

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 02-1180

September Term, 2003

Filed On: October 29, 2003 [781472]

Northern Municipal Distributors Group and
Midwest Region Gas Task Force Association,
Petitioners

v.

Federal Energy Regulatory Commission,
Respondent

Northern Natural Gas Company, et al.,
Intervenors

On Petition for Review of Orders of the
Federal Energy Regulatory Commission

Before: GINSBURG, *Chief Judge*, EDWARDS, *Circuit Judge*, and WILLIAMS, *Senior Circuit Judge*.

J U D G M E N T

This petition for review was considered on the record from the Federal Energy Regulatory Commission, was briefed and argued by counsel. It is

ORDERED AND ADJUDGED that the petition for review be denied. The bulk of petitioners' arguments either directly or indirectly assail the basic concept of the Commission's longstanding policy of allowing discounts based on differences in demand, which we have found to be within the Commission's authority under the Natural Gas Act. Associated Gas Distributors v. FERC, 824 F.2d 981, 1011-12 (D.C. Cir. 1987). With respect to the policy stated in Natural Gas Pipeline Co., 69 FERC ¶ 61,029, 61,116-17 (1994), regarding the application of discounts to base rates and surcharges, which the Commission evidently assumed would be applicable in principle to the surcharges at issue here, see Northern Natural Gas Co. 99 FERC ¶ 61,051, 61,223 (2002), petitioners have given no adequate basis for us to conclude that the reasons offered by the Commission for its non-application at this stage, see id. at 61,223-26, are arbitrary and capricious or not in accordance with law.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or rehearing en banc. See Fed.R.App.P. 41(b); D.C. Cir. Rule 41.

FOR THE COURT:

Mark J. Langer, Clerk

BY:

Deputy Clerk