

# The Burger Court Opinion Writing Database

*United Gas Pipe Line Co. v. McCombs*  
442 U.S. 529 (1979)

Paul J. Wahlbeck, George Washington University  
James F. Spriggs, II, Washington University in St. Louis  
Forrest Maltzman, George Washington University



Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
THE CHIEF JUSTICE

June 11, 1979

Dear Thurgood:

Re: (78-17 United Gas Pipe Line v. McCombs

(78-249 Federal Energy Regulatory Commission v  
McCombs

I join.

Regards,

*W.B.B.*

Mr. Justice Marshall

cc: The Conference

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE W. J. BRENNAN, JR.

May 31, 1979

(D)

RE: Nos. 78-17 & 249 United Gas Pipe Line & FERC v.  
McCombs

Dear Thurgood:

Please join me.

Sincerely,

*Bill*

Mr. Justice Marshall

cc: The Conference

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE POTTER STEWART

*[Handwritten signature]*  
May 31, 1979

Re: 78-17 and 78-249 - United Gas Pipe Line  
Co. v. McCombs

Dear Thurgood:

Please add the following at the foot of your  
opinion for the Court:

Mr. Justice Stewart took no part in the  
consideration or decision of this case.

Sincerely yours,

*P.S.*

Mr. Justice Marshall

Copies to the Conference

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE BYRON R. WHITE

May 30, 1979

(M)

Re: Nos. 78-17 & 78-249 - United Gas Pipe Line  
Co. v. McCombs & FERC v. McCombs

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Dear Thurgood,

Please join me.

Sincerely yours,



Mr. Justice Marshall

Copies to the Conference

cmc

30 MAY 1979

No. 78-17 - United Gas Pipe Line Co. v. McCombs

No. 78-249- FERC v. McCombs

MR. JUSTICE MARSHALL delivered the opinion of the Court.

Under § 7(c) of the Natural Gas Act, producers who sell natural gas to pipelines for resale in interstate commerce must obtain a certificate of public convenience and necessity from the Federal Energy Regulatory Commission. 1/ Section 7(b) of the Act obligates these producers to continue supplying that gas in the interstate market until the Commission authorizes an "abandonment." 2/ The principal issue presented by this case is whether a producer may, consistent with § 7(b), terminate this service obligation without obtaining the agency's express approval.

I

The natural gas involved in this case is produced from a 163-acre tract of land located in Karnes County, Texas, and known as the Butler B tract. In 1948, the owner of this land,

2-5, 7, 11-13

8 JUN 1979

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

NO. 78-17 AND 78-249

United Gas Pipe Line Company  
Petitioner,  
78-17 v.  
Billy J. McCombs et al.  
Federal Energy Regulatory Com-  
mission, Petitioner,  
78-249 v.  
Billy J. McCombs et al.

On Writs of Certiorari to  
the United States Court  
of Appeals for the Tenth  
Circuit.

[June —, 1979]

MR. JUSTICE MARSHALL delivered the opinion of the Court.

Under § 7 (c) of the Natural Gas Act, producers who sell natural gas to pipelines for resale in interstate commerce must obtain a certificate of public convenience and necessity from the Federal Energy Regulatory Commission.<sup>1</sup> Section 7 (b) of the Act obligates these producers to continue supplying that gas in the interstate market until the Commission authorizes an "abandonment."<sup>2</sup> The principal issue presented

<sup>1</sup> 52 Stat. 825, as amended, 15 U. S. C. § 717f (c). See *Phillips Petroleum Co. v. Wisconsin*, 347 U. S. 672 (1954). Pursuant to the Department of Energy Organization Act, 91 Stat. 565, the regulatory functions at issue here were transferred from the Federal Power Commission to the Federal Energy Regulatory Commission, effective October 1, 1977.

<sup>2</sup> 52 Stat. 824, as amended. 15 U. S. C. § 717f (b) provides:

"No natural-gas company shall abandon all or any portion of its facilities subject to the jurisdiction of the Commission, or any service rendered by means of such facilities, without the permission and approval of the Commission first had and obtained, after due hearing, and a finding by the Commission that the available supply of natural gas is depleted to

Circulate

$$1-2, 4, 11, 12$$

15 JUN 1979

### 3rd DRAFT

**SUPREME COURT OF THE UNITED STATES**

No. 78-17 AND 78-249

United Gas Pipe Line Company, Petitioner, 78-17 <i>v.</i> Billy J. McCombs et al.	On Writs of Certiorari to the United States Court of Appeals for the Tenth Circuit,
Federal Energy Regulatory Com- mission, Petitioner, 78-249 <i>v.</i> Billy J. McCombs et al.	

[June —, 1979]

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Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

June 4, 1979

14

Re: No. 78-17 - United Gas Pipe Line Co. v. McCombs  
No. 78-249 - FERC v. McCombs

Dear Thurgood:

Please join me.

Sincerely,

*h.a.*

Mr. Justice Marshall

cc: The Conference

Supreme Court of the United States  
Washington, D. C. 20542

(4)

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

May 31, 1979

78-17 United Gas v. McCombs  
78-249 FERC v. McCombs

Dear Thurgood:

Please join me.

Sincerely,

*Lewis*

Mr. Justice Marshall

lfp/ss

cc: The Conference

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

June 6, 1979

Re: No. 78-17 United Gas Pipe Line Co. v. McCombs  
No. 78-249 FERC v. McCombs

Dear Thurgood:

Please join me.

Sincerely,



Mr. Justice Marshall

Copies to the Conference

Supreme Court of the United States

Washington, D. C. 20543

(b)

CHAMBERS OF  
JUSTICE JOHN PAUL STEVENS

May 31, 1979

Re: 78-17 - United Gas Pipe Line v. McCombs  
78-249 - FERC v. McCombs

Dear Thurgood:

Please join me.

Respectfully,



Mr. Justice Marshall

Copies to the Conference