not exceeding one (1) year at prices not less than the said applicable minimum prices may be made with agencies of the Federal Government or with such agencies of the State or local governments, in the absence of competitive bidding, where by virtue of an express exemption in the statute or ordinance such agencies may enter into contracts for the purchase of coal without regard to competitive bidding.

2. While the preceding rule is in effect, no option may be given by a Code Member or sales agent for the purchase of coal. When the above rule is suspended or revoked by the Coal Commission, options for the sale of coal may be given for a period not exceeding fourteen (14) days. No options may be given at a price less than the applicable minimum price in effect at the time of the giving of the option. If the applicable minimum price is increased beyond the quoted price within such fourteen (14) days and the option shall not have been exercised at that time, the option thereupon shall become null and void: *Provided, however,* That in connection with offers to sell to the United States Government, or States or political subdivisions thereof, options may be given for a period not exceeding forty-five (45) days from the date of the offer or from the final date for the filing of offers.

3. Quotations may also be given for a period of not exceeding fourteen (14) days. If the applicable minimum price is increased beyond the quoted price within such fourteen (14) days and the quotation shall not have been accepted at that time, the quotation thereupon shall become null and void.

4. Every quotation and option shall provide that it is made subject to the provisions of the Marketing Rules and Regulations of the Coal Commission.

5. All quotations and options must be made or confirmed in writing. Every Code Member, or his sales agent, shall require of his offeree that the acceptance of a quotation or the exercise of an option be in writing.

Section V—Spot Orders

1. A spot order shall be in writing or confirmed in writing within five (5) business days from the date of the making thereof.

2. Each spot order shall be subject to the following conditions which shall either be endorsed upon the form of the order or upon the written confirmation thereof by the Code Member or his sales agent, the meaning and effect of which

shall not be changed or altered by any other provision of the order.

“(a) No shipment consigned to any destination may be diverted or reconsigned without the consent of the seller confirmed in writing. In case of any reconsignment or diversion, the seller shall charge and the buyer shall pay not less than the minimum price prescribed for such coal for delivery to the destination to which such shipment is actually delivered and for the use to which it is actually applied: *Provided, however,* that this provision does not apply to railroad locomotive fuel sold f. o. b. mine.”

“(b) The coal shipped pursuant to this order is sold and purchased upon the following conditions:

“(1) If the coal is sold for consumption, it shall be used in the plant or plants named herein, and for the use stated herein;

“(2) In case of diversion by the buyer to a use other than that stated herein, the buyer shall notify the seller in writing and the seller shall charge and the buyer shall pay not less than the applicable minimum price for such coal at the time of diversion for the use to which it is actually applied.”

“(c) If shipments called for by this order are not completed within thirty (30) days from the effective date of this order, the unfilled portion of the order shall not be delivered.”

3. In any case where a sale is made by a sales agent of a Code Member, such sales agent shall not exercise the rights of the seller as defined in Item 2 (a) of this section without first securing the consent of his Code Member principal to be confirmed in writing.

4. All the terms and conditions of a sale of coal must be fully and expressly set forth either in the order or in the written confirmation thereof and such order or written confirmation thereof shall specifically contain all the terms required by Rule 1 of Section VI of these Marketing Rules and Regulations. Within ten (10) business days after the date of the making of the spot order or date of the written confirmation thereof, the Code Member or his sales agent shall file with the Statistical Bureau or Bureaus a copy of such spot order or confirmation. Any modification of a spot order must also be made in writing and filed with the Statistical Bureau or Bureaus in the same manner.

Section VI—Contracts

Upon the revocation or suspension of rule 1 of Section IV of these Marketing Rules and Regulations, Code Members or sales agents of Code Members may thereafter enter into contracts for the sale and delivery of coal upon the following terms and conditions:

1. Every contract shall be in writing and shall express the entire agreement between the parties. The contract shall clearly state the date of execution, the

effective date, the expiration date, the price agreed upon, the terms of payment, the size and grade of coal, the number of cars or tonnage to be shipped, the name of the Code Member and the name of the originating mine, and, where the coal is purchased for consumption, the use to which the coal is to be applied. Contracts may also be made either (a) calling for a buyer's entire requirements or a stated percentage of his requirements, showing the maximum tonnage to be shipped thereunder, or (b) covering a buyer's requirements and stating the estimated tonnage to be shipped with an allowable overshipment of not exceeding ten (10) per cent of such estimated tonnage.

2. No contract for the sale of coal shall provide for deliveries to commence at a date later than ninety (90) days from the date upon which such contract is entered into.

3. No contract shall be made at a price below the applicable minimum price as established by the Coal Commission at the time of the making of the contract for the coal to be sold thereunder, and no coal may be delivered upon a contract at a price below such applicable minimum price.

4. No contract shall provide for delivery over a period in excess of twelve (12) months except by special permission and approval of the Coal Commission, upon a showing of the necessity of meeting the long term contract competition of oil, gas, or other fuels or forms of power, or for such other reasons as the Commission may deem appropriate in order to further the effectual administration of the Act.

5. Any change in the terms of a contract, not in violation of these Rules and Regulations, shall be evidenced by a written agreement and shall conform to all the requirements set forth in these Rules and Regulations.

6. A report of every commitment shall be filed by the Code Member or his sales agent with the Statistical Bureau or Bureaus, within fifteen (15) business days from the date of the making of the agreement. Such report shall set forth all the terms and conditions of the commitment. A true copy of every contract and of any agreement for modification thereof shall be filed with the Statistical Bureau within fifteen (15) business days from the date of execution of such contract or agreement for modification: *Provided, however,* that a report of the commitment need not be filed if a copy of the contract is filed within fifteen (15) business days.

7. Each contract shall contain the following provisions, the meaning and effect of which shall not be changed or altered by any other provision of the contract:

“(a) This contract and the performance of all provisions thereof are expressly subject to the Bituminous Coal Act of 1937, and the proper orders and

regulations issued thereunder by the National Bituminous Coal Commission.

"(b) No shipment consigned to any destination point may be reconsigned or diverted without the consent of the seller to be confirmed in writing. In case of any reconsignment or diversion, the seller shall charge and the buyer shall pay not less than the applicable minimum price for such coal at the time of the reconsignment or diversion for delivery to the destination to which such shipment is actually delivered and for the use to which it is actually applied: Provided, however, that this provision does not apply to railroad locomotive fuel sold at prices f. o. b. mines.

"(c) The coal shipped pursuant to this contract is sold and purchased upon the following conditions:

"(1) If the coal is sold for consumption, it shall be used in the plant or plants named herein and for the use stated herein;

"(2) In case of diversion by the buyer to a use other than that stated herein, the buyer shall notify the seller in writing and the seller shall charge and the buyer shall pay not less than the applicable minimum price for such coal at the time of diversion for the use to which it is actually applied."

8. In any case where a contract is made by a sales agent of a Code Member, such sales agent shall not exercise the rights of the seller as defined in item 7 (b) of this section without first securing the consent of the Code Member producing such coal to be confirmed in writing.

9. The making of a contract for the sale of coal at a price below the minimum or above the maximum therefor established by the Commission at the time of the making of the contract shall constitute a violation of the Code and such contract shall be invalid and unenforceable.

10. No contract shall be made for the sale of coal for delivery after the expiration date of the Act at a price below the minimum or above the maximum therefor established by the Coal Commission and in effect at the time of making the contract.

Section VII—Terms of Payment

1. The price and fair trade practice provisions of the Act shall not be evaded or violated by a Code Member, or his sales agent, through the use of terms of payment, and in no instance shall terms of payment be more favorable than the following:

(A) On rail, river, ex-river, or truck shipments, the date of payment of invoices for coal sold shall be on or before the twentieth (20th) day of the month following the month in which shipment was made.

(B) On tidewater cargo shipments the date of payment shall be not more than thirty (30) days from date of vessel bill

of lading, and where coal is sold f. o. b. mines for tidewater cargo shipment, on or before the twentieth (20th) day of the month following the month in which the coal is dumped.

(C) Payment for all tidewater Bunker coal supplied for foreign vessels shall be by cash on delivery or by master's draft on owners in United States currency at not exceeding fifteen (15) days' sight at supplier's option. When drafts are accepted in payment, all bank charges for collection, exchange, etc., shall be for owner's account. Payment for tidewater bunker coal supplied for American vessels shall be made on or before the twentieth (20th) day of the month following delivery.

Payment for coal shipped for vessel fuel, and delivered into vessels at ports on the Great Lakes or tributary waters thereof, shall be made on or before the twentieth (20th) day of the month following such delivery.

(D) On lake cargo shipments, the date of payment shall be not more than sixty (60) days from date of vessel bill of lading, and where coal is sold f. o. b. mines for lake cargo shipments, on or before the twentieth (20th) of the second month following the month in which dumped.

(E) On railroad locomotive fuel, the date of payment shall be on or before the twenty-fifth (25th) day of the month following the date of shipment.

(F) Payment shall be made in full and on a net cash basis.

(G) No portion of the sale price may be withheld by agreement between the buyer and the seller based upon any unadjusted claim of the buyer.

(H) No sale, delivery, or offer for sale of coal shall be made upon any condition, express or implied, that any portion of the sale price may be withheld by the buyer, or deposited in escrow, pending or based upon a determination of the constitutionality of any provision of the Act, of the jurisdiction of the Coal Commission, or the validity or applicability of any order of the Coal Commission.

(I) Where the due date of the account is extended by agreement of the parties, express or implied, or where payment is made by note, trade acceptance or other form of indebtedness, the seller shall charge and the buyer shall pay interest from and after the due date of the account at the current rate in the locality to which the coal is shipped to the vendee.

(J) Freight on all-rail or ex-river shipments shall not be paid by a Code Member, or his sales agent, except to prepay stations as published in current railway tariffs or on shipments to the United States Government, States or political subdivisions thereof. Where freight is thus prepaid, the amount thereof shall immediately upon receipt of freight bill or notice of sight draft payment, be invoiced to the buyer for immediate payment.

(K) No Code Member shall accept as payment in full for any account for the sale of coal any amount which is less than the applicable minimum price for the quantity of coal involved. Provided, however, that a Code Member may enter into a bona fide general creditors' composition with other creditors of a defaulting purchaser. A copy of such creditors' composition shall be filed with the Statistical Bureau within ten (10) business days from the date of making such composition.

(L) The agreement by a Code Member, expressed or implied, to extend credit for a period longer than that authorized by these rules and regulations, with the effect of violating the price provisions or the unfair methods of competition of the Act, shall constitute a violation of the Code.

Section VIII—Use of Coal Analyses

1. Analyses of coal shall not be utilized by a Code Member, or his sales agent, in selling or offering for sale any coal produced by the Code Member, whether or not the analysis is a term in the offer or sale, unless such Code Member shall have filed with the Statistical Bureau and the District Board for the District in which the coal is produced, a report of the analysis or analyses as used or proposed to be used by him. Such report shall show the following:

(a) The name of the Code Member Producer.

(b) The name of the mine.

(c) The name or geological number of the seam or seams from which the coal is produced.

(d) The name of the size, and, if screened, the dimension or dimensions of the screen or screens over and/or through which the coal is prepared.

(e) Whether the analysis is representative of the entire production of such size of coal, or whether it represents only a portion of such production segregated by selective mining, selective preparation, actual analyses made at the mine, or in any other manner.

(f) That such analysis is representative of the grade and size of the coal as regularly produced by the Code Member and as loaded directly into transportation facilities for shipment to market and that the Code Member is prepared to make deliveries of coal of substantially the quality and character as shown by the analysis.

(g) That each such analysis is not less than a proximate analysis showing moisture content, ash, volatile matter, fixed carbon, sulphur and British thermal units and ash softening temperature.

2. All reports of analyses so filed shall be subject to inspection at the office of the Statistical Bureau at any time during office hours by any interested person, and may be considered by the District Board and the Coal Commission in determining from time to time proper

classifications of the coals produced by the Code Member.

3. A copy of any analysis of the coal of a Code Member made by or on behalf of a consumer and accepted by the Code Member as the basis for an adjustment of price under any contract or spot order shall be filed by the Code Member with the Statistical Bureau, the Coal Commission and the District Board, within five (5) business days after such adjustment is made.

4. From and after the effective date of these Rules and Regulations, no Code Member shall enter into or perform any agreement made upon a penalty or a premium and penalty basis which will permit the sale of coal at an aggregate contract price below the applicable minimum price established by the Coal Commission for the coal sold and delivered upon such agreement subsequent to said effective date: Provided, that where a Code Member has entered into an agreement made upon a penalty or a premium and penalty basis, this rule shall not be considered as affecting any claim that the buyer might otherwise have had for substandard preparation or quality under Section X of these Marketing Rules and Regulations.

Section IX—Resale of Coal Refused in Transit or at Destination

1. Where coal is refused by a consignee in transit or at destination, the Code Member may sell the same at the best obtainable price, provided that in each case the Code Member shall file with the Statistical Bureau, and the District Board for the District in which the coal was produced, within five (5) business days from the date of such resale, a statement giving the following information:

- (a) Name of consignee.
- (b) Address of the consignee.
- (c) Original destination of the coal.
- (d) Name of Code Member.
- (e) Originating mine.
- (f) The grade and size of coal shipped.
- (g) Price at which coal sold.
- (h) Reasons for the refusal.
- (i) Facts resulting from the investigation of the complaint.
- (j) Name of ultimate purchaser upon resale.
- (k) Address of purchaser upon resale.
- (l) Ultimate destination of the coal.
- (m) Price received by the seller upon resale.
- (n) Amount of commission, if any, paid upon the resale.
- (o) A copy of the carrier's notice of refusal or a notice of reconsignment and such other pertinent information and facts as may be offered in proof of the necessity for such resale.
- (p) A signed and verified statement that the provisions of the Code and the Marketing Rules and Regulations of the Coal Commission other than as to price have not been violated or evaded.

2. All Code Members shall promptly furnish to the District Board and to the Statistical Bureau of the Coal Commission for the District in which the coal originated, full reports of all reconsignments, and shall authorize the carrier making such reconsignments to furnish complete information thereon to such Statistical Bureau.

Section X—Substandard Preparation or Quality

1. Where any allowance is requested by a buyer of coal on any shipment claimed to be substandard in preparation or quality, the Code Member or the sales agent, with the prior approval of the Code Member, may on or before the maturity date of the invoice, make settlement and agree with the buyer upon any amount reasonably to be deducted for such inferior coal and accept payment therefor at less than the minimum prices: *Provided, however,* That in each such case the Code Member shall within five (5) days after granting such allowance file with the Statistical Bureau of the Coal Commission in the District in which the coal originates, a verified statement giving the following information:

- (a) The name and address of the consignee and the reason for the request for the allowance.
- (b) The price at which the coal was sold, the tonnage delivered, the name of the mine, the Code Member, the date of shipment, the grade and size of coal, the destination, and the amount of allowance or adjustment made.
- (c) Such other pertinent information and facts as may be offered in proof of the necessity for such reduction or allowance.
- (d) A statement that the adjustment has not been made with the purpose or intent of evading the price provisions of the Act.

The Code Member shall also file, together with the statement, a written claim duly executed by or on behalf of the buyer and verified by affidavit, setting forth the amount claimed by way of deduction and the reasons for the complaint.

2. All such adjustments and allowances shall be subject to review by the Coal Commission.

Section XI—Substitution¹

1. The substitution upon any spot order or contract of a kind, quality, or size of coal upon which a minimum price has been established by the Coal Commission and is effective higher than the price for the coal provided in the order

¹ These rules are proposed to apply on all kinds, quality, or sizes of coal except in those cases specifically covered in the proposed price schedule under Proposed Price Instructions and Exceptions for substitution of coal on railway locomotive fuel.

or contract is prohibited except upon the following conditions:

(a) That the substitution of such coal is required in order to meet emergency conditions at the mine of the code member producing such coal including, but without limitation, the accumulation of an over-supply of coal of the substituted kind, quality, or size at the mine as a result of unforeseeable circumstances.

(b) That the code member or sales agent or wholesaler making such substitution file within five (5) days after the date of shipping the substitute coal, with the statistical bureau of the Coal Commission and with the Secretary of the District Board for the district in which the coal is handled, a statement sworn to or acknowledged before any official authorized to administer oaths or take acknowledgments containing the following information and other material:

(1) Identification of the contract or order upon which the substitution was made, including the names and addresses of the parties thereto, the kind, quality, and size of the coal covered thereby, the price named therein, the date of execution thereof, the origin and destination of the shipment contemplated thereby, and such other information as shall accurately describe such contract or order; or, in lieu of such identification, a copy of such contract or order verified before any official authorized to administer oaths;

(2) The kind, quality, size, and amount of both the coal covered by the contract or order and the coal substituted therefor;

(3) The reasons for making the substitution, together with all the facts pertinent thereto, including the date of substitution, the conditions justifying or requiring such substitution, and the facts creating such conditions.

2. The substitution upon any spot order or contract of a kind, quality, or size of coal not provided in the order or contract is prohibited, except upon the conditions set forth in sub-paragraph (b) of the foregoing Rule 1 of this section.

3. The substitution upon any spot order or contract with a retail dealer of a kind, quality, or size of coal upon which a minimum price has been established by the Coal Commission and is effective higher than the price for the coal provided in the order or contract is prohibited under all conditions.

Section XII—Crushing and Pulverizing Coal

1. Each Code member who maintains and operates at his mine or at any facility used in preparing coals for market, any crushing or pulverizing device, shall register such device with the statistical bureau on or before _____, on forms submitted by the Coal Commission.

2. Such forms shall include the following:

- (a) Name and address of code member.
- (b) Name of mine or facility at which device is located.
- (c) Name and style or type of crushing or pulverizing device.
- (d) Hourly capacity of device.
- (e) Sizes of coal which device can crush or pulverize.
- (f) Sizes of coal resulting from crushing or pulverizing.
- (g) Number of tons crushed in 1937 and in each month of 1938.
- (h) Cost per ton of crushing or pulverizing in 1937.

3. Beginning with the month of -----, each code member shall on or before the tenth (10th) day of each succeeding month, file with the statistical bureau on forms to be provided by the Coal Commission, a statement verified by affidavit, setting forth the following information for the preceding calendar month:

- (a) Number of tons of each size crushed or pulverized.
- (b) Number of tons of each size resulting from crushing or pulverizing.

Section XIII—Miscellaneous

General

1. The minimum prices established by the Commission shall not apply to coal sold and shipped outside the domestic market as defined in the Act and in these Marketing Rules and Regulations.

2. Maximum prices established by the Commission shall not apply to coal sold and shipped outside the continental United States.

3. No coal shall be sold or delivered or offered for sale at a price below the minimum or above the maximum therefor established by the Commission, and the sale or delivery or offer for sale of coal at a price below such minimum or above such maximum shall constitute a violation of the Code: *Provided*, That the provisions of this paragraph shall not apply to a lawful and bona fide written contract entered into prior to June 16, 1933, which has been filed with the Coal Commission.

4. If, in converting a net or gross ton price, freight rate or freight rate differential, the calculation extends to more than 3 decimals, and the 4th decimal is .0005 or more, it shall be added as .001, and if under .0005 it shall be eliminated.

5. All coal shall be sold and invoiced on a price per ton basis, and all coal must be sold and invoiced under the size, price classification and other designation therefor in the price schedule published by the Coal Commission.

6. Failure to file information required by these Marketing Rules and Regulations or the filing of false information, wilfully made, will subject the party failing to file the information required, or

the party so filing, to the penalties of the Act and other penalties imposed by law.

Advertising

1. No deduction or allowance from invoice prices shall be granted by any Code Member or his sales agent to any purchaser for advertising.

2. Code Members (or their agents or representatives) either individually or collectively, with or without financial participation by retailers of coal, may conduct advertising campaigns seeking to increase the use of coal. The amount of expenditures incurred by a Code Member, his agent or representative for advertising shall be subject to review by the Coal Commission as to the good faith of the transaction.

Screening for Buyer's Account

1. The screening of mine run or re-screening of other grades of coal, sold and billed as such, for the buyer's account for the purpose of keeping the resultant products separate in the shipment thereof is prohibited.

Coal Confiscated or Lost in Transit

1. All coal confiscated or lost in transit shall be invoiced to the carrier at not less than the minimum price established for such coal for shipment to the destination and use to which the coal was sold or the established price for sale to the carrier at the place of confiscation or loss, whichever may be the higher.

Revision of Marketing Rules and Regulations

1. These Marketing Rules and Regulations are subject to revision and amendment by further order of the Coal Commission.

Unfair Methods of Competition

See page 350.

Penalties

See page 350.

MINIMUM PRICE AREA NO. 1—DISTRICT BOARD NO. 13

PROPOSED MARKETING RULES AND REGULATIONS

A Witness for District Board No. 13, properly qualified as an expert in the marketing of coal in that District, introduced into evidence as Exhibit No. 626 the rules and regulations as proposed by District Board No. 13, in compliance with Commission Order No. 250. The witness testified that the proposed marketing rules and regulations were submitted to each Code Member in District No. 13 on August 30, 1938 and that the Board received one protest on such rules and regulations. The protestant did not appear at the hearing held by the Board to consider such protest and the District Board, after discussion, denied the protest.

The rules proposed by District Board No. 13 were, in substance, proposed by District Board No. 2. The witness for District Board No. 13 stated that he agreed with the opinions by the witness for District Board No. 2 on cross-examination, and that in his opinion the rules testified to by the witness for District Board No. 2 as being reasonable for District No. 2 were likewise reasonable for District No. 13.

We find that the rules proposed by District Board No. 13, which are similar to the rules proposed by District Board No. 2, should be modified in the same manner and for the same reasons as stated in the findings for District No. 13. We further find, on the basis of the testimony introduced into the record, that the additional rules approved for District No. 2 in the findings for District No. 2 should likewise be approved for District No. 13.

We further find that rules 7 and 8 of Section V of the rules proposed by District Board No. 13 should be deleted for the reason that they are impracticable to enforce. In a proceeding against a Code Member for violation of either rules 7 (a) or 7 (c) or rule 8 (a), (b) and (c), the Code Member must be charged with knowledge of the fact that the coal was purchased for distribution in the manner set forth in these rules. It would be extremely difficult to prove such knowledge on the part of the Code Member. From the point of view of enforcement, the purpose of these rules could be properly effectuated only by rules which would prohibit a distributor from accepting a discount in the circumstances enumerated in the rules. In a proceeding for violation of rule 7 (b), it likewise would be extremely difficult to prove knowledge on the part of the Code Member that a partial or complete ownership, direct or indirect, affiliation or control exists between the distributor and the consumer to whom he resells the coal. From the point of view of enforcement, the purpose of this rule, likewise could be properly effectuated only by a rule which would prohibit a distributor from accepting a discount where a partial or complete ownership, direct or indirect, affiliation or other control exists between the distributor and a consumer to whom he resells the coal. Rules prohibiting a distributor from accepting a discount under certain circumstances are the proper subject of a hearing held pursuant to Section 4 II (h) of the Act.

On the basis of the testimony introduced into the record relating to the rules proposed by District No. 13, we find that the following rules and regulations reflecting such deletions, modifications, clarifications and additions to the rules proposed by District No. 13 are reasonable, not inconsistent with the requirements of Section 4 of the Act and in conformance with the standards of fair competition established in the Act:

MARKETING RULES AND REGULATIONS INCIDENTAL TO THE SALE AND DISTRIBUTION OF COAL BY CODE MEMBERS WITHIN DISTRICT NO. 13 AS PROPOSED BY DISTRICT BOARD NO. 13 AND AS APPROVED, DISAPPROVED, OR MODIFIED FOR THE PURPOSE OF COORDINATION

Section I—Definitions

1. The term "person" as used herein, includes individuals, firms, associations, partnerships, corporations, trusts, trustees, cooperatives, receivers and trustees in bankruptcy and in other legal proceedings, and any other recognized forms of business organizations.
2. A "sales agent" is a person who, as agent of a code member (and therefore without purchasing the coal), sells coal produced by such code member for him or on his behalf: *Provided*, That "sales agent" shall not include an individual (herein referred to as a "salesman") regularly and continuously employed by a code member, whose sole compensation is a stated salary per week, per month, or per year, and who regularly devotes the major portion of his time to the solicitation of purchases of coal produced by his code member employer.
3. A "commission" is the total of all compensations and allowances received by a sales agent from a code member for services rendered in the sale of coal.
4. A "registered distributor" is a person who has been duly registered by the Coal Commission pursuant to the rules and regulations prescribed by the Commission for the administration of Section 4 II (h) of the Act.
5. A "spot order" is a legal obligation for the sale and purchase of coal, the delivery of which is stipulated to be made within not more than thirty (30) days from the date upon which the order was accepted.
6. A "contract" is a legal obligation for the sale and purchase of coal, the deliveries of which are stipulated to be made during a period longer than the maximum period specified for a spot order.
7. A "quotation" is an offer to sell coal which the offerer may withdraw prior to its being acted upon by the offeree.
8. An "option" is an offer to sell coal acceptable within a time certain, during which time the offerer may not withdraw the offer without the consent of the offeree.
9. A "commitment" is the status of a contract between the time a quotation is accepted or an option is exercised and the time the contract is formally reduced to writing.
10. "Coal Commission" as used herein, shall mean the National Bituminous Coal Commission established under the provisions of the Bituminous Coal Act of 1937.
11. "Act" as used herein shall mean the Bituminous Coal Act of 1937.
12. "District Board" as used herein, shall mean any District Board established under the provisions of Section 4, Part I (a) of the Act.
13. "Statistical Bureau" shall mean, unless otherwise specifically stated, the Statistical Bureau of the Commission for the District in which the coal involved in any transaction is produced, or the District in which is located a mine of a code member affected by any order or regulation.
14. "Minimum Price" shall mean a minimum price established and made effective by the Coal Commission.
15. "Maximum Price" shall mean a maximum price established and made effective by the Coal Commission.
16. The term "producer" includes all individuals, firms, associations, corporations, trustees, and receivers engaged in the business of mining coal.
17. The terms "reconsignment" and "diversion" as used herein shall mean the change in the original consignee or in the destination or route.
18. The term "transportation facilities" means railroad cars, ships, barges, trucks, or any other facilities used or useful in the transportation of coal.
19. A "code member" means a producer who has accepted and holds membership in the Bituminous Coal Code promulgated under the Bituminous Coal Act of 1937.
20. The term "domestic market" shall include all points within the continental United States and Canada, and car-ferry shipments to the Island of Cuba. Bunker coal delivered to steamships for consumption thereon shall be regarded as shipped within the domestic market.
21. "Cargo shipment" is a quantity of coal loaded in a vessel, boat or barge for transportation via water.
22. "Bunker coal" or "vessel fuel" is that coal used aboard a boat or vessel for consumption thereon.
23. "Coal" as used herein shall mean bituminous coal.
24. The term "bituminous coal" includes all bituminous, semi-bituminous and sub-bituminous coal and shall exclude lignite, which is defined as a lignitic coal having calorific value in British thermal units of less than seven thousand six hundred per pound and having a natural moisture content in place in the mine of 30 per centum or more.
25. The term "control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

Section II—Sales Agents

1. All appointments of Sales Agents by Code Members or their agents or authorized representatives, and the terms and conditions of such appointments, shall be subject to the Marketing Rules and Regulations from time to time established by the Coal Commission.
2. Each Code Member shall be responsible for the compliance by all his Sales Agents and agents and employees of

Sales Agents and agents with the provisions of the Bituminous Coal Code and of all rules and regulations, promulgations and determinations of the Coal Commission.

3. Each Code Member shall require all his sales agents clearly to set forth upon any form of solicitation, contract, spot order, invoice, and statement of account covering coal sold or to be sold, the name of such Code Member principal, and the name of the mine or mines from which shipment was made or is to be made. If the name of the sales agent also appears in the transaction, then the above mentioned forms shall also disclose the fact of agency relationship with the Code Member principal.

4. (A) Every contract for the appointment of a sales agent by Code Members or by agents or authorized representatives of Code Members, or any modification thereof, shall be in writing, and shall fully set forth therein all the terms and conditions of such contract, including the amount or basis of the sales agent's commission. Certified copies of all such agency contracts entered into on or prior to the effective date of the establishment of these rules and regulations and in effect on such date, shall be filed by the Code Member with the Statistical Bureau, or Bureaus, within twenty (20) business days after such date.

(B) Certified copies of all contracts appointing sales agents or of agreements modifying any sales agency contract, entered into subsequent to the effective date of these rules and regulations, shall be similarly filed by the Code Member within ten (10) business days after the date upon which such contracts or agreements have been entered into.

(C) Upon the expiration, termination, or rescission of any sales agency contract, the Code Member principal shall make a report thereof to the Statistical Bureau, or Bureaus, within ten (10) business days after the date of such expiration, termination, or rescission.

5. (A) As to all coal sold by a Code Member otherwise than through a sales agent or through an employee regularly employed as a salesman by the Code Member at his principal place of business or at a regularly established sales office, such Code Member shall, not later than the tenth day of each month, file with the Statistical Bureau, or Bureaus, a list of all persons through whom, directly or indirectly, any such coal was sold during the preceding calendar month, with a statement of the duration and character of their employment, the tonnage sold by, and the rate and amount of compensation paid to, each of them.

(B) Not later than the tenth day of each month, each Code Member shall also file with the Statistical Bureau, or Bureaus, similar information obtained from his sales agents concerning sales of coal made during the preceding calendar month, by the sales agents' representatives and employees other than

salesmen employed at the principal place of business or a regularly established sales office of the sales agent.

(C) Not later than the tenth day of each month, each Code Member shall also file with the Statistical Bureau or Bureaus a statement showing the names and addresses of distributors to whom the Code Member or his sales agents sold coal during the preceding calendar month, the tonnage sold, and the amount of discount allowed to each such distributor.

6. Within twenty (20) business days after the effective date of these rules and regulations, each Code Member shall file with the Coal Commission a list showing the names and addresses of all his sales agents. Upon any change in said list, the Code Member shall notify the Coal Commission within ten (10) business days after such change takes place.

7. A list showing the names and addresses of sales agents and the Code Members for whom such agents act shall be published monthly by the Coal Commission.

8. All agency contracts and other information filed by Code Members in conformity with the foregoing regulations, other than the names and addresses of sales agents, shall be held by the Coal Commission as the confidential records of said parties and shall not be made public without the consent of the Code Member from whom the same shall have been obtained, except where such disclosure is required in any proceeding before the Coal Commission by way of enforcement of the Act or upon the order of any court of competent jurisdiction.

9. From and after twenty (20) business days following the effective date of these Marketing Rules and Regulations no Code Member or sales agent of a Code Member shall allow or pay, directly or indirectly, any commission or compensation to any sales agent,

(a) Unless the contract of agency shall have been filed with the Coal Commission, as hereinbefore required, and

(b) Unless the sales agent shall have agreed, in writing, with the Code Member to conform to and observe the minimum and maximum prices and Marketing Rules and Regulations established by the Coal Commission and the Fair Trade Practice Provisions of the Act, as well as all proper Orders of the Commission, and

(c) Unless the sales agent shall have in good faith complied with the agreement as in paragraph (b) above provided.

10. No commission shall be paid to a sales agent by a Code Member where the coal is delivered or sold to any person who owns such sales agent or who financially or otherwise controls such agent.

11. When any commissions are paid to a sales agent on a tonnage basis, the Code Member shall not include in the computation of such commissions any part of the tonnage of coal sold by him to the

sales agent, whether for consumption or resale.

12. No Code Member shall employ any person or appoint any sales agent at a compensation obviously disproportionate to the ordinary value of the service or services rendered and whose employment or appointment is made with the primary intention and purpose of securing a preferment with a purchaser or purchasers of coal.

13. Subject to further order of the Coal Commission, the amount of commission to be paid by a Code Member to his sales agent shall be fixed by agreement of the parties, subject, however, that upon complaint of violation of the unfair methods of competition, as provided in the Act, the amount of such commission shall be subject to review by the Coal Commission.

Section III—Discounts

1. No Code Member or sales agent of a Code Member shall pay or allow any discount from minimum prices to any person unless such person has been registered by the Coal Commission as authorized to receive such discount at the time of the sale.

2. Code Members or their sales agents may allow discounts from minimum prices on sales of coal to registered distributors, not in excess of the maximum discount or price allowance prescribed by the Coal Commission upon such sales. Only one such discount may be allowed on any such sale.

Section IV—Limitation of Orders, Agreements, Options and Quotations

1. Subject to further order of the Coal Commission no Code Member or sales agent of a Code Member shall enter into any agreement or order for the sale of coal providing for delivery for a period in excess of that authorized for a spot order, and no prices shall be less than the applicable minimum prices in effect at the time of the making of the agreement or order: *Provided, however,* That contracts for periods not exceeding one (1) year may be made with agencies of the Federal Government or with agencies of State or local governments, where the contract is entered into through competitive bidding, at the following applicable minimum prices:

(a) For deliveries during the first thirty (30) days of the contract, at not less than the applicable minimum price in effect at the time of the making of the agreement;

(b) For deliveries thereafter, at not less than the applicable minimum price in effect at the time of delivery if such price is higher than the contract price.

Provided further, That contracts for periods not exceeding one (1) year at prices not less than the said applicable minimum prices may be made with agencies of the Federal Government or with such agencies of the State or local

governments, in the absence of competitive bidding, where by virtue of an express exemption in the statute or ordinance such agencies may enter into contracts for the purchase of coal without regard to competitive bidding.

2. While the preceding rule is in effect, no option may be given by a Code Member or sales agent for the purchase of coal. When the above rule is suspended or revoked by the Coal Commission, options for the sale of coal may be given for a period not exceeding fourteen (14) days. No options may be given at a price less than the applicable minimum price in effect at the time of the giving of the option. If the applicable minimum price is increased beyond the quoted price within such fourteen (14) days and the option shall not have been exercised at that time, the option thereupon shall become null and void: *Provided, however,* That in connection with offers to sell to the United States Government, or States or political subdivisions thereof, options may be given for a period not exceeding forty-five (45) days from the date of the offer or from the final date for the filing of offers.

3. Quotations may also be given for a period of not exceeding fourteen (14) days. If the applicable minimum price is increased beyond the quoted price within such fourteen (14) days and the quotation shall not have been accepted at that time, the quotation thereupon shall become null and void.

4. Every quotation and option shall provide that it is made subject to the provisions of the Marketing Rules and Regulations of the Coal Commission.

5. All quotations and options must be made or confirmed in writing. Every Code Member, or his sales agent, shall require of his offeree that the acceptance of a quotation or the exercise of an option be in writing.

Section V—Spot Orders

1. A spot order shall be in writing or confirmed in writing within five (5) business days from the date of the making thereof.

2. Each spot order shall be subject to the following conditions which shall either be endorsed upon the form of the order or upon the written confirmation thereof by the Code Member or his sales agent, the meaning and effect of which shall not be changed or altered by any other provision of the order.

“(a) No shipment consigned to any destination may be diverted or reconsigned without the consent of the seller confirmed in writing. In case of any reconsignment or diversion, the seller shall charge and the buyer shall pay not less than the minimum price prescribed for such coal for delivery to the destination to which such shipment is actually delivered and for the use to which it is actually applied: *Provided, however,* That this provision does not apply to

railroad locomotive fuel sold at prices f. o. b. mine.

"(b) The coal shipped pursuant to this order is sold and purchased upon the following conditions:

"(1) If the coal is sold for consumption, it shall be used in the plant or plants named herein and for the use stated herein;

"(2) In case of diversion by the buyer to a use other than that stated herein, the buyer shall notify the seller in writing and the seller shall charge and the buyer shall pay not less than the applicable minimum price for such coal at the time of diversion for the use to which it is actually applied.

"(c) If shipments called for by this order are not completed within thirty (30) days from the effective date of this order, the unfilled portion of the order shall not be delivered."

3. In any case where a sale is made by a sales agent of a Code Member, such sales agent shall not exercise the rights of the seller as defined in Item 2 (a) of this section without first securing the consent of his Code Member principal to be confirmed in writing.

4. All the terms and conditions of a sale of coal must be fully and expressly set forth either in the order or in the written confirmation thereof and such order or written confirmation thereof shall specifically contain all the terms required by Rule 1 of Section VI of these Marketing Rules and Regulations. Within ten (10) business days after the date of the making of the spot order or date of the written confirmation thereof, the Code Member or his sales agent shall file with the Statistical Bureau or Bureaus a copy of such spot order or confirmation. Any modification of a spot order must also be made in writing and filed with the Statistical Bureau or Bureaus in the same manner.

Section VI—Contracts

Upon the revocation or suspension of rule 1 of Section IV of these Marketing Rules and Regulations, Code Members or sales agents of Code Members may thereafter enter into contracts for the sale and delivery of coal upon the following terms and conditions:

1. Every contract shall be in writing and shall express the entire agreement between the parties. The contract shall clearly state the date of execution, the effective date, the expiration date, the price agreed upon, the terms of payment, the size and grade of coal, the number of cars or tonnage to be shipped, the name of the Code Member and the name of the originating mine, and, where the coal is purchased for consumption, the use to which the coal is to be applied. Contracts may also be made either (a) calling for a buyer's entire requirements or a stated percentage of his requirements, showing the maximum tonnage to be shipped thereunder, or (b) cover-

ing a buyer's requirements and stating the estimated tonnage to be shipped with an allowable overshipment of not exceeding ten (10) per cent of such estimated tonnage.

2. No contract for the sale of coal shall provide for deliveries to commence at a date later than ninety (90) days from the date upon which such contract is entered into.

3. No contract shall be made at a price below the applicable minimum price as established by the Coal Commission at the time of the making of the contract for the coal to be sold thereunder, and no coal may be delivered upon a contract at a price below such applicable minimum price.

4. No contract shall provide for delivery over a period in excess of twelve (12) months except by special permission and approval of the Coal Commission, upon a showing of the necessity of meeting the long term contract competition of oil, gas, or other fuels or forms of power, or for such other reasons as the Commission may deem appropriate in order to further the effectual administration of the Act.

5. Any change in the terms of a contract, not in violation of these Rules and Regulations, shall be evidenced by a written agreement and shall conform to all the requirements set forth in these Rules and Regulations.

6. A report of every commitment shall be filed by the Code Member or his sales agent with the Statistical Bureau or Bureaus, within fifteen (15) business days from the date of the making of the agreement. Such report shall set forth all the terms and conditions of the commitment. A true copy of every contract and of any agreement for modification thereof shall be filed with the Statistical Bureau within fifteen (15) business days from the date of execution of such contract or agreement for modification: Provided, however, that a report of the commitment need not be filed if a copy of the contract is filed within fifteen (15) business days.

7. Each contract shall contain the following provisions, the meaning and effect of which shall not be changed or altered by any other provision of the contract:

"(a) This contract and the performance of all provisions thereof are expressly subject to the Bituminous Coal Act of 1937, and the proper orders and regulations issued thereunder by the National Bituminous Coal Commission.

"(b) No shipment consigned to any destination point may be reconsigned or diverted without the consent of the seller to be confirmed in writing. In case of any reconsignment or diversion, the seller shall charge and the buyer shall pay not less than the applicable minimum price for such coal at the time of the reconsignment or diversion for delivery to the destination to which such shipment is actually delivered and for the use to

which it is actually applied: Provided, however, that this provision does not apply to railroad locomotive fuel sold at prices f. o. b. mines.

"(c) The coal shipped pursuant to this contract is sold and purchased upon the following conditions:

"(1) If the coal is sold for consumption, it shall be used in the plant or plants named herein and for the use stated herein;

"(2) In case of diversion by the buyer to a use other than that stated herein, the buyer shall notify the seller in writing and the seller shall charge and the buyer shall pay not less than the applicable minimum price for such coal at the time of diversion for the use to which it is actually applied."

8. In any case where a contract is made by a sales agent of a Code Member, such sales agent shall not exercise the rights of the seller as defined in item 7 (b) of this Section without first securing the consent of the Code Member producing such coal to be confirmed in writing.

9. The making of a contract for the sale of coal at a price below the minimum or above the maximum therefor established by the Commission at the time of the making of the contract shall constitute a violation of the Code and such contract shall be invalid and unenforceable.

10. No contract shall be made for the sale of coal for delivery after the expiration date of the Act at a price below the minimum or above the maximum therefor established by the Coal Commission and in effect at the time of making the contract.

Section VII—Terms of Payment

1. The price and fair trade practice provisions of the Act shall not be evaded or violated by a Code Member, or his sales agent, through the use of terms of payment, and in no instance shall terms of payment be more favorable than the following:

(A) On rail, river, ex-river, or truck shipments, the date of payment of invoices for coal sold shall be on or before the twentieth (20th) day of the month following the month in which shipment was made.

(B) On tidewater cargo shipments the date of payment shall be not more than thirty (30) days from date of vessel bill of lading, and where coal is sold f. o. b. mines for tidewater cargo shipment, on or before the twentieth (20th) day of the month following the month in which the coal is dumped.

(C) Payment for all tidewater bunker coal supplied for foreign vessels shall be by cash on delivery or by master's draft on owners in United States currency at not exceeding fifteen (15) days' sight at supplier's option. When drafts are accepted in payment, all bank charges for collection, exchange, etc., shall be for owner's account. Payment for tidewater

bunker coal supplied for American vessels shall be made on or before the twentieth (20th) day of the month following delivery.

Payment for coal shipped for vessel fuel, and delivered into vessels at ports on the Great Lakes or tributary waters thereof, shall be made on or before the twentieth (20th) day of the month following such delivery.

(D) On lake cargo shipments, the date of payment shall be not more than sixty (60) days from date of vessel bill of lading, and where coal is sold f. o. b. mines for lake cargo shipments, on or before the twentieth (20th) of the second month following the month in which dumped.

(E) On railroad locomotive fuel, the date of payment shall be on or before the twenty-fifth (25th) day of the month following the date of shipment.

(F) Invoices shall be paid in full in United States currency, or funds equivalent thereto, not later than the due date.

(G) No portion of the sale price may be withheld by agreement between the buyer and the seller based upon any unadjusted claim of the buyer.

(H) No sale, delivery, or offer for sale of coal shall be made upon any condition, express, or implied, that any portion of the sale price may be withheld by the buyer, or deposited in escrow, pending or based upon a determination of the constitutionality of any provision of the Act, of the jurisdiction of the Coal Commission, or the validity or applicability of any order of the Coal Commission.

(I) Where the due date of the account is extended by agreement of the parties, express or implied, or where payment is made by note, trade acceptance or other form of indebtedness, the seller shall charge and the buyer shall pay interest from and after the due date of the account at the current rate in the locality to which the coal is shipped to the vendee.

(J) Freight on all-rail or ex-river shipments shall not be paid by a Code Member, or his sales agent, except to prepay stations as published in current railway tariffs or on shipments to the United States Government, States or political subdivisions thereof. Where freight is thus prepaid, the amount thereof shall immediately upon receipt of freight bill or notice of sight draft payment, be invoiced to the buyer for immediate payment.

(K) No Code Member shall accept as payment in full for any account for the sale of coal any amount which is less than the applicable minimum price for the quantity of coal involved. Provided, however, that a Code Member may enter into a bona fide general creditors' composition with other creditors of a defaulting purchaser. A copy of such creditors' composition shall be filed with the Statistical Bureau within ten (10) business days from the date of making such composition.

(L) The agreement by a Code Member, expressed or implied, to extend the credit for a period longer than that authorized by these rules and regulations, with the effect of violating the price provisions or the unfair methods of competition of the Act, shall constitute a violation of the Code.

Section VIII—Use of Coal Analyses

1. Analyses of coal shall not be utilized by a Code Member, or his sales agent, in selling or offering for sale any coal produced by the Code Member, whether or not the analysis is a term in the offer or sale, unless such Code Member shall have filed with the Statistical Bureau and the District Board for the District in which the coal is produced, a report of the analysis or analyses as used or proposed to be used by him. Such report shall show the following:

(a) The name of the Code Member producer.

(b) The name of the mine.

(c) The name or geological number of the seam or seams from which the coal is produced.

(d) The name of the size, and, if screened, the dimension or dimensions of the screen or screens over and/or through which the coal is prepared.

(e) Whether the analysis is representative of the entire production of such size of coal, or whether it represents only a portion of such production segregated by selective mining, selective preparation, actual analyses made at the mine, or in any other manner.

(f) That such analysis is representative of the grade and size of the coal as regularly produced by the Code Member and as loaded directly into transportation facilities for shipment to market and that the Code Member is prepared to make deliveries of coal of substantially the quality and character as shown by the analysis.

(g) That each such analysis is not less than a proximate analysis showing moisture content, ash, volatile matter, fixed carbon, sulphur and British thermal units and ash softening temperature.

2. All reports of analyses so filed shall be subject to inspection at the office of the Statistical Bureau at any time during office hours by any interested person, and may be considered by the District Board and the Coal Commission in determining from time to time proper classifications of the coals produced by the Code Member.

3. A copy of any analysis of the coal of a Code Member made by or on behalf of a consumer and accepted by the Code Member as the basis for an adjustment of price under any contract or spot order shall be filed by the Code Member with the Statistical Bureau, the Coal Commission and the District Board, within five (5) business days after such adjustment is made.

4. From and after the effective date of these Rules and Regulations, no Code

Member shall enter into or perform any agreement made upon a penalty or a premium and penalty basis which will permit the sale of coal at an aggregate contract price below the applicable minimum price established by the Coal Commission for the coal sold and delivered upon such agreement subsequent to said effective date: *Provided*, That where a Code Member has entered into an agreement made upon a penalty or a premium and penalty basis, this rule shall not be considered as affecting any claim that the buyer might otherwise have had for sub-standard preparation or quality under Section X of these Marketing Rules and Regulations.

Section IX—Resale of Coal Refused in Transit or at Destination

1. Where coal is refused by a consignee in transit or at destination, the Code Member may sell the same at the best obtainable price, provided that in each case the Code Member shall file with the Statistical Bureau, and the District Board for the District in which the coal was produced, within five (5) business days from the date of such resale, a statement giving the following information:

(a) Name of consignee.

(b) Address of the Consignee.

(c) Original destination of the coal.

(d) Name of Code Member.

(e) Originating mine.

(f) The grade and size of coal shipped.

(g) Price at which coal sold.

(h) Reasons for the refusal.

(i) Facts resulting from the investigation of the complaint.

(j) Name of ultimate purchaser upon resale.

(k) Address of purchaser upon resale.

(l) Ultimate destination of the coal.

(m) Price received by the seller upon resale.

(n) Amount of commission, if any, paid upon the resale.

(o) A copy of the carrier's notice of refusal or a notice of reconsignment and such other pertinent information and facts as may be offered in proof of the necessity for such resale.

(p) A signed and verified statement that the provisions of the Code and the Marketing Rules and regulations of the Coal Commission other than as to price have not been violated or evaded.

2. All Code Members shall properly furnish to the District Board and to the Statistical Bureau of the Coal Commission for the District in which the coal originated, full reports of all reconsignments, and shall authorize the carrier making such reconsignments to furnish complete information thereon to such Statistical Bureau.

Section X—Substandard Preparation or Quality

1. Where any allowance is requested by a buyer of coal on any shipment claimed to be substandard in preparation or quality, the Code Member or

the sales agent, with the prior approval of the Code Member, may on or before the maturity date of the invoice, make settlement and agree with the buyer upon any amount reasonably to be deducted for such inferior coal and accept payment therefor at less than the minimum prices; *Provided, however,* That in each such case the Code Member shall within five (5) days after granting such allowance file with the Statistical Bureau of the Coal Commission in the District in which the coal originates, a verified statement giving the following information:

(a) The name and address of the consignee and the reason for the request for the allowance.

(b) The price at which the coal was sold, the tonnage delivered, the name of the mine, the Code Member, the date of shipment, the grade and size of coal, the destination, and the amount of allowance or adjustment made.

(c) Such other pertinent information and facts as may be offered in proof of the necessity for such reduction or allowance.

(d) A statement that the adjustment has not been made with the purpose or intent of evading the price provisions of the Act.

The Code Member shall also file, together with the statement, a written claim duly executed by or on behalf of the buyer and verified by affidavit, setting forth the amount claimed by way of deduction and the reasons for the complaint.

2. All such adjustments and allowances shall be subject to review by the Coal Commission.

Section XI—Crushing and Pulverizing Coal

1. Each code member who maintains and operates at his mine or at any facility used in preparing coals for market, any crushing or pulverizing device, shall register such device with the Statistical Bureau of the Coal Commission, on or before the -----, on forms submitted by the Coal Commission.

2. Such forms shall include the following:

1. Name and address of code member.
2. Name of mine or facility at which device is located.
3. Name and style or type of crushing or pulverizing device.
4. Hourly capacity of device.
5. Sizes of coal which device can crush or pulverize.
6. Sizes of coal resulting from crushing or pulverizing.
7. Number of tons crushed in 1936 and in each month of 1937.
8. Cost per ton of crushing or pulverizing in 1936.

3. Beginning with the month of -----, each code member shall on or before the tenth (10th) day of each succeeding month, file with the Statistical Bureau on forms to be provided

by the Coal Commission, a statement verified by affidavit, setting forth the following information for the preceding calendar month:

(a) Number of tons of each size crushed or pulverized.

(b) Number of tons of each size resulting from crushing or pulverizing.

Section XII—Miscellaneous

General

1. The minimum prices established by the Commission shall not apply to coal sold and shipped outside the domestic market as defined in the Act and in these Marketing Rules and Regulations.

2. Maximum prices established by the Commission shall not apply to coal sold and shipped outside the continental United States.

3. No coal shall be sold or delivered or offered for sale at a price below the minimum or above the maximum therefor established by the Commission, and the sale or delivery or offer for sale of coal at a price below such minimum or above such maximum shall constitute a violation of the Code: *Provided,* That the provisions of this paragraph shall not apply to a lawful and bona fide written contract entered into prior to June 16, 1933, which has been filed with the Coal Commission.

4. If, in converting a net or gross ton price, freight rate or freight rate differential, the calculation extends to more than 3 decimals, and the 4th decimal is .0005 or more, it shall be added as .001, and if under .0005 it shall be eliminated.

5. All coal shall be sold and invoiced on a price per ton basis, and all coal must be sold and invoiced under the size, price classification and other designation therefor in the price schedule published by the Coal Commission.

6. Failure to file information required by these Marketing Rules and Regulations or the filing of false information, wilfully made, will subject the party failing to file the information required, or the party so filing, to the penalties of the Act and other penalties imposed by law.

Advertising

1. No deduction or allowance from invoice prices shall be granted by any Code Member or his sales agent to any purchaser for advertising.

2. Code Members (or their agents or representatives) either individually or collectively, with or without financial participation by retailers of coal, may conduct advertising campaigns seeking to increase the use of coal. The amount of expenditures incurred by a Code Member, his agent or representative for advertising shall be subject to review by the Coal Commission as to the good faith of the transaction.

Screening for Buyer's Account

1. The screening of mine run or re-screening of other grades of coal, sold

and billed as such, for the buyer's account for the purpose of keeping the resultant products separate in the shipment thereof is prohibited.

Coal Confiscated or Lost in Transit

1. All coal confiscated or lost in transit shall be invoiced to the carrier at not less than the minimum price established for such coal for shipment to the destination and use to which the coal was sold or the established price for sale to the carrier at the place of confiscation or loss, whichever may be the higher.

Revision of Marketing Rules and Regulations

1. These Marketing Rules and Regulations are subject to revision and amendment by further order of the Coal Commission.

Unfair Methods of Competition

See page 350.

Penalties

See page 350.

CONCLUSION

It is the conclusion of the Commission that the schedules of proposed minimum prices submitted to the Commission by the District Boards for Districts 1, 7, and 8, and the marketing rules and regulations submitted by the District Boards for Districts 1, 3, 7, 8 and 13, as amended, corrected, modified or revised, conform to the requirements of Section 4 II (a) of the Act and that same as amended, corrected, modified or revised, may properly be transmitted to the respective District Boards within Minimum Price Area 1 to serve as a basis for the coordination as provided in Section 4 II (b) of the Act.

By the Commission.

[SEAL]

PERCY TETLOW,
Chairman.

Dated this 16th day of January, 1939.

[F. R. Doc. 39-203; Filed, January 17, 1939; 10:56 a. m.]

[General Docket No. 15]

ORDER IN THE MATTER OF THE ESTABLISHMENT OF MINIMUM PRICES AND MARKETING RULES AND REGULATIONS

IN RE PROPOSAL OF RULES AND REGULATIONS INCIDENTAL TO THE SALE AND DISTRIBUTION OF COAL BY CODE MEMBERS SUBMITTED BY THE DISTRICT BOARDS FOR DISTRICTS NOS. 1, 3, 7, 8 AND 13

At a session of the National Bituminous Coal Commission held at its offices in Washington, D. C., on the 16th day of January, 1939.

The Commission, on the 25th day of May, 1938, having instituted the above-entitled proceedings for the purpose of carrying out the provisions of sub-sections (a) and (b) of Section 4, Part II, of the Bituminous Coal Act of 1937, and having, by its Order No. 248, dated August 11, 1938 and by its Order No. 250,

dated August 20, 1938,¹ directed the District Boards for Districts Nos. 1, 3, 7, 8 and 13 to propose reasonable rules and regulations incidental to the sale and distribution of coal by the code members of the respective districts in conformity with the provisions of Section 4, II, (a) of the Act.

And each of the aforesaid District Boards having submitted such proposed rules and regulations together with the reasons upon which they were predicated, to the Commission in accordance with the provisions of said Orders Nos. 248 and 250, the Commission did, by Order entered herein on September 19, 1938,² direct that a hearing on the proposals submitted by District Boards Nos. 1, 3, 7 and 8 be held in the Hearing Room of the Commission, 15th and Eye Streets, N. W., Washington, D. C., at 10 o'clock, a. m., commencing on the 10th day of October, 1938, and by Orders entered herein on October 11, 1938, October 21, 1938, and October 29, 1938, direct that a hearing on the proposals submitted by District Board No. 13 be held in the Hearing Room of the Commission, 15th and Eye Streets, N. W., Washington, D. C., at 10 o'clock, a. m., commencing on the 9th day of November, 1938, for the purpose of receiving evidence to enable the Commission to approve such proposed marketing rules and regulations, or to enable the Commission to modify the proposed marketing rules and regulations as provided in Section 4, II, (a) of the Act in order that such proposed marketing rules and regulations, as approved or modified, as the case may be, may serve as the basis for the coordination provided by Section 4, II, (b) of the Act, and

After reasonable public notice having been given thereof, said hearings were commenced at the time and place stated and concluded on the 10th day of November, 1938, at which time all interested parties were afforded a full opportunity to be heard, and the evidence being adduced, the Commission being fully advised in the premises has made Findings of Fact and Conclusions relating to the proposals of each of said districts, which Findings of Fact and Conclusions are on file at the Office of the Secretary of the Commission, Washington, D. C., and which are by this reference incorporated herein and made a part hereof,³ and

The Commission having determined that the rules and regulations as set forth in the said Findings of Fact and Conclusions for each of the respective districts are reasonable and are not inconsistent with the requirements of Section 4 of the Act, and do conform to the standards of fair competition established by Section 4 of the Act, and form a proper basis for the coordination provided for by Section 4, II, (b) of the Act.

Now, therefore, Pursuant to the provisions of the Bituminous Coal Act of

1937, the National Bituminous Coal Commission hereby approves, for the purpose of coordination, the "Rules and Regulations incidental to the sale and distribution of coal by code members", as the same are set forth in the "Findings of Fact and Conclusions" by the Commission for each of Districts Nos. 1, 3, 7, 8 and 13 filed this date in the Office of the Secretary of the Commission, Washington, D. C.

The Secretary of the Commission is hereby directed to cause a copy of this Order together with the Findings of Fact and Conclusions, above referred to, to be published forthwith in the FEDERAL REGISTER, and to cause a copy hereof, together with said "Findings of Fact and Conclusions" of the Commission to be mailed to the Consumers' Counsel, to the Secretary of each District Board, to all parties who have filed their appearances in the hearing relating to the aforesaid proposals, and to cause copies thereof to be made available for inspection by interested parties at the office of the Secretary of the Commission, Washington, D. C., and at the office of each Statistical Bureau of the Commission.

By order of the Commission.

Dated this 16th day of January 1939.

[SEAL] F. WITCHER McCULLOUGH,
Secretary.

[F. R. Doc. 39-202; Filed, January 17, 1939;
10:55 a. m.]

TITLE 50—WILDLIFE

BUREAU OF BIOLOGICAL SURVEY

ORDER PERMITTING FISHING WITHIN THE ELK REFUGE, WYOMING

Pursuant to regulations 2 and 3 of the regulations of the Secretary of Agriculture, dated November 23, 1937,¹ for the administration of National wildlife refuges, it is hereby ordered, until further notice, that in accordance with the provisions of said regulations fish may be taken for noncommercial purposes when and as permitted by the laws and regulations of the State of Wyoming from certain waters of the Elk Refuge, Wyoming, subject to conditions and restrictions hereinafter specified.

1. *Waters open to fishing.*—The waters of the Gros Ventre River within the refuge boundaries shall be open to hook-and-line fishing as defined by State law at times and for species permitted by State law and regulation.

The waters of Plat Creek, from approximately the center of the NW $\frac{1}{4}$ of Sec. 14, T. 41 N., R. 116 W., northward and eastward with the creek to the boundary line of the refuge at the SE $\frac{1}{4}$ of Sec. 34, T. 42 N., R. 115 W., shall be open to hook-and-line fishing as defined by State law during the period August 1 to September 30, inclusive, of each year,

for such species as may be legally taken under State law and regulation.

No other waters of the refuge are open to fishing.

2. *Fishing permits.*—Any person exercising the privilege of fishing within the refuge shall be in possession of a valid fishing license issued by the State, if such license is required, and shall carry such license on his person while fishing, and when requested to do so shall exhibit it to any representative of the State Game and Fish Commission authorized to enforce the State game and fish laws or to any representative of the Bureau of Biological Survey: *Provided*, That fishing shall be done in such manner as will not interfere with the objects for which the refuge was established.

3. *State fishing laws.*—Any person who fishes on the refuge must comply with applicable fishing laws and regulations of the State of Wyoming, and in the absence of any State law or regulation with respect to the number and size of the fishes that may be taken, the Chief of the Bureau of Biological Survey may fix such limits; and in the event he shall find that fishing in any of the waters of the refuge is unduly depleting any species of fish therein, he may suspend all fishing privileges pending final determination by the Secretary of Agriculture.

4. *Routes of travel.*—Persons entering the refuge for the purpose of reaching the waters thereof for fishing shall follow such routes of travel as shall from time to time be designated by the officer in charge.

In testimony whereof I have hereunto set my hand and caused the official seal of the United States Department of Agriculture to be affixed in the City of Washington, this 18th day of January 1939.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 39-214; Filed, January 18, 1939;
12:18 p. m.]

Notices

CIVIL AERONAUTICS AUTHORITY.

[Amendment 1 of Special Order 401-A-9]

AMENDMENT OF BRANIFF AIRWAYS, INC., EXEMPTION ORDER

At a session of the Civil Aeronautics Authority held in its office at Washington, D. C. on the 18th day of January 1939.

The Civil Aeronautics Authority having, by its special order No. 401-A-9, dated October 17, 1938,¹ exempted Braniff Airways, Inc. from the provisions of section 401 (a) of the Civil Aeronautics Act of 1938 in so far as such provisions are applicable to certain air transportation service rendered by said air carrier between Dallas and San Antonio,

¹ 3 F. R. 1989, 2058 DI.

² 3 F. R. 2281 DI.

³ See page 277.

¹ 2 F. R. 2537 (2952 DI).

¹ 3 F. R. 2605 DI.

Texas under certain terms and conditions, and finding

(1) that said air carrier on October 21, 1938 filed an amendment to its application for a certificate of public convenience and necessity (Docket No. 1-401(E)-2) to include air transportation of mail, passengers and property between Dallas, Texas and Brownsville, Texas, via Waco, Austin, San Antonio and Corpus Christi, Texas, and

(2) that a hearing has been held² on said application but that the same has not yet been determined, and pending such determination it is not in the public interest to enforce a limitation contained in such exemption, which provides that the exemption shall expire December 31, 1938 unless before such time such air carrier shall have applied to the Authority for a certificate of public convenience and necessity with respect to a route between Dallas and San Antonio, Texas via Austin, Texas as a new route, and

(3) that by letter dated December 29, 1938 said air carrier requested the Authority to reconsider and/or alter its special order 401-A-9 so as to eliminate such limitation and also to permit said air carrier to serve Waco, Texas as an intermediate stop on said route, and

(4) that it would be an undue burden on Braniff Airways, Inc., and not in the public interest, to enforce the provisions of section 401 (a) of the Act in so far as the provisions of said section are applicable to the air transportation service now being rendered by said air carrier between Dallas and San Antonio, Texas via Austin, Texas, or to refuse to permit said applicant to serve Waco, Texas as an intermediate stop on said route, pending the determination of said air carrier's above-mentioned application.

the Authority, acting pursuant to the authority vested in it by the Civil Aeronautics Act of 1938, and particularly sections 205 (a) and 416 (b) thereof, hereby amends said special order:

(1) by striking, as of October 17, 1938, the following words from the first sentence of the order as originally promulgated,

"as a new route (as distinguished from an application pursuant to clause (e) of section 401 of the Act),"

and

(2) by striking therefrom as of the date of this amendment the words,

"between Dallas and San Antonio, Texas, via Austin, Texas,"

wherever they appear and inserting in lieu thereof the words,

"between Dallas and San Antonio, Texas via Waco, Texas and Austin, Texas"

so that said special order will read as follows:

"Special Order 401-A-9 (as amended January 18, 1939) exempting Braniff

² 3 F. R. 2764 DI.

Airways, Inc., from the provisions of section 401 (a) of the Civil Aeronautics Act of 1938 in so far as the same are applicable to certain air transportation service to be rendered by said air carrier between Dallas and San Antonio, Texas, via Waco, Texas and Austin, Texas.

"Braniff Airways, Inc., is hereby exempted from the provisions of section 401 (a) of the Civil Aeronautics Act of 1938, with respect to transportation by such air carrier of mail, passengers and property on one of its schedules known as Trip 7 to operate between Dallas and San Antonio, Texas, via Waco, Texas and Austin, Texas, until December 31, 1938, and, if before that time such air carrier shall apply to the Authority for a certificate of public convenience and necessity with respect to a route between Dallas and San Antonio, Texas via Waco, Texas and Austin, Texas, then and in that case this exemption shall continue until the Authority shall have issued such a certificate to such carrier or until it shall have entered an order denying such application, which ever of such events shall first occur. This exemption is granted, subject to the condition that, during all times while it shall continue to be in effect, said air carrier shall have a valid air carrier operating certificate issued by the Authority with respect to its operations between Dallas and San Antonio, Texas, via Austin, Texas, and that such air carrier, during all time while this exemption is in effect, shall comply with all applicable provisions and requirements of the Civil Air Regulations."

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 39-216; Filed, January 18, 1939; 12:54 p. m.]

FEDERAL COMMUNICATIONS COMMISSION.

[Docket No. 5222]

IN THE MATTER OF GREAT LAKES AND INLAND WATERS SURVEY

NOTICE OF HEARING

JANUARY 11, 1939.

The above-entitled public hearing was ordered as a result of the mandate from Congress that the Commission make a study of radio requirements necessary or desirable for safety purposes for ships navigating the Great Lakes and inland waters of the United States. Sessions of the hearing were conducted in Cleveland, Ohio,¹ and Detroit, Michigan, during July and August of 1938, at which time the Commission received evidence bearing upon the operating conditions on the Great Lakes and the need for some form of radio system to increase safety of life and property.

¹ 3 F. R. 1517 DI.

Another session of the hearing has been scheduled for March 6, 1939, at Cleveland, Ohio, beginning at 10:00 a. m. in the auditorium of the Board of Education Building, 1385 East Third Street, before Commissioner Thad H. Brown.

The Commission requests that all interested parties be prepared to offer testimony at this time concerning the actual operation of existing systems of radio communication on the Lakes, together with proposals and recommendations to improve, extend, revise or coordinate such systems, as well as concrete suggestions in respect to legislation to amend, repeal or revise the present radio laws applicable to the Great Lakes.

It is requested that all parties who intend to appear at the hearing give advance notice thereof to the Commission at Washington, D. C.

[SEAL]

T. J. SLOWIE,
Secretary.

[F. R. Doc. 39-210; Filed, January 18, 1939; 10:31 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 13th day of January, A. D. 1939.

[File No. 43-158]

IN THE MATTER OF CUMBERLAND COUNTY POWER AND LIGHT COMPANY

ORDER PERMITTING DECLARATION TO BECOME EFFECTIVE

Cumberland County Power and Light Company, a subsidiary of New England Public Service Company, a registered holding company, having filed with this Commission a declaration, and amendments thereto, pursuant to Section 7 of the Public Utility Holding Company Act, regarding the issuance of 7,500 shares of its Common Capital Stock without par or face value as a stock dividend to New England Public Service Company, the sole owner of the Common Capital Stock of the declarant;

A public hearing on said declaration, as amended, having been held after appropriate notice;¹ the record in this matter having been duly considered; and the Commission having filed its findings herein;

It is ordered, That such declaration, as amended, be and become effective forthwith, on the conditions, however:

(1) that all matters in connection with said declaration, as amended, shall be performed in all respects as set forth in and for the purposes represented by said declaration, as amended; and

¹ 3 F. R. 2503 DI.

[File No. 31-84]

IN THE MATTER OF INTERNATIONAL UTILITIES CORPORATION

ORDER CONSENTING TO WITHDRAWAL OF APPLICATIONS PURSUANT TO REQUEST OF APPLICANT

Applications having been filed by International Utilities Corporation on behalf of itself and its subsidiaries as follows:

(1) An application pursuant to Section 3 (a) (3) of the Act by and on behalf of General Water Gas & Electric Company;

(2) An application pursuant to Section 3 (a) (3) by and on behalf of American Equities Company;

(3) An application of International Utilities Corporation pursuant to Section 3 (a) (3) and 3 (a) (5);

(4) An application by International Utilities Corporation pursuant to Section 2 (a) (7) to be declared not to be a holding company with regard to Community Public Service Company;

(5) An application by International Utilities Corporation pursuant to Section 2 (a) (7) to be declared not to be a holding company with regard to American States Utilities Corporation;

(6) An application of International Utilities Corporation pursuant to Section 2 (a) (7) to be declared not to be a holding company with regard to Community Power & Light Company and its subsidiaries, General Public Utilities, Inc.;

(7) An application of International Utilities Corporation pursuant to Section 2 (a) (7) to be declared not to be a holding company with regard to Central Public Utility Corporation and its subsidiary, Consolidated Electric and Gas Company.

The applicant having requested the withdrawal of the above-described applications, and the Commission having consented thereto;

It is ordered, That the above-described applications be withdrawn.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 39-211; Filed, January 18, 1939; 11:19 a. m.]

UNITED STATES MARITIME COMMISSION.

APPLICATION OF GRACE LINE FOR OPERATING-DIFFERENTIAL SUBSIDY

ORDER POSTPONING HEARING

At a session of the United States Maritime Commission, held at its office in Washington, D. C., on the 17th day of January, A. D. 1939.

It is ordered, That the public hearing heretofore ordered to be held on Thursday, January 19, 1939,¹ with respect to the application of Grace Line, Inc. for an operating-differential subsidy for Line "C," New York-Caribbean service, be postponed indefinitely.

It is further ordered, That a copy of this order be served forthwith upon Grace Line, Inc., and the United Fruit Company and that notice of this postponement be published in the FEDERAL REGISTER immediately.

By the Commission.

[SEAL] W. C. PEET, JR.
Secretary.

[F. R. Doc. 39-213; Filed, January 18, 1939; 11:59 a. m.]

¹ 4 F. R. 114 DI.

(2) that within ten days after the issuance of the aforesaid shares of stock the declarant shall file with this Commission a certificate of notification showing that such issuance has been effected in accordance with the terms and conditions of, and for the purposes represented by, said declaration as amended;

(3) that the permission hereby granted shall terminate without further order of this Commission, in the event that the express authorization by the Public Utilities Commission of the State of Maine of the issuance of the aforesaid securities shall be revoked or otherwise terminated.

It is further ordered, That the previous order of this Commission in the matter of Cumberland County Power and Light Company, File No. 32-79 be, and the same hereby is, modified to permit the issuance of the aforesaid securities alone, and that upon completion of such issuance said order shall continue in full force and effect.

It is further ordered, That the proposed transaction may be effected by the declarant as of the close of the calendar year 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 39-212; Filed, January 18, 1939; 11:19 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 16th day of January, A. D. 1939.