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RFK Turned Back On Gas Monopoly

WASHINGTON—If American businessmen are worried about Bobby Kennedy as president, they should forget it. As attorney general, Bobby leaned over backward to protect one of the biggest gas monopolies in the U. S. A. Generally he was more tolerant on antitrust cases than the Eisenhower administration, generally considered to be the friend of big business.

One of the most interesting and little-known testimonials to Bobby Kennedy, as far as business is concerned, is the story of his defense of the biggest pipeline company in the Far West—El Paso Natural Gas—and its monopoly position as a gas supplier to the people of California.

The story begins during the Eisenhower administration in 1959, when the Federal Power Commission, then packed with friends of gas and oil, puts its stamp of approval on a merger between El Paso Natural Gas and Pacific Northwest Gas which would have made El Paso the sole supplier to California and the Pacific Coast.

This aroused the ire of William Bennett, chairman of California's Public Utility Commission, who appealed the decision to the U.S. Court of Appeals. Lee Rankin, Eisenhower's solicitor general, backed Bennett up. The State of California then appealed to the Supreme Court.

AT THIS POINT, John F. Kennedy was running for President and Commissioner Bennett became one of his advance men. He got to know the Kennedy entourage and looked forward to antitrust cooperation when the Kennedy family got into power.



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He was disappointed. When Commissioner Bennett asked the new Democratic solicitor general, Archibald Cox, to join him in his appeal to the Supreme Court, Cox said no.

Bennett then appealed to Robert F. Kennedy, the new attorney general, who also said no. Figuring that Kennedy did not know the significance of the situation and the monopoly hold which El Paso Gas would have on gas prices on the Pacific Coast, Edmund G. "Pat" Brown, then governor of California, also wrote to Attorney General Kennedy. Again Bobby said no.

"Early in 1961 I talked to Bobby Kennedy at the Fairmont Hotel in San Francisco," says Commissioner Bennett. "I tried to explain the importance of this monopoly to the people of California. But I got nowhere. I told Kennedy all I wanted him to do was not to oppose our petition to the Supreme Court for a writ of certiorari. But Bobby said no."

The State of California filed its petition anyway and believe it or not the Kennedy administration appeared before the Supreme Court and argued against California on the side of the Power Commission's ruling for El Paso Natural Gas.

ATTORNEY FOR El Paso was Arthur Dean of the Wall Street law firm of Sullivan & Cromwell. This firm had been retained by El Paso during the Eisenhower administration, when its senior partner, John Foster Dulles, was secretary of state.

But the Kennedy administration, under Attorney General Robert F. Kennedy, went into court on the side of Sullivan & Cromwell and gave

the El Paso-Pacific Northwest merger an okay.

The Supreme Court, however, ruled otherwise. The decision was written by Justice William O. Douglas, intimate friend of Bobby Kennedy, who used the words: "The Department of Justice knuckled under to the El Paso Natural Gas Co." The Department of Justice to which he referred was, of course, under Robert F. Kennedy. The decision ordered the merger between El Paso and Pacific Northwest set aside.

If the court had not done this, there would be a complete gas monopoly on the Pacific Coast, all the way from Canada to Mexico and from the Pacific Ocean to the Rocky Mountains. As an illustration of how this affected consumers, El Paso put across four rate increases against its most prosperous customer, the State of California, before the Supreme Court ruled.

This, however, is not the end of the story.

AFTER THE Supreme Court set aside the merger, Commissioner Bennett went before the Federal Power Commission and argued that El Paso had no right to increase rates as the result of an illegal merger. FPC agreed with him and ordered El Paso to pay back to the people of California a total of \$155 million. It was the biggest rate rebate in the history of the United States.

"I saw Cox twice," Commissioner Bennett recalls, referring to the No. 2 man in the Justice Department under Bobby Kennedy. "I got down on my knees and begged him to support California in opposing this merger. He said that the attorney general felt a little monopoly wouldn't hurt anything.

"You know the power of these boys," I told him. But I got no help from the Kennedy administration whatsoever. Our help came from Attorney General Brownell under Eisenhower.

"Today the man who was head of the antitrust division under Bobby Kennedy, William Orrick, is now a Kennedy delegate for Bobby in California," recalls Commissioner Bennett. "He did Bobby's bidding in the El Paso gas monopoly case and he's doing Bobby's bidding in California now."

Note: The Supreme Court has now handed down a total of three decisions against the El Paso natural gas battle for a Far West monopoly. In its last decision, the court removed U.S. Judge Willis Ritter of Salt Lake City because he had shown prejudice. U.S. Judge Hatfield Chilson has replaced him and will soon pick a buyer for Pacific Northwest Pipeline. This will mean gas competition in the Far West.